



Appeal Decision

Site visit made on 22 June 2020

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2020

Appeal Refs: APP/X1118/C/19/3231836 & 3231837

Strawberry Fields, Shute Lane, Combe Martin, Devon EX34 OHW

- 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 Mr Roger Turner & Mrs S Turner against an enforcement notice issued by North Devon District Council.
 - The enforcement notice was issued on 31 May 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years unauthorised material change of use of the Land by virtue of the storage of an additional mobile home (caravan) to that permitted under planning permission 62041.
 - The requirements of the notice are: Remove the first mobile home (caravan) from the Land.
 - The period for compliance with the requirement is 3 months.
 - The appeals are proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeals are dismissed and the Enforcement Notice (EN) is upheld.

Main Issue

2. I have noted evidence from various appeal parties about the planning merits of the development alleged to have occurred. These include the visual impact of the caravan being sited on high ground, a history of potential farm diversification schemes and the effect of the caravan being close to the neighbouring property. However, the issue in this appeal is restricted to a certain limited legal ground and arguments. As such, the afore-mentioned matters and others like them have no place in my consideration of the appeal.
3. An appeal under S174(2)(c) is based on the claim that the matters alleged in the EN do not constitute a breach of planning control. The burden to make out such a case rests with the appellants.

Reasons

4. S55 of the 1990 Act defines what constitutes development. It includes the material change of use of any buildings or other land. The siting of caravans on land is generally taken to be development comprising the material change of use of land. S57 of the 1990 Act sets out that planning permission is required for any development of land.

5. The appellant argues that the caravan may be there as permitted development. Schedule 2, Part 5, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) allows for the use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2. Those circumstances are specified in paragraphs 2 to 10 of Schedule 1 to the Caravan Sites and Control of Development Act 1960 Act (cases where a caravan site licence is not required). One such use is the use of land as a caravan site if the use is incidental to the enjoyment as such of a dwellinghouse within the curtilage of which the land is situated.
6. In this case, the caravan is clearly within the farm next to a barn. It is not within the curtilage of the dwellinghouse which has its own fenced in curtilage and gated driveway. Just being within the curtilage of the farm is not enough to show that it is in use where a caravan site licence is not required. No other information or clear case has been made out that the caravan is there for other purposes where a caravan site licence is not required. Consequently, the GPDO has not granted planning permission for the caravan.
7. The appellant also asserts that the use of the caravan is ancillary to agriculture meaning that it is outside of development control and thus does not constitute a material change of use of land. However, S174(2)(c) of the 1990 Act says, "those matters (if they occurred) do not constitute a breach of planning control". "Those matters" refers to the matter stated in the enforcement notice – the development alleged to have occurred – not a different subsequent development. The matters in this case, set out in the alleged breach of planning control is, in short, the storage of a mobile home. I shall examine the evidence to see whether that has occurred. This is a matter of fact and degree judgement based on the balance of probability.
8. The Council made various visits to the farm in 2017 when the caravan was placed in its current position. A newer caravan to be used for authorised holiday purposes was subsequently acquired sometime between August and November 2017 and is in the former place of the old one. Over 2017 the Council claim that it was advised by the appellants that the old caravan was not in use either as a holiday unit or for residential purposes and it would be disposed of as soon as practicable, once the new caravan arrived. A further visit in May 2018 revealed that the old caravan was still there with the appellants stating that they had not had time to remove it. Against this background it seems to me that purchasing the new caravan meant the old caravan was not needed and thus it was moved to elsewhere on the farm awaiting removal. In that time, it was being stored on the land, which would be a material change of use of the land requiring planning permission.
9. In contrast the appellants suggest there has been a misunderstanding and that the caravan is being used as it was previously, albeit now in a different location, and that is for the storage of animal feed/refrigerated medicines and also in accordance with health, safety and welfare regulations as a wash/changing facility, rest room for eating and making hot/cold drinks, by vets and agricultural workers.
10. However, the photographs taken by the Council at the end of January 2019, a few months before the EN was issued, show the caravan fitted out internally as a residential mobile unit with no signs of animal feed storage. There may have been medicines in the fridge on that occasion, but there is no substantive

evidence from the appellants to show this was the case. Also, bearing in mind that the Council visited the site five times between May 2017 and January 2019 to investigate the use of the caravan, it is difficult to understand why there could have been any misunderstanding about its use particularly given that the appellants now claim they have various duties to provide a rest room/wash room for workers and/or vets. There is nothing other than assertion that this is the case. Trading Standards officers may have visited to check that animal medicines and feeds were being stored correctly, but this does not confirm that the caravan was not being primarily just stored on the land.

11. When I visited the caravan and looked inside there were some bags of animal feed/compound such as calf milk powder. However, these occupied a very limited space inside the caravan. There were also a few items of animal medicines in the fridge. Other than these the caravan looked very much like it did when the Council saw inside it in January 2019. Although the caravan is linked to services such as an electricity supply, it seems to me that as a matter of fact and degree, the caravan was probably being stored on the land when the EN was issued.
12. Any use of the caravan such as that described by the appellants is not what has been alleged. My finding, which is leading me to dismiss the appeal, should not fetter any lawful use of the caravan, if that turns out to be not development. However, that is a matter for discussion with the Council away from this appeal.
13. For the above reasons, I shall dismiss the appeals and upheld the EN.

Gareth Symons

INSPECTOR