



Appeal Decision

Site visit made on 9 December 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/D0121/C/19/3232972

Land Adjacent to Cannaways Farm, Silver Moor Lane, Banwell BS29 6LQ

- 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 Edward Thorne against an enforcement notice issued by North Somerset Council.
 - The enforcement notice was issued on 4 June 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from agriculture to a mixed use of agriculture, the siting of a caravan for recreational purposes, the siting of a caravan for storage purposes and the use of the land for B8 open storage (B8).
 - The requirements of the notice are: 1. Cease the use of the land for the siting of a caravan for recreational purposes, the siting of a caravan for storage purposes and the use of the land for B8 open storage (B8). 2. Remove the caravan used for recreational purposes. 3. Remove the caravan sited for storage purposes. 4. Remove all items stored on the land that are not associated with the agricultural use.
 - The period for compliance with the requirements is 8 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Summary of Decision

1. The appeal succeeds in part and the enforcement notice is upheld with variations.

Application for costs

2. An application for costs was made by Mr Edward Thorne against North Somerset Council. This application is the subject of a separate Decision.

The ground (b) and (c) appeals

3. For the ground (b) and/or (c) appeals to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breaches of planning control have not occurred as a matter of fact, or, that there has not been a breach of planning control.
4. The Council allege a breach of planning control in respect of the use of the land for the siting of a caravan for recreational purposes. The Council states that during a site visit in December 2018 the appellant advised that he sometimes stays in the caravan and made no claim to be involved in agriculture. It is also

stated that he advised that he did not know what to do with the land. The Council has however not enforced against a residential use¹, rather, a recreational use is alleged which the Council defines within its appeal statement as the appellant spending time on the site purely as a hobby. This is consistent with the Cambridge dictionary definition provided by the appellant.

5. The caravan is a large single-unit and may commonly be described as a mobile home. At the time of my site visit it consisted of two bedrooms, that were empty, a small bathroom and a living area that contained, amongst other things, a sofa, TV and kitchenette with microwave. It was finished internally to a reasonably high standard.
6. The appellant contends that at the time the enforcement notice was issued, in June 2019, he was using the caravan while he works at the appeal site to prepare his horticultural business. The use of the caravan is described alongside four bullet points in the appellant's statement. However, these are somewhat generic activities. It is therefore stated the caravan is used as a place for him to shelter comfortably during prolonged periods of heavy weather and during breaks, as well as a place to store and prepare food and drinks to be consumed during breaks as well as for washing and showering facilities.
7. Aside from potentially some land raising to improve the condition of the land, and two polytunnels, one of which contained a sofa at the time of my site visit, there is very little evidence of any horticultural or agricultural activity taking place at the appeal site, or indeed evidence of a business or other plan for what is intended to take place. At the time of my site visit the land had a somewhat unkept appearance.
8. It is for the appellant to demonstrate his case in relation to the grounds of appeal pleaded. However, based on the evidence before me, namely the generic activities described by the appellant and what I observed during my site visit, I have not been persuaded on the balance of probabilities that there is not a recreational use in respect of the caravan. There has therefore been a material change of use for which planning permission is required.
9. The Council has also alleged the use of the land for B8 open storage purposes. It is stated that in December 2018 the open sided Dutch barn at the site and surrounding area was in use for storage purposes in connection with the appellants property business, although no photographs have been provided, and this was some time before the enforcement notice was issued.
10. The appellant has provided photographic evidence from 18 June 2019, shortly after the enforcement notice was issued. There is no indication of open storage taking place, and inside the Dutch barn there is some old timber/wood, which is said to be required to be turned into bark mulch. The other predominant item being stored are some breeze blocks which are said to be required to erect a means of enclosure at the site. There are also a few other items present, such as a small trailer. The photos from June 2019 are consistent with what I observed during my site visit.
11. I am consequently satisfied on the balance of probabilities that there was not a breach of planning control in respect of open storage taking place at the appeal site. Furthermore, based on the available evidence, the quantum of items

¹ An extant enforcement notice relating to the use of residential caravans is referred to in a letter from the Council dated 13 February 2019.

stored inside the Dutch barn are very limited in extent, and their use reasonably defined, such that I am persuaded on the balance of probabilities that the appellant has demonstrated that there has not been a material change of use, and therefore breach of planning control in this regard. My findings however would not preclude the Council from taking enforcement action in the future should it consider there to be a change in circumstances amounting to a breach of planning control.

12. The appellant does not dispute that there had been a breach of planning control in respect of the use of land for the siting of a caravan for storage purposes at the time the enforcement notice was issued and vowed to remove it. I could see during my site visit that it had been removed, but nevertheless the allegation was correct when the enforcement notice was issued.
13. Consequently, the appeals on grounds (b) and (c) only succeed in respect of open storage. I will therefore vary the enforcement notice by deleting references to storage in both the allegation and in the requirements.

The ground (f) appeal

14. The purpose of the enforcement notice is to remedy the breach of planning control. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives.
15. I have already found that the remaining caravan is sited in breach of planning control. It therefore follows that in order to remedy that breach it will need to be removed from the land and the appellant has not proposed lesser alternatives. That its removal may inhibit the ability for the appellant to develop a horticultural enterprise, and that the site is located in an isolated countryside location with no nearby services and facilities and that there is no existing building present on the site which could be modified, is not relevant in this regard.
16. The appeal on ground (f) accordingly fails.

Overall Conclusion

17. For the reasons given above I conclude that the appeal should succeed in part only, but otherwise I will uphold the notice with variations.

Formal Decision

18. It is directed that the enforcement notice be varied by:
 - deleting the words "*and the use of the land for B8 open storage (B8)*" from the breach of planning control;
 - deleting the words "*1. Cease the use of the land for the siting of a caravan for recreational purposes, the siting of a caravan for storage purposes and the use of the land for B8 open storage (B8).*" and their replacement with the words "*1. Cease the use of the land for the siting of a caravan for recreational purposes and the siting of a caravan for storage purposes.*"
 - deleting the words "*4. Remove all items stored on the land that are not associated with the agricultural use.*".

19. Subject to these variations the appeal succeeds in part and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR