



Appeal Decision

Site visit made on 27 November 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 08 December 2017

Appeal Ref: APP/C1760/C/17/3180743

The Land and Premises at Testwood Trout Farm, Longparish, Andover, Hampshire SP11 6PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Nigel Jackson against an enforcement notice issued by Test Valley Borough Council.
 - The enforcement notice was issued on 24 July 2017.
 - The breach of planning control as alleged in the notice is on 22 March 2016 the Council granted temporary planning permission (Ref, 16/00143/FULLN) for use of the land for the stationing of a mobile home as an agricultural worker's dwelling subject (inter alia) to the following condition:
"The mobile home hereby permitted shall cease to be occupied for residential purposes and shall be removed from the agricultural holding and the land restored to its former condition on or before the expiry of one year from the date of this permission or before the first occupation of the permanent agricultural worker's dwelling approved under application reference 11/02398/FULLN, whichever shall first occur."
This condition has not been complied with in that more than one year has elapsed since the date of the relevant permission, but the mobile home has not been removed from the land and is still being occupied for residential purposes.
 - The requirements of the notice are:
 - a) Discontinue the use of the land for the stationing of a mobile home for residential purposes; and
 - b) Permanently remove the mobile home from the land.
 - The period for compliance with the requirements is one (1) month.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (g)

2. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The appellant contends that a six month compliance period is required in order to give the requisite three month notice to the farm worker who is living in the mobile home, to obtain building regulations approval and to complete the dwelling.
3. Since the appeal is on ground (g) alone, the compliance period is the only issue before me and so the appellant cannot have any expectation of the enforcement notice being quashed. By making this limited appeal, he has already delayed the date when the notice will come into effect, knowing that its requirements to remove the mobile home will be upheld. Thus, the appellant

has had the necessary three month period in which to give the farm worker occupying the mobile home the requisite notice.

4. I note the appellant's comments that negotiations with the Council regarding permission for the new dwelling took time and that the appellant who has had health issues is carrying out the building work himself. I also note the appellant's submissions regarding the various problems encountered during and after construction and that there is no condition requiring the completion of development within a certain timescale. In addition, there is nothing before me to substantiate the appellant's concerns that the removal of the mobile home would put at risk the agricultural enterprise.
5. Notwithstanding the above, a Building Regulation completion certificate was issued in April 2017 and whilst there may be some minor works still to be finished, at my site visit I saw nothing to indicate that the new dwelling could not be occupied.
6. Given the harm identified by the Council I consider that one month from the date of this decision would be a reasonable time for compliance.
7. The appellant's submissions in relation to the Human Rights Act 1998, Article 8 of the First Protocol, are primarily concerned with the right to live a family life without interference. I recognise that this appeal concerns the farm worker's home and family life. However, this consideration must be balanced against the rights and freedoms of others. I do not consider this argument to be well-founded, given that taking into account the date on which the notice was issued; the appellant has had sufficient time in which to give the farm worker the requisite notice. I have found that the timescale given to remove the mobile home is reasonable. The degree of interference that would be caused would be proportionate and insufficient to give rise to a violation of rights under Article 8 of the First Protocol.
8. Comments made regarding the Council's investigation into an alleged change of use and its Building Control Department are matters for the Council and do not influence my decision.
9. For the reasons given above and having regard to all other matters raised I consider that the appeal should not succeed.

Elizabeth Jones

INSPECTOR