



Appeal Decision

Site visit made on 19 November 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2020

Appeal Ref: APP/Z3825/C/19/3224744

Land at Two Hoots, Furners Lane, Woodmancote, West Sussex BN5 9AE

- 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 David Newman against an enforcement notice issued by Horsham District Council.
 - The enforcement notice, numbered EN/18/0089, was issued on 15 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for the stationing of a mobile home used as mess accommodation and the laying of associated hardstanding.
 - The requirements of the notice are:
 1. Permanently cease the use of the mobile home as mess accommodation.
 2. Permanently remove the mobile home from the land.
 3. Permanently remove from the land the ancillary hardstanding to the mobile home.
 4. Permanently remove from the land all material resulting from the removal of the hardstanding.
 5. Restore the land to its former condition.
 - The period for compliance with the requirements is six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The enforcement notice is quashed.

Preliminary Matters

2. I have added a post code to the address in the banner heading for clarity as one was provided on the appeal form.
3. The agent acting for the owner is also the current occupier of the land. Although the notice was not served on the occupier, they are clearly aware of the appeal and have not been prejudiced.

The Enforcement Notice

4. I have a duty to ensure that the notice is in order.
5. The stationing of a mobile home may be ancillary to agricultural or other uses of the land. The starting point is to identify the planning unit. It is established case law that a use of land must be alleged, and not simply the 'stationing' of a mobile home. In *Deakin v FSS* [2006] EWHC 3402 (Admin), [2007] JPL 1073119, it was held that the correct approach is to establish the lawful use of

- the planning unit, establish the effect of the caravan and its use on the character of the lawful use, and conclude whether there was a material change of use. It is not enough to simply examine the physical characteristics of the mobile home and its use. The Council has not identified a planning unit or provided a description of what it considers to be the use of the land.
6. Wide powers to correct a notice are available to me under section 176(1) of the 1990 Act as amended. However, they only apply if I am satisfied that the correction will not cause injustice to the appellant or the Council.
 7. In this instance, correction of the allegation would affect the deemed application and may affect the way the parties present their case and might give rise to other grounds of appeal. Furthermore, there is insufficient information for me to correct the notice to refer to the use of the planning unit at the time the notice was issued. I note that the Inspector, in dismissing the appeal¹ against the refusal of the application to install a mobile home, suggested that 'the mobile home enables a personal recreational use of the wider site'. However, the Council has not adopted this description.
 8. I have insufficient evidence to derive a correct description of the actual use of the land, or material change of use as the case may be, having regard to the appropriate planning unit. I am therefore left with no option but to quash the enforcement notice on the basis that it is beyond correction.

Conclusion

9. For the reasons given above and having regard to all matters raised, I conclude that essential corrections to the enforcement notice cannot be made without causing injustice to the parties. Accordingly, the notice will be quashed and the appeal against it on ground (a) does not fall to be considered.
10. Should the Council wish to continue to pursue enforcement action, it may consider doing so by means of a replacement notice framed in the proper terms, having regard to the 'second bite' provisions of section 171B(4)(b).

N Thomas

INSPECTOR

¹ APP/Z3825/W/17/3189425