



Appeal Decisions

Site visit made on 15 June 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Appeal A Ref: APP/Y3425/C/19/3239198

Appeal B Ref: APP/Y3425/C/19/3239199

Land at The Stables, Four Lanes End, Garshall Green, Milwich

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Michael Mellor and Appeal B is made by Esther Titterton against an enforcement notice issued by Stafford Borough Council.
 - The enforcement notice was issued on 25 September 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, change of use of the land from agricultural use to use for the siting of a mobile home, shown marked with a black cross on the attached plan, being used for residential purposes.
 - The requirements of the notice are
 - (i) Stop using the land for the siting of a mobile home being used for residential purposes
 - (ii) Remove from the land the mobile home.
 - The period for compliance with the requirements is 4 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice is corrected and varied as follows:
 - 1) Deleting the breach of planning control and replacing it with "Without planning permission, the material change of use of agricultural land to a mixed use of agriculture and for the siting of a mobile home used for residential purposes shown marked with a black cross on the attached plan."
 - 2) Deleting (i) and (ii) from the requirements of the Notice at paragraph 5 and replacing it with "(i) Cease the residential use of the land and remove the mobile home from the land."
 - 3) Deleting "4 months" from the period for compliance and replacing with "6 months."
2. Subject to the corrections and variation, the appeals are dismissed and the enforcement notice is upheld.

Procedural Matters

3. The appellants ticked boxes indicating appeals under grounds (a) and (c) on the appeal form. However, ground (a) appears to have been ticked in error as the information provided is repeated in ground (c) and relates to ground (c) rather than (a). Ground (a) is that planning permission should be granted for

what is alleged in the notice which is not part of the appellants argument. In any event, in order to proceed with a ground (a) appeal, fees are payable and in the absence of payment of fees, the appellants were notified that any ground (a) appeal had lapsed. The appeals are therefore proceeding on ground (c) with the addition of ground (g) which relates to the period of compliance in light of the ongoing Covid-19 crisis.

4. Turning to the notice, it 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 am amending the notice to include the word "material" before "change of use".
5. As what is alleged is that part of the land the subject of the notice has changed to residential use, the breach should refer to a mixed use of agriculture and the siting of the mobile home for residential purposes. So that the requirements flow from the corrected allegation, it is necessary to vary the requirements to refer to the mixed use and to require the cessation of the residential use. It is also necessary to alter the breach of planning control so that it refers to the mixed use. The appellant is aware of what the notice required, and the varied notice is no more onerous than first issued. I am satisfied therefore that these corrections and variations can be made without causing injustice to any party.
6. The appeal site includes a stable building to the side of the mobile home which was granted planning permission on 6 July 1993 for the construction of a brick and tiled stable block hay and tack rooms.¹ The building or its use were not referred to in the notice by the Council who refer to agricultural use. The Council has subsequently said that the building has not been in use for some time. The appellants refer to the use of the land as agricultural but also refer to the stable building in their appeal as they wish to apply to convert the building to residential use in the future. However, irrespective of the current status of the stable building, both parties refer to the existing use of land as agricultural and I do not consider that there is injustice to either party in proceeding on that basis.
7. Whilst the reasons for issuing the notice are not particularly detailed, the reasons do state that the unauthorised use is not suitable for the area and the breach is clearly the change of use resulting from the siting of the mobile home for residential purposes. From the evidence submitted, the appellants understood that the breach related to the residential use of the mobile home. I do therefore consider that there is no injustice to either party in determining the appeal on the basis of the notice as previously amended.

The appeal on ground (c)

8. An appeal under ground (c) is that the matter alleged in the notice does not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without the required planning permission. The meaning of development is set out in Section 55 of the Act and includes a material change of use of any buildings or other land. Section 57 of the Act then states that planning permission is required for development subject to listed exceptions.

¹ Reference 93/29090/FUL

9. Whilst there is no dispute that the siting of a mobile home has taken place, that in itself is not a material change of use. What is relevant is the purpose for which it is stationed. The residential use is facilitated by the mobile home and associated changes. At the time of my site visit, the area to the side of the mobile home was made up of a lawn with garden furniture and a play frame for children. The Council indicates that the lawned area and domestic features were added after the notice was issued but their use is clearly associated with residential rather than agricultural use. The mobile home is equipped with bedrooms and a kitchen area and living space. The introduction of a residential use by the siting of the mobile home has resulted in a change in the definable character of the land which results in a mixed agricultural and residential use. That material change of use falls within the scope of Section 55 of the Act for which planning permission is required unless one of the listed exceptions in Section 57 of the Act applies.
10. The appellants have referred to the siting of other caravans that are in the immediate area. They state that they are not aware that the other caravans have planning permission or have a greater need than the appellants. Limited details are provided for example as to whether residential use is taking place at the other caravans. Nevertheless, the siting of caravans in the area does not mean that planning permission is not required for the material change of use that has occurred in this case.
11. The appellants argue that the mobile home is permitted development for the welfare of animals and employees and that the land is being used for agricultural use. The appellants state that it is essential for their family to stay at the mobile home for the welfare of the animals and to protect machinery from theft and loss of livestock. They also refer to the mobile home being used for the storage of records, medication and handling equipment for cattle.
12. However, the mobile home is being lived in by the appellants and their children and the siting of the mobile home for residential purposes falls outside agricultural use. Other than in limited circumstances, for example for seasonal workers use, the siting of a mobile home for residential use will require express planning permission. Matters such as whether or not there is an essential need for the appellants to live on the site go to the planning merits of the development and are outside my remit as there is no ground (a) appeal before me which would have included a request for planning permission.
13. Reference is made by the appellants to the mobile home not being a permanent structure and their intention is to apply to convert the stable building into a dwelling. Nevertheless, there is no dispute that the mobile home is being used for residential purposes as the appellants live there and have now added domestic features such as the lawn area and play equipment. The fact that the mobile home is capable of being moved, has wheels and a tow bar and is not anchored to the ground does not prevent its siting from being a material change of use from agricultural land to a mixed use.
14. To succeed on a ground (c) appeal, the appellants would have to show that the matter alleged in the notice, if it occurred, does not constitute a breach of planning control. However, a change of use to a mixed use of residential and agriculture has taken place which is a material change of use and constitutes development which requires planning permission which has not been obtained.

The matter alleged in the notice does therefore constitute a breach of planning control. The ground (c) appeal must fail.

An appeal under ground (g)

15. This ground relates to the period allowed for compliance with the notice. Although the appellants did not appeal under this ground, I have the power under Section 176(1)(b) of the Act to vary the terms of the notice where I consider it to be appropriate to do so. In view of the current Covid-19 crisis, I have asked the parties for their comments on the compliance period.
16. The Council commented that the period for compliance with the notice is reasonable even allowing for the Covid -19 crisis and has referred to the appellants having immediate family in the area at the farmstead who could help with accommodation. In response, the appellants stated that is not an option due to both the size of the appellants' family as they have two young children and because an elderly relative is still shielding at the farmstead. The appellants have referred to the need to stay close by due to animals and machinery and have asked for 9 months as a period for compliance. The current compliance period is 4 months. On balance, having taken into account both party's comments, I do consider that 9 months would be excessive and would not fall far short of granting a temporary planning permission. A breach of planning control has occurred and the Council is entitled to have the breach remedied. However, I do consider that 6 months would be a reasonable period for compliance and to find alternative accommodation. The appeal under ground (g) therefore succeeds in part and I shall vary the notice accordingly.

Conclusion

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

E. Griffin

INSPECTOR