



Appeal Decisions

Site visit made on 20 January 2020

by Thomas Shields MA DipURP MRTPI

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

Decision date: 21 January 2020

Appeal Refs: APP/G2625/C/19/3233917, 3233918

Land known as Plane View east of Gambling Close, Holt Road, Norwich

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeals are made by Thomas Bibby (3233917) and Sasha Bibby (3233918) against an enforcement notice issued by the Norwich City Council.
 - The enforcement notice was issued on 5 July 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land for the stationing of caravans for residential purposes, the siting of 2 no. sheds, the laying of a hard surface, the siting of a portaloo, the erection of a boundary fence and gate.
 - The requirements of the notice are:
Cease the use of the land for the stationing of residential caravans, and remove all caravans, sheds, structures, hardstandings and materials related to the use from the land, with the exception of the front boundary fence and gates.
 - The period for compliance with the requirements is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b) of the Act.
-

Decision

1. The appeals are dismissed

The appeals on ground (b)

2. An appeal on ground (b) is a claim that at the date the enforcement notice was issued those matters - i.e. the matters stated in the notice which may give rise to the breach of planning control - have not occurred as a matter of fact. The burden of proof in a ground (b) appeal falls to the appellant, and the test of the evidence is on the balance of probability. The Human Rights Act, referred to by the appellants, is not engaged in legal grounds of appeal, including ground (b).
3. The appellants evidence (Appeal Form, Section E: Grounds and Facts) does not argue that the alleged matters did not occur. Rather, it confirms the appellants' use of the land for siting caravans for residential use for at least two years. The response to the Council's Planning Contravention Notice (14 May 2018) also provides such confirmation. Additionally, the Council's undisputed photographic evidence of the appeal site, taken before the enforcement notice was issued, shows all of the matters referred to in the breach. Given these factors, I conclude on the balance of probability that the alleged breach occurred as a matter of fact. The appeals on ground (b) therefore fail.

Thomas Shields

INSPECTOR