
Appeal Decision

Site visit made on 3 December 2019

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 11 December 2019

Appeal Ref: APP/V1505/C/18/3219641

Land south of Novem Kennels, Southend Arterial Road, North Benfleet, Wickford, Essex, SS12 9JG

- 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 Mrs B.M.Seiersen against an enforcement notice issued by Basildon District Council.
 - The enforcement notice was issued on 18 December 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised making of a material change in the use of vacant land for the stationing of caravans/mobile homes used in connection with the unauthorised residential use of the land, together with the deposit of hardcore on the land and its use in the formation of an area of hardstanding.
 - The requirements of the notice are (i) stop using the land for the deposit of hardcore; (ii) stop using the land for residential purposes; (iii) stop using the land for the stationing of caravans and mobile homes by removing them from the land; (iv) remove from the land all chattels and other residential paraphernalia; (v) break up the areas of hardstanding and remove all resultant materials and debris from the land; (vi) return the land to its former condition by levelling and reseeding with grass seed.
 - The period for compliance with the requirements is 1 week for step (i), 2 weeks for step (ii), 4 weeks for steps (iii) and (iv), 6 weeks for step (v) and 7 weeks for step (vi).
 - The appeal is proceeding on the grounds set out in sections 174(2)(a), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Formal Decision

1. It is directed that the enforcement notice be varied by replacing the various times for compliance in steps (ii) to (vi) inclusive by "three calendar months". Subject to this variation, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (e)

2. The appellant states that the notice was posted on the adjoining property, not hers. However, the Council points out that the site is land locked and access is only obtainable via the adjacent Novem Kennels site; the site was locked at the time of delivery. It is understood that post to the appeal site is delivered to Novem Kennels and on this basis, the Council believes the notice was served correctly. The appellant contacted PINS by email on 22 December, only 4 days after the issue of the notice, indicating her intention to appeal. I therefore see no grounds for concluding that the notice was not properly served on everyone with an interest in the land. The appeal on ground (e) fails.

The appeal on ground (d)

3. For this ground to succeed, the appellant would need to show that the breach had occurred continuously for 10 years prior to the issue of the notice. However, the photographic evidence shows that the breach is recent; there is no indication of the presence of residential caravans on the December 2018 aerial photograph. Furthermore, it appears from the appeal decision of January 2018 (ref: APP/V1505/C/16/3166053) that there were residential caravans on the adjacent Novem Kennels site, one of which was occupied by the appellant's daughter, at the time of the Inspector's site visit in December 2017. I am led to believe that these were the same caravans which were subsequently moved on to the appeal site. The appeal on ground (d) fails.

The appeal on ground (a) and the deemed application

4. The appeal site is an area of cleared land to the south of the largely derelict Novem Kennels site, which appears to be no longer in use. There is a variety of other uses around the site, including a garden centre to the west, a Travellers' site to the east and sporadic housing. The site is within the Green Belt, whose boundaries are defined in the Basildon Local Plan Saved Policy Document Proposals Map and Policy GB1. The Council relies on the National Planning Policy Framework (The Framework) for the appropriate policy guidance. The Framework sets out the purposes of Green Belts and the measures for their protection. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Main Issues

5. Accordingly, the main issues are i. whether the development is inappropriate development in the Green Belt; ii. the impact of the development on the openness of the Green Belt and the character and appearance of the area; and iii. if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

Whether inappropriate development

6. The Framework sets out forms of development which are considered not to be inappropriate in the Green Belt. The appellant submits that the site is previously developed land. However, there is no evidence of any previous built development on this site and, in any event, paragraph 145(g) of the Framework, which refers to previously developed land, is concerned with new buildings, not a material change of use as is the case here. Paragraph 146(e) lists a number of uses that may not be inappropriate; use of land for siting of residential caravans is not one of these. In any event, paragraph 146(e) would regard such a use as not inappropriate in the Green Belt only where it preserves openness and does not conflict with the purposes of including land within it. That is clearly not the case here, where the physical presence of the caravans reduces openness and the use represents encroachment into the countryside.
7. The appellant submits that the caravans are needed for on-site supervision of the kennels. However, there is no indication that such a business presently

exists. An application for the redevelopment of the site as kennels was refused planning permission in February 2019 and a subsequent appeal was dismissed in November 2019 (Ref: APP/V1505/W/19/322857). A similar argument of need for supervision was rejected by the Inspector who determined the appeal against an enforcement notice relating to the appellant's siting of residential caravans on the kennels site in January 2018, referred to in para.3 above.

8. It is also argued that the use is temporary until permission is granted for a permanent log cabin on the site. However, I am not aware of any such application and have no indication from the Council that such an application would have a reasonable prospect of success. A temporary permission would not be appropriate in these circumstances.
9. I am led to the conclusion that the development is an inappropriate form of development in the Green Belt, a matter to which I attach substantial weight.

Openness and character of the Green Belt

10. Openness is one of the essential characteristics of the Green Belt. It is apparent from the aerial photographs that this was until recently an unused plot of land, with extensive tree cover, most of which has now been removed. The three static caravans on site amount to a substantial physical presence and clearly reduce the openness of the Green Belt.
11. Local Plan Policy BE12 sets out criteria against which residential development will be assessed, seeking to resist development harmful to the character of the surrounding area. To my mind, the presence of the caravans, together with the hardcore and other domestic paraphernalia, is of modest harm to the character of the area, given the mixed nature of the surroundings.

Other considerations

12. The appellant points to the presence of the nearby Travellers' site, seeking parity of treatment. However, these caravans are occupied by persons that the Council accepts are Travellers for planning purposes and are subject to relevant Government policies, including Planning Policy for Travellers' Sites. There is no evidence that the appellant or her family fall into this category.
13. The appellant has pointed to her serious health issues. However, there is no indication that living in this location is of any greater benefit to her in addressing these issues than would living elsewhere. The Inspector in the 2018 appeal noted that there did not appear to be a lack of suitable residential accommodation in the locality.
14. I have found that the development is inappropriate development in the Green Belt and would harm openness, contrary to the aims of the development plan and the Framework. These are matters to which I attach substantial weight. It also harms the character and appearance of the area to a modest extent. I have taken account of the various considerations put forward in support of the development but together they do not outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The appeal on ground (a) and the deemed application fail.

The appeal on ground (f)

15. The appellant submits that the notice requires her to move drainage. However, I can see no indication of this in the enforcement notice. The requirements of the notice are no more than is necessary to address the breach. The appeal on ground (f) fails.

The appeal on ground (g)

16. The Council points out that the appellant has a history of unlawful residential occupation of the adjacent Novem Kennel land and, on losing her previous appeal, has deliberately moved on to the adjacent land, the present appeal site. It is further submitted that the appellant has had a long time to prepare to comply with the notice, given that the issues are similar in both appeals. However, I have to take into account the rights of the appellant and her family members - the appellant's daughter and her two children also live in one of the caravans. Interference with the way the appellant uses land must be proportionate, taking into account the competing public and private interest.
17. I consider that a 2 week period to cease residential occupation – and to find a new home - appears unduly harsh and that a period of three months would be a reasonable time to carry out the requirements of the notice. This would strike a suitable balance between competing public and private interests and be proportionate so as not to violate individual rights. To this limited extent, the appeal on ground (g) succeeds and I shall direct that the notice be varied accordingly.

B.S. Rogers

Inspector