
Appeal Decision

Site visit made on 17 November 2020

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 8TH December 2020

Appeal Ref: APP/E0915/C/20/3257761

Field 3700, The Stripes, Cumwhinton, Carlisle, CA4 0AP

- 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 Barry Gawthrop against an enforcement notice issued by Carlisle City Council.
 - The enforcement notice, numbered EC/20/0028/EC, was issued on 14 July 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of land for the siting of No.1 static unit used for residential accommodation.
 - The requirements of the notice are a) Permanently cease the residential use of the static unit; b) Permanently remove the unit and any associated structures including the decking area.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Introduction

2. The appeal is made on grounds (f) and (g) only. I am not empowered to consider whether planning permission ought to be granted for the retention of the static unit and/or the decking. Nor is any other matter relating to the planning history of the site before me.

Ground (f)

3. An appeal on this ground is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, or as the case may be, to remedy any injury to amenity which has been caused by such breach. The purpose of the notice in this case was to remedy the breach of planning control, which was the siting of the static unit used for residential accommodation.
4. The relevant date to consider is the date of the issue of the notice, any subsequent works are not relevant in determining the appeal.
5. The appellant has argued that static unit was put on the appeal site in June 2016 and was originally ancillary to the lawful use of stables and equestrian activities. The appellant's case is that the decking was installed not long after the siting of the unit and that there was been a residential use (which he has

not challenged as being a material change of use) from August 2019. The Council's case is that the static unit required planning permission due to its size and permanence (including the large decked area) whether or not it was being used for residential purposes.

6. It appeared during the site visit, that that the unit was a large structure with an extensive decking which added to its permanence and attachment to the ground. Whilst the appellant's case refers to the unit as a "caravan" he has not submitted any evidence to prove that the structure fits within the legal definition of caravan or twin-unit mobile home, or that it is indeed transportable. The decking would not have been easily detached from the unit, being built right up to the edge of it on two sides to a height of approximately 1 metre and requiring steps for access.
7. The size and type of the unit with the associated decking was much larger than would have been required for an ancillary use for the purposes of shelter and personal amenity associated with the lawful equestrian activities. The Council had informed the appellant that, in their view, it required planning permission, once they became aware that the unit was on the site, and had not accepted that it was a structure ancillary to the lawful use. In the absence of any evidence to the contrary provided by the appellant, I am satisfied that the unit and associated structures were operational development which would have required planning permission. The siting of the structure facilitated the material change of use and it is difficult to see into the site, due to the high fences and gate, from the road and enforcement regarding the residential use would be extremely difficult if the unit was to remain. I am therefore satisfied that the requirement to permanently remove the unit and associated structures does not exceed what is necessary to remedy the breach of planning control and the appeal on this ground does not succeed.

Ground (g)

8. I note that following my site visit, the appellant has informed the Council and the Planning Inspectorate that his personal circumstances have changed and that no one is currently living on the site. Taking this into account along with the harm being caused by the development in the open countryside, I consider that 6 months is a proportionate period of time in which to remove the unit and associated structures and to make alternative arrangements regarding the horses if necessary. The appeal on ground (g) is therefore unsuccessful.

Zoë Franks

INSPECTOR