



Appeal Decisions

Site visit made on 21 January 2020

by Iwan Lloyd BA BTP MRTPI

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

Decision date: 26 February 2020

Appeal A Ref: APP/W0910/C/19/3235091

Appeal B Ref: APP/W0910/C/19/3235092

Land adjacent to the rear curtilage of 26 Wakefield Street, Askam-in-Furness, Cumbria LA16 7JR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs Suzan Phillpotts (Appeal A) and Mr Paul Phillpotts (Appeal B) against an enforcement notice issued by Barrow-In-Furness Borough Council.
 - The enforcement notice, numbered ENF/2019/0001/P.652, was issued on 1/08/2019.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use of the land by creating a hard standing area used to accommodate a touring caravan, a compost bin and a storage unit.
 - The requirements of the notice are to:
'You must stop using any part of the land for any form of storage, including the parking of any caravan or vehicle by permanently removing from the land any caravan or vehicle, and any form of storage receptacle. You must then return the land to its original natural state by removing all hard standings, including sub-base materials, then re-soiling to the same level as the adjacent grassland followed by re-seeding the land with a seed mix appropriate to the adjacent open area'.
 - The period for compliance with the requirements is 28 days.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) and (b) of the Town and Country Planning Act 1990 as amended.
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1. The enforcement notice is quashed.

The Notice

2. The notice is directed at a 'change of use of the land by creating a hard-standing area used to accommodate a touring caravan, a compost bin and a storage unit'. However, these items do not describe what the material change of use of land is that has caused the breach of planning control. The stationing of a caravan on the land does not describe how it is used in connection with the use of land. The requirements of the notice refer to stop using any part of the land for any form of storage but does describe the nature of the storage use.
3. The appellants are entitled to know what they have done wrong and what they need to do to remedy it. They have indicated that they have maintained and used the land since 1994 and have stored bins there since this time.

4. If I were to correct the notice to that of a change of use of the land for residential purposes, there may be injustice in doing so since the appellants could formally plead the ground of appeal that the development has gained immunity over the passage of time before the notice was issued. If I were to correct and uphold the notice, then this would deny the appellants the possibility of formally pleading this ground because their submissions infer that they have used the land over a period-of-time.
5. The allegation and the requirements of the notice lacks precision and clarity in relation to the breach of planning control and any correction may cause injustice in denying the appellants grounds of appeal that would be apparent had the breach been appropriately identified. I have wide powers of correction under section 176 of the Act as amended provided no injustice would be caused to any party. I consider there would be injustice if I were to correct this notice.
6. I therefore conclude that the notice is invalid and must be quashed. In the light of this the grounds of appeal do not fall to be considered.

Iwan Lloyd

INSPECTOR