



Appeal Decisions

Site visit made on 4 August 2020

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2020

Appeal A Ref: APP/P2935/C/19/3227508

Land at Bridgend Park, Brewery Road, Wooler, Northumberland NE71 6QG

- 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 Mrs Norma Reddan against an enforcement notice issued by Northumberland County Council.
 - The enforcement notice was issued on 29 March 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, operational development on the Land comprising of the siting of mobile caravan homes including the laying of concrete bases, excavation of land and associated provision of services including, water, electricity and drainage.
 - The requirements of the notice are:
 - (i) Remove the mobile homes from the Land remove them from the Park
 - (ii) Reinstate the land as a communal area be seeding with grass or the laying of turf.
 - The period for compliance with the requirements is ten weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (e) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/P2935/C/19/3227648

Land at Bridgend Park, Brewery Road, Wooler, Northumberland NE71 6QG

- 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 Best Holdings (UK) Ltd against an enforcement notice issued by Northumberland County Council.
 - The enforcement notice was issued on 29 March 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, operational development on the land comprising of the siting of mobile caravan homes including the laying of laying of concrete bases, excavation of land and associated provision of services including, water, electricity and drainage.
 - The requirements of the notice are:
 - (i) Remove the mobile homes from the and remove them from the Park
 - (ii) Reinstate the land as a communal area be seeding with grass or the laying of turf
 - The period for compliance with the requirements is ten weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decisions: Appeal A: no further action taken; Appeal B: the appeal is allowed and the enforcement notice is quashed.

Procedural matters

1. Both appeals are against the same enforcement notice issued by Northumberland County Council on 29 March 2019 in relation to land at Bridgend Park, Brewery Road, Wooler.

The appeals on ground (e)

2. The ground of appeal is that copies of an enforcement notice were not served as required by section 172 of the Town and Country Planning Act 1990 as amended (the 1990 Act). It is convenient to deal with the appeal made by Best Holdings (UK) Ltd (Appeal B) in the first instance.
3. Section 172(2) of the 1990 Act provides that a copy of the notice shall be served (a) on the owner and on the occupier of the land to which it relates, and (b) on any other person having an interest in the land being an interest which, in the opinion of the authority, *is materially affected by the notice* (my emphasis). The term occupier is not defined in section 336 of the 1990 Act is generally accepted to include mortgagees, tenants, sub-tenants, lessees and licensees by virtue of an oral or written licence.
4. Section 174(1) of the 1990 Act then provides that person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him/her. Section 174(1) of the 1990 Act indicates that for the purposes of that section "relevant occupier" means a person who (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and (b) continues so to occupy the land when the appeal is brought.
5. In this case, it is not disputed that a copy of the notice was properly served on the owner of the land, namely Best Holdings (UK) Ltd. The matter in dispute is whether the notice should properly have been served on Wyldecrest Parks (Management) Ltd, the holders of the Caravan Site Licence for Bridgend Park. In my view, relevant factors in this regard include degree of control, duration of occupation and the nature of the occupancy.
6. The appellant explains that the landowner (Best Holdings (UK) Ltd) and site operator (Wyldecrest Parks (Management) Ltd) are two separate entities. The Council, which had dealings with Wyldecrest Parks (Management) Ltd prior to the notice being issued, maintains that Wyldecrest Parks (Management) Ltd is part of Best Holdings (UK) Ltd. I make no criticism of the Council in that respect but, in view of the appellant's knowledge of the nature of its own holdings and organisational structure, the latter's evidence on this point is preferred.
7. I have not been provided with any indication of length of time that Wyldecrest Parks (Management) Ltd have held the Caravan Site Licence for Bridgend Park, but it is evident that its interest in the land is of an entirely different nature to that of Best Holdings (UK) Ltd as landowner. It is equally evident that Wyldecrest Parks (Management) Ltd exerts a significant degree of control over the operation of Bridgend Park, including the issuing of legal agreements that provide specific protections for residents. Given that Best Holdings (UK) Ltd and Wyldecrest Parks (Management) Ltd are entirely separate entities, I accept that as a matter of legal principle only the latter would be in a position to enforce those agreements.
8. The notice requires, amongst other things, the removal of the mobile homes from the land and from the Bridgend Park. This in turn has implications for the agreements held by the occupiers of those mobile homes and issued by Wyldecrest Parks (Management) Ltd. Having regard to the above, I therefore

consider that the interest in the land held by Wyldecrest Parks (Management) Ltd is materially affected by the notice. It follows that the notice ought to have been served on Wyldecrest Parks (Management) Ltd in accordance with section 172(2) of the 1990 Act.

9. Section 176(5) of the 1990 Act provides that, where it would otherwise be a ground for determining an appeal under section 174 of that Act in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him/her. It is clear that consideration of this provision must relate both to the appellant and the person not served with a copy of the notice, and that the relevant test is whether either would be substantially prejudiced.
10. In my view, the critical factor in this case is that the appellant (Best Holdings (UK) Ltd) and the person not served with a copy of the notice (Wyldecrest Parks (Management) Ltd) are separate entities. Each has a separate function in the operation and/or management of Bridgend Park. Moreover, each would have different responsibilities in terms of complying with the requirements of the notice. By way of example, the evidence before me suggests that Best Holdings (UK) Ltd would have only a limited role to play in the removal of the mobile homes from the land, which would primarily be the responsibility of Wyldecrest Parks (Management) Ltd. Conversely, the latter would have a more limited role in the reinstatement of the communal area, which would fall primarily on Best Holdings (UK) Ltd. The corollary, it seems to me, is that actions by both the appellant and the person not served with a copy of the notice would be required to fully comply with the notice.
11. Because Wyldecrest Parks (Management) Ltd were not served with a copy of the notice, the appellant (Best Holdings (UK) Ltd) is left in a position whereby it might not be able to comply fully with the notice. In my view, the appellant is substantially prejudiced by that.
12. Furthermore, I cannot discount the possibility that, had Wyldecrest Parks (Management) Ltd been served with a copy of the notice, it would have exercised its right of appeal under Section 174(1) of the 1990 Act as a person having an interest in the land. I then cannot discount the possibility that, had it exercised its right of appeal, Wyldecrest Parks (Management) Ltd might have made that appeal on different grounds to those pleaded by the appellant. Moreover, even if an appeal was made on the same grounds as the appellant, the basis of that appeal may have been different to those of the appellant. For these reasons, I consider that Wyldecrest Parks (Management) Ltd has been substantially prejudiced by not being served with a copy of the notice.
13. Given that both the appellant and the person not served with a copy of the notice have been substantially prejudiced, the provision within Section 176(5) of the 1990 Act to disregard the failure to serve a copy of the notice on Wyldecrest Parks (Management) Ltd is not open to me. I must therefore quash the notice on that basis alone.
14. I turn now to the appeal on ground (e) made by Mrs Reddan (Appeal A). The appellant explains on her appeal form that the enforcement notice was served upon her by hand by a Council official. This is confirmed in the Council's evidence, which indicates that copies of the notice were hand delivered to Nos 76 and 80 Bridgend Park, those being the only two mobile homes on the land

to which the notice relates that were occupied at the time. The notice was addressed to 'The Occupier' and was not personally addressed to Mrs Reddan. Neither was her personal address stated on the notice.

15. I acknowledge that receiving the notice in this fashion is somewhat impersonal and might have come as a shock to Mrs Reddan. Nevertheless, I am satisfied that the notice was properly served upon her in accordance with Section 172(2) of the 1990 Act. It follows that her appeal on ground (e) technically fails but in practice this is of no consequence given that I will quash the notice anyway on the basis that it was not served on Wyldecrest Parks (Management) Ltd.

Conclusion

16. In relation to Appeal B, I conclude that appellant and others have been substantially prejudiced by the nonservice of the enforcement notice and this is not a case when I can exercise the power to disregard that non-service in accordance with section 176(5) of the 1990 Act. The appeal on ground (e) succeeds and the enforcement notice will be quashed.
17. In these circumstances, the appeals made by Best Holdings (UK) Ltd on the grounds set out in section 174(2) (a), (c), (f) and (g) to the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.
18. Because an enforcement notice is a single entity, the effect of Appeal B succeeding is that the notice will be quashed in its entirety and will no longer take effect on any person upon whom it was served. For that reason, I need take no further action in relation to Appeal A.

Formal Decisions

Appeals A Ref: APP/P2935/C/19/3227508

19. No further action taken.

Appeal B Ref: APP/P2935/C/19/3227648

20. The appeal is allowed and the enforcement notice is quashed.

Paul Freer
INSPECTOR