
Appeal Decision

Site visit made on 22 October 2019

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 3rd December 2019

Appeal Ref: APP/F1040/C/19/3221939

Land to the rear of Overseal Manor Stables, Hallcroft Avenue, Overseal

- 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 by William Statt against an enforcement notice issued by South Derbyshire District Council.
 - The enforcement notice, ref. E/2017/00143, was issued on 18 January 2019.
 - The breach of planning control alleged in the notice is without planning permission the material change of use of the land to use for the storage of a caravan.
 - The requirements of the notice are to:
 1. Permanently cease the use of the land for storage of a caravan.
 2. Permanently remove from the land the caravan presently stored there.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

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

Background matters

2. The appeal site is an open field with access at the end of a recently developed residential cul-de-sac off the south-western side of Hallcroft Avenue. Overseal Manor and its outbuildings are Grade II listed and that site has a common boundary with a large part of the north-eastern side of the appeal site.
3. Immediately on entering through the gate at the site entrance is a substantial area of tarmac hardstanding that has clearly been there for a considerable number of years. The touring caravan subject of the enforcement notice is parked within this area. There are also extensive amounts of building materials and components stacked there, including bricks, blocks, cast iron radiators and scaffold planks, as well as a quantity of cut logs under a shelter.

The appeal on ground (c)

4. This ground of appeal is that there has been no breach of planning control, as might be the case where express planning permission has been granted, or the matter is development permitted under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). In an appeal on ground (c) – known as one of the ‘legal grounds’ – the

burden of proof is on the appellant to show that on the balance of probabilities there has been no breach of planning control.

5. The planning use of the appeal site is clearly agricultural. A caravan on agricultural land might not require planning permission if it is there for a purpose ancillary to the agricultural use. However, the field is uncultivated, and there do not appear to be any agricultural activities carried on either currently or even recently. Furthermore, the appellant states that he keeps the caravan there pending restoration for festival use. There are no GPDO provisions that permit storage of a caravan in such circumstances.
6. Although planning applications have been made, these were for residential development of the site, and have been refused. Nothing has been put forward to suggest that permission has been granted for storage of a caravan.
7. Overall, I do not consider that it has been shown that on the balance of probabilities there has been no breach of planning control by use of the site for storage of a caravan. The appeal on ground (c) therefore fails.

Other matters

8. The appellant argues that the hardstanding has been there for at least 40 years, and that he has kept various building materials and trailers there for nearly 20 years. That is essentially an appeal on ground (d) – that the alleged development is immune from enforcement action due to the passage of time. In a case such as this the appellant must show, on the balance of probabilities that the alleged breach has been continuous for a period of ten or more years before the notice was issued.
9. The notice in this case does not attack the presence of the hardstanding, nor the presence of building materials. Furthermore, it is not adequate to assert the continuous existence of a development without providing detailed evidence to support such an assertion. In my opinion, the appellant has put forward virtually no evidence to show that a caravan has been stored on the site for 10 or more years continuously. Had an appeal been made on ground (d), on the balance of probabilities it would have failed.
10. Other arguments are made to the effect that the caravan is little seen from public viewpoints, and that it has no effect on the setting of the nearby listed building. However, these arguments go to the merits of the development, which are not matters for consideration in a ground (c) appeal.

Conclusions

11. For the reasons given above and having regard to all other matters raised, I consider the appeal should not succeed.

Stephen Brown

INSPECTOR