
Appeal Decisions

Site visit made on 21 November 2017

by P N Jarratt BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2017

Appeal A Ref: APP/Y1138/C/17/3179481 and

Appeal B Ref: APP/Y1138/C/17/3179482

Longwood Farm, Burlescombe, Tiverton, EX16 7JT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Christopher Lampshire and Appeal B by Miss Philippa Lidyard against an enforcement notice issued by Mid Devon District Council.
 - The enforcement notice was issued on 13 June 2017.
 - The breach of planning control as alleged in the notice is the unauthorised material change of use of the land from agriculture to a mixed use of agriculture and use for the siting of structures for human habitation.
 - The requirements of the notice are;
 - i) Cease the use of the land for human habitation and residential purposes; and
 - ii) Permanently demolish and remove from the land all buildings and chattels used for or in association with the use for human habitation and residential purposes, including all materials and waste arising from such demolition; and
 - iii) Restore the land to its former condition and use as agricultural land.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. The appeals are allowed and the enforcement notice is quashed.

The site and relevant planning history

2. The appeal site is part of an agricultural field in open countryside.
3. Towards the Longwood Lane end of the field is a small timber building used for residential purposes by the appellant. Nearby is a levelled area of ground with 8 concrete footings and bolts installed ready to receive the steelwork for an agricultural storage building that was granted planning permission in July 2014 (14/00502/FULL). There are two other small buildings on the site used for storage and as a composting toilet.
4. In September 2014 following investigation by the Council it was concluded that the structure was permitted development as it was used by the previous landowner in association with the construction of the agricultural building. Following the site's continued residential occupation a Planning Contravention Notice was served in June 2016, the response to which established that the appellant had purchased the land in June 2015 and in March 2016 commenced residential occupation. The appellants were advised that the

residential occupation should cease as it was no longer considered as permitted development as little, if any, progress had been made to the construction of the agricultural building.

Reasons

5. An appeal on ground (c) is that there has not been a breach of planning control, for example, because it is permitted development.
6. The appellants consider that the caravan/mobile home is allowed on site in conjunction with engineering works on a barn that has planning permission and approved by the Council.
7. Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), makes provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. This is subject to the conditions which state that when the operations have been carried out, firstly, any building, structure, works, plant or machinery permitted by Class A is removed; and, secondly, any adjoining land on which development permitted by Class A has been carried out is reinstated to its condition before that development was carried out.
8. It is a matter of fact and degree as to whether the operations were continuing or could have reasonably been held to have ceased at the time the notice was issued, such that the building or structure is in breach of the first condition. At the time the notice was served the Council were satisfied, based on the evidence available to them, that the work had ceased such that a material change in the use of the land had occurred which did not benefit from permitted development rights.
9. In the case of ground (c), an appellant can, if necessary, rely upon matters occurring since the date of issue of the notice to show that the development which has occurred does not amount to a breach of planning control. I am satisfied that at the time of my site visit work had recently taken place, and appeared to be continuing, to construct the foundations of the agricultural building.
10. 'Required' in the context of Part 4 Class A means reasonably required; whether a structure is required 'temporarily' in connection with the operations on the same or adjoining land is a matter of fact and degree; and, the size and means of construction will be highly relevant factors¹.
11. I am satisfied that the timber structure is reasonably required in connection with the construction of the agricultural building that has been granted planning permission. The appellants describe the structure as a caravan that has no permanent foundation, could still be split and transported via lorry and is covered by the definition of a caravan in the Caravan Sites and Control of Development Act 1960. Although these features were not apparent to me at the site visit as it had been clad in timber which concealed much of the nature of the structure, in the absence of any representations to the contrary by the Council, I accept the appellant's description. On this basis its size and means

¹ R (Wilsdon) v FSoS [2006] EWHC 2980 (Admin)

of construction appears appropriate to provide temporary living accommodation for the duration of operations connected with the agricultural building.

12. The appellants claim that the Town and Country Planning Act allows for the siting of a caravan on a site of 5 acres or more in relation to an agricultural business and its occupation for up to 28 days. They state that once the engineering works are completed on the barn and they move off the site, the caravan should still be permitted to remain on site. The appellants fail to identify the relevant part of the Act that they rely upon but on the basis that this is a reference to Schedule 2, Part 4, Class B of the GPDO, this specifically excludes the use as a caravan site, (or the siting of a caravan).
13. The tolerances for temporary uses in Part 4 do not apply when the intention is that the development should be permanent. It is for the appellant to show that the use is temporary and the permitted development right has been genuinely implemented. It seems that the appellants' intentions for the structure may extend to its retention beyond the duration of the operations by claiming other rights. However they have clearly misunderstood the GPDO or have been misinformed. Notwithstanding this, as they have not been professionally represented, I shall attach little weight to this aspect of their submissions.
14. I am therefore satisfied that the provision of structures sited temporarily for the duration of the operations being carried out for the construction of an agricultural storage building that was granted planning permission in July 2014 (14/00502/FULL) fall within Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, subject to their removal and the land reinstated to its former condition when those operations have been carried out.

Conclusion

15. For the reasons given above I conclude that the appeals should succeed on ground (c). Accordingly the enforcement notice will be quashed.

P N Jarratt

Inspector