



Appeal Decision

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2020

Appeal Ref: APP/L2630/C/20/3246264

Woodcrest Barn, Darrow Lane, Roydon, Norfolk IP22 5SA

- 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 Nigel Rogers against an enforcement notice issued by South Norfolk District Council.
 - The enforcement notice, numbered 2018/8277, was issued on 23 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission the erection of building (consisting of two mobile homes and a linking building) occupied independently from the main dwelling known as Woodcrest Barn.
 - The requirements of the notice are to remove the building from the site in its entirety.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)[b] and [g] of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of '6 months' and the substitution of '9 months' as the period for compliance. Subject to the variations, the enforcement notice is upheld.

Procedural Matter

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council have agreed to the appeal proceeding on this basis.

Reasons

Ground (b)

3. An appeal under ground (b) is that the matters to which the notice relates have not occurred. This is a legal ground of appeal and the onus of proof lies with the appellant. The standard of proof is the balance of probabilities.
4. The appellant does not dispute that a building has been erected or that it is being occupied independently from the main dwelling (Woodcrest Barn). He says that he is actively seeking a new site for his home. Given the admissions of the appellant, the unauthorised development has taken place on the land and the appeal on ground (b) fails.

Ground (g)

5. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The appellant considers that the compliance period of six calendar months is too short because it does not allow him sufficient time to move his home to another site and the owners of the estate of which the site forms part are selling their land which may take longer than six months
6. Notwithstanding the compliance period of 6 months and the fact that the appellant has not suggested a specific alternative compliance period in his submission, the Council says in its statement that the appellant has not provided any reason to warrant a compliance period longer than one year. I have assumed that the Council's comment means that they would have no objection to an extension of the compliance period up to one year.
7. As the building is occupied as residential accommodation, the notice would cause the loss of someone's home or other accommodation. Therefore, the right set out under Article 8 of the Human Rights Act 1998 is engaged. However, save for the disruption that finding alternative accommodation would cause the appellant, with which I have great sympathy, there is no evidence to substantiate the appellant's claim that there is a paucity of alternative sites or to show that an alternative site could not be found within the 6-month compliance period of the notice.
8. However, taking account of the added stress to the appellant in the light of his daughter's medical diagnosis and the position adopted by the Council regarding the length of the compliance period, it seems to me reasonable for the compliance period to be extended to 9 months. For these reasons, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Sarah Dyer

Inspector