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## Appeal Decision

Site visit made on 13 October 2020

**by Sarah Dyer BA BTP MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 October 2020**

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**Appeal Ref: APP/A2525/C/19/3228584**

**The land adjacent to Rose and Crown Inn Caravan Site, Marsh Road, Holbeach Hurn PE12 8JN**

- 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 Douglas Barnes against an enforcement notice issued by South Holland District Council.
  - The enforcement notice, numbered SHDC.EN123, was issued on 16 April 2019.
  - The breach of planning control as alleged in the notice is without planning permission the change of use of the land from use for agriculture to a use as a caravan site.
  - The requirements of the notice are:
    - (i) Cease all unauthorised use of the land as a caravan site in its entirety;
    - (ii) Remove all caravans from the land including the static caravan and decking that does not benefit from the temporary storage permission (planning permission reference H09-1164-16)
    - (iii) Remove the twin unit mobile home from the land;
    - (iv) Remove any areas of hardstanding and return the land to its previous condition;
    - (v) Remove any development connected with the provision of electric hook up points and return the land to its previous condition;
    - (vi) Cease use of the land for the parking of vans and other vehicles not connected with the agricultural use.
  - The period for compliance with all of the requirements is one calendar month.
  - The appeal is proceeding on the grounds set out in section 174(2)[a] and [c] of the Town and Country Planning Act 1990 as amended. Ground (a) is brought but no fee is paid. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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### Decision

1. It is directed that the enforcement notice is varied by deleting the plan which is attached to it dated 28 February 2019 and replacing it with the plan dated 2 March 2020.
2. Subject to this variation the appeal is dismissed, and the enforcement notice is upheld.

### Application for costs

3. An application for costs has been made by Mr and Mrs D Worth against Mr Douglas Barnes. This application is the subject of a separate decision.

## **Procedural Matters**

4. The appeal under ground (a) has lapsed, therefore the merits of the change of use of the land to a caravan site are not before me and the comments which have been made by local residents are not relevant to my determination.

## **The Notice**

5. In response to my query regarding the difference between the submitted block plan for the planning permission for the caravan park under the Council's reference H9/520/88 and the site plan attached to the Enforcement Notice, the Council has amended the site plan which is attached to the notice. This amendment removes a triangular piece of land within the northern section of the site which was originally included within the land edged red which is referred to in the notice.
6. The appellant is content with this change and neither of the main parties would be prejudiced by me determining the appeal on the basis of the amended site plan. I have received representations from the occupiers of The Spinney which is a dwelling in the vicinity of the appeal site. The amended site plan does not affect the red line boundary as it relates to their property. Therefore, they are also not prejudiced by my decision to accept it.

## **Reasons**

7. An appeal on ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. 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.
8. In order to achieve success on ground (c) the appellant must show that either there has been no development, or that planning permission is not required for whatever reason, or that permission is granted.
9. The appellant has submitted documents from a planning application for alterations and extensions to the Rose and Crown Public House (Council Ref. H9/497/88) which was submitted in 1988. Amongst these is a block plan which shows a layout of touring caravans behind the public house (the 1988 Block Plan). It is not clear from these documents whether the caravan site formed part of the application, but it is not described on the decision notice. This point is clarified by the Council's submission of a copy of the decision notice for a touring caravan site (Council Ref. H9/520/88) for 43 units together with a toilet and shower block. A copy of the 1988 Block Plan is attached to that permission. The land to which the notice relates is not within the 1988 Block Plan area and does not benefit from planning permission under Council Ref. H9/520/88.
10. The appellant has provided two photographs one of which he dates as 1988 when some trees were planted. He says that the second photograph shows camping facilities taking place in 'the arable field' on a regular basis for the last 30 years. An arable field is shown on the 1988 Block Plan and it is reasonable to assume that the second photo shows this area. However, the quality of the photograph is poor, and it does not allow confirmation of what the facilities were or where they were positioned within the land which is the subject of this appeal.

11. The appellant has provided a plan which appears to show the site of the Spinney. This is described as a 'determined plan' and dated 1996. This document does no more than demonstrate that planning permission for the Spinney post-dated the development of the caravan park under Council Ref. H9/520/88. Whilst this point may be relevant with regard to a consideration of the merits of a planning application for change of use of the land this is not a matter which is before me.
12. An aerial photograph dated 3 January 2019 has also been provided, which the appellant describes as a land registry picture, although its status in this regard is unclear. This photograph shows some features which may be caravans and cars on the land which is the subject of the notice. There are also markings on the grass which could indicate that caravans could have been present for some time on other parts of the land. This document does not demonstrate that a change of use has occurred which is either not development or does not require planning permission.
13. The Council has provided documents which confirm that in 2017 (Council Ref. H09-1171-16) and 2018 (Council Ref. H09-1127-17) it refused planning permission for an extension to the caravan site to include the site which is the subject of the notice. There followed an appeal against application ref H09-1127-11 in 2018 which was dismissed in January 2019 (Appeal Ref. APP/A2525/W/18/3199267).
14. Taking account of all the evidence before me, the appellant has not demonstrated that what has occurred on the site does not constitute development or that planning permission is not required. Furthermore, the evidence from the Council firmly contradicts any suggestion that planning permission has been granted for the use.
15. For the reasons set out above the appeal under ground (c) fails.

### **Conclusion**

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, subject to the variation as set out in the decision.

*Sarah Dyer*

Inspector