
Appeal Decision

Site visit made on 20 August 2020

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2020

Appeal Ref: APP/P1615/C/20/3250288

Wild Oak Farm, Little London, Gloucestershire GL17 0PH

- 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 Lizzie White against an enforcement notice issued by Forest of Dean District Council.
 - The enforcement notice was issued on 13 March 2020.
 - The breach of planning control as alleged in the notice is the material change of use of the land to residential by the stationing of a touring caravan, two small associated outbuildings, one larger outbuilding and associated domestic paraphernalia.
 - The requirements of the notice are: 1) Permanently cease the use of the land for residential purposes; 2) Permanently remove from the land the caravan and all buildings and paraphernalia associated with the residential use of the land; 3) Permanently remove all other wooden buildings constructed on the site; 4) Remove from the land all materials generated through the compliance with steps 2 and 3 above.
 - 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 (c) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary Matters

2. The grounds of appeal pleaded do not allow me to consider any matters of planning merit. There is also no ground (a) appeal or deemed planning application for me to consider. Therefore, information such as what the appellant is trying to achieve in terms of the smallholding and for her own personal circumstances, are not issues I can take into account. Furthermore, concerns about how the Council has administered the enforcement process and misgivings about guidance given to the Council's Planning Committee are matters for taking up with the Council. I cannot consider them in this appeal.

The ground (b) appeal

3. There is a residential use occurring in the touring caravan and the buildings referred to in the enforcement notice are also on the land. There is also domestic paraphernalia. On this basis, the matters alleged to be in breach of planning control have occurred. As such, the ground (b) appeal fails.

The ground (c) appeal

4. The onus to show that the development alleged to have occurred does not constitute a breach of planning control rests with the appellant. There are two strands to development defined by S55 of the 1990 Act. They are building operations and the making of any material change in the use of land. S57 of the 1990 Act sets out the requirement for planning permission for development.
5. The buildings attacked in the EN have the appearance of domestic sheds which are usually delivered in manufactured pre-formed panels and assembled on site. They are not usually delivered complete like construction site offices and other portable buildings designed to be on land for a temporary period while, for example, construction work is undertaken with a view to them being removed whole and transported onto another site. Also, while the wooden buildings may not be fixed, in the sense of foundations for example, they are held to the ground by their own weight. Consequently, as a matter of fact and degree their construction was a building operation, thus constituting development which required planning permission. This is irrespective of what they are used for.
6. They do not have express planning permission granted by the Council. Schedule 2, Part 6, Class A of The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) does grant planning permission for the erection of agricultural buildings (known as 'permitted development'). However, on holdings of less than 5 ha (the appellant's holding is 3ha) there is no permitted development right under Part 6, Class B to erect a building.
7. Reference to the buildings being below 4m high and more than 2.5m from the property boundary appear to relate to permitted development rights under Schedule 2, Part 1, Class E of the GPDO for the provision of buildings within the curtilage of a dwellinghouse. Although there are the ruins of a former dwellinghouse and barn on the land, it is clear to me that there is no dwellinghouse as such. Even if there was, the sheds could not be said to be within its curtilage. Arguments that any works to the former cottage and attached barn may be permitted development under Part 6, Class B(b) are not relevant in establishing the case that planning permission has been granted for the buildings attacked in the EN ie. the outbuildings. I shall though return to the ruined barn/cottage below.
8. Turning to the caravan, the siting of caravans that are being lived in usually constitute a material change of use of the land. I have not seen any evidence that would lead me to a contrary view. That involves the second limb of development under s55 referred. Schedule 2, Part 5, Class A of the GPDO grants planning permission for the use of land as a caravan site in the circumstances specified in paragraphs 2 to 10 of Schedule 1 to the Caravan Sites and Control of Development Act 1960. One of those, relevant to the appellant's case, is for the "accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation".
9. There may have been a need to live on the land, for example, for lambing at times, but the 'permitted development' right is a seasonal one and not all year round. It is also subject to the condition that the use is discontinued when the seasonal requirement ceases to exist, and any caravans on the site should be

removed as soon as reasonably practicable. There is no evidence that the caravan is being lived in other than permanently.

10. The same part of the GPDO also allows for the use as a caravan site which forms part of, or adjoins, land on which building or engineering operations are being carried out. I note that the appellant says she has been carrying out repairs to the agricultural part of the ruins of the former cottage and barn. However, the permitted development right to live in a caravan only pertains to operations which have been granted planning permission.
11. It appears that the appellant may have been exploring obtaining planning permission to reinstate the building, but there is no evidence that express planning permission has been granted. At my site visit there were no obvious signs of any building or engineering operations taking place to the building. Moreover, the former cottage/barn is in such a state of disrepair that I agree with the Council the remains of the stone walls left mean that it could only be considered a ruin. Permitted development rights under Part 6, Class B of the GPDO only allow for the extension or alteration of an agricultural building. They do not cover the rebuilding of an agricultural building. In all the circumstances, planning permission does not exist for building or engineering operations that would allow use of the land as a caravan site under the GPDO.
12. Furthermore, given the state of ruin of the former cottage its residential use has long been extinguished, thus meaning that any residential curtilage or use of the land has ceased to exist. The residential use of the caravan therefore needs planning permission.
13. In view of the above, the appellant has not discharged the burden on her to show that the development attacked in the EN does not constitute a breach of planning control. Consequently, the ground (c) appeal also does not succeed.

Conclusion

14. For the reasons given, I shall dismiss the appeal and uphold the EN.

Gareth Symons

INSPECTOR