

Appeal Decision

Site visit made on 13 January 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 29 January 2020

Appeal Ref: APP/P4415/C/19/3224933

Land at Lindrick Boarding Kennels and Cattery, Lindrick Common, Worksop Road, South Anston, Worksop S81 8BZ

- 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 Richard Parkinson against an enforcement notice issued by Rotherham Metropolitan Borough Council.
 - The enforcement notice was issued on 20 February 2019.
 - The breach of planning control as alleged in the notice is the unauthorised use of land for the storage of caravans.
 - The requirement of the notice is remove all caravans from the land.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons

The ground (c) appeal

2. Planning permission has not been granted for the use of the enforcement land for the storage of caravans and such a use of the land is not development permitted under the provisions of The Town and Country Planning (General Permitted Development) Order 2015. The appeal on ground (c) thus fails.

The ground (d) appeal

3. To be immune from enforcement action the use of the land for the storage of caravans must have commenced more than ten years before the date of issue of the enforcement notice, and must have subsisted uninterrupted and without intensification during the ten year period. The critical date is 20 February 2009. In their statement the Council has referred to motorhomes on the land; but these can be discounted because a motorhome, by definition, is not a caravan, and the enforcement notice specifically relates to 'the storage of caravans'.
4. In 2010 a planning application was submitted for 'proposed caravan storage' and the application form indicated that the change of use had not started. The application was submitted on behalf of the Appellant by an Agent and it is plausible that he misunderstood instructions from his client on the status of the use of the land at that time. In this regard the Appellant has provided letters from family and friends that indicate the use of the land for the storage of caravans had

commenced many years before. This evidence indicates that the storage of caravans occurred on an ad hoc basis and clearly not for any financial benefit.

5. The Council has submitted photographs of caravans on the land; five taken in 2010 showing four caravans on the land, and two photographs taken on the date of issue of the enforcement notice showing seven caravans on the land. An increase from four to seven does not constitute an intensification of the use of the land for the storage of caravans. There is no evidence to indicate that the storage of caravans has not continued, at a varying low level, since the use commenced.

6. On the balance of probability, and as a matter of planning judgement, the use of the land for the storage of caravans commenced before 20 February 2009 and has subsisted uninterrupted and without intensification for the ten year period prior to the date of issue of the enforcement notice. The ground (d) appeal thus succeeds and the ground (a) appeal does not need to be considered.

John Braithwaite

Inspector