
Appeal Decision

Site visit made on 4 February 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/E3715/C/19/3234434

Land at Spinney Farm, Main Street, Withybrook, Warwickshire CV7 9LX

- 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 John Mac against an enforcement notice issued by Rugby Borough Council.
 - The enforcement notice was issued on 20 June 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the land from agriculture to a mixed use of agriculture and siting of a residential caravan shown edged blue on the attached plan.
 - The requirements of the notice are
 - (i) Remove the caravan from the land
 - (ii) Remove all raised platforms, brickwork and paving associated with the use of the caravan
 - (iii) Return the land to its former condition
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is corrected and varied as follows :
 - 1) Adding the word "material" before "change of use" and adding the words "for residential purposes" after "the residential caravan" to the breach alleged at paragraph 3 of the Notice.
 - 2) Deleting (i) from the requirements of the Notice at paragraph 5 and replacing it with " (i) Cease the residential use of the land and remove the caravan from the land."
2. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

3. The notice refers to a "change of use" rather than a material change of use. To accurately reflect section 55(1) of the Town and Country Planning Act 1990 (the Act) defining "development", I can amend the notice to include the word "material" before "change of use".
4. The notice refers to siting of a residential caravan but does not state that the residential caravan is being use for residential purposes. Again, I consider that

the notice can be amended for greater precision, because this is how it has been interpreted by the appeal parties.

5. The requirements of the notice include removing the caravan but not ceasing the mixed use by ceasing the alleged residential use. So that the requirements flow from the corrected allegation, it is necessary to vary the requirements to require the cessation of the residential use. The appellant is aware of what the notice required, and the varied notice is no more onerous than first issued. The corrections and variations cause no injustice to any party.

The appeal on ground (c)

6. The caravan has two bedrooms, kitchen facilities and a shower room. It has surrounding brick skirting and a raised platform which includes a wider area for sitting out overlooking a field. One of the bedrooms was in use at the time of my site visit. The caravan is sited within the corner of a field beyond the farmhouse, various farm buildings, stables and a manege.
7. An appeal under ground (c) is that the matter alleged in the notice does not constitute a breach of planning control. Section 55(1) of the Act includes a material change of use in the definition of the word "development" for planning purposes. Section 57 of the Act then states that planning permission is required for development subject to listed exceptions.
8. The appellant has indicated that the Council has not provided any evidence as to why the caravan is not being used for agricultural purposes. However, there is no dispute that the siting of a residential caravan has taken place. The introduction of a residential use by siting the caravan results in a mixed agricultural and residential use of the land. The residential use facilitated by the caravan such as the display of table and chairs used in connection with the residential use, results in a significant change in the use of the land. The mixed-use has resulted in a change in the definable character of the land from agriculture to agriculture and residential. That change falls within the scope of s55(1) of the Act, and it is for the appellant to show express planning permission is not required.
9. The appellant argues that the residential caravan benefits from permitted development rights. Class A of Part 5 of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the GPDO) read in combination with Paragraph 7 of Schedule 1 of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) provide for permitted development rights for seasonal use of agricultural or forestry workers.
10. Part 5 Class A of the GPDO refers to the use of land other than a building, as a caravan site in the circumstances referred to in paragraph A.2. However, A.1 states that the use is to be discontinued when the circumstances specified in paragraph A.2 cease to exist and all caravans on the site are removed as soon as reasonably practicable. The circumstances referred to in paragraph A.2 are those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act which at paragraph 7 states that a caravan site licence shall not be required for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation. In order to fall within this exception, therefore, occupation could take place for a particular season or

seasons by person or persons employed in farming operations and the caravan would need to be removed when the relevant season ended.

11. A statutory declaration from the appellant states that the caravan 'is intended for use on a seasonal basis by workers engaged in agriculture'. However, the use of the words 'is intended' suggests future use. No information is provided as to who occupied the caravan during the period leading up to the issue of the enforcement notice, or how it is occupied and used in connection with seasonal work. The information does not sufficiently show the nature of the seasonal work which gives rise to any need for the caravan or the extent of the agricultural operation.
12. There is no evidence before me of the caravan having been occupied by a person employed in seasonal work or any evidence that the caravan is removed from the appeal site when not required for seasonal farming. I am therefore unable to find that the caravan does benefit from permitted development rights for seasonal workers under Class A of Part 5 of the GPDO.
13. A supporting declaration for a certificate of existing operational development and a copy of the Certificate of Lawful Development (the Certificate)with the attached plan which was granted on the 10 January 2017 have been provided by the appellant as part of the appeal. The Certificate was granted for the erection of stables and formation of a manege within a defined area. However, the alleged breach relates to the material change of use arising from the siting of the residential caravan. The Parish Council have referred to the appellant seeking to use the caravan for an agricultural worker but that is not the argument that has been advanced by the appellant.
14. To succeed on a ground (c) appeal, the appellant would have to show that the matters alleged in the notice, if they occurred, did not constitute a breach of planning control. However, a change of use to a mixed use of residential and agricultural use has taken place which is a material change of use which constitutes development and requires express planning permission, which has not been obtained. The ground (c) appeal must fail.

Conclusion

15. For the reasons given, the enforcement notice, as corrected and varied above, is upheld and the appeal should be dismissed.

E. Griffin

INSPECTOR