



Appeal Decision

Site visit made on 19 February 2021

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 March 2021

Appeal Ref: APP/G2713/C/20/3258192

Land at OS Field 9687, Great Ayton, North Yorkshire TS9 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 Mr Shaun Carroll against an enforcement notice issued by Hambleton District Council.
 - The enforcement notice is dated 27 July 2020.
 - The breach of planning control as alleged in the notice is: without planning permission, the change of use of the land for the storing of two caravans and a storage container.
 - The requirements of the notice are: remove the two caravans and the storage container from the land and all associated materials.
 - The period for compliance with the requirements is three 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. 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 as amended have lapsed.
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Decision

1. It is directed that the enforcement notice be amended by:
 - 1) The deletion of all the text in the allegation and the substitution of it by the following text:

'without planning permission, the material change of use of the land for the storing of two caravans and an amenity block.'
 - 2) The deletion of all the text in the requirements and the substitution of it by the following text:

'i. Cease the use of the land for the storing of two caravans and an amenity block. ii. Remove the two caravans and the amenity block from the land and all associated materials.'
2. Subject to these amendments, the appeal is dismissed and the enforcement notice is upheld.

The enforcement notice

3. With regard to the wording of the notice, it alleges '... the change of use of the land for the storing of...'. The allegation is imprecise in that it refers to a 'change of use', whereas to reflect the definition of the term 'development' in s55(1) of the Act, it should state a 'material change of use of the land'. It follows that the requirements of the notice should also include the cessation of

the unauthorised use of the land. I am satisfied that these corrections do not cause any injustice or make the notice more onerous.

The appeal on ground (b)

4. Ground (b) is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
5. The appellant's case on ground (b) is that the allegation that a storage container is positioned on the land is factually incorrect. He states that the structure referred to as a storage container is a portable amenity block. In their statement, the Council clarify that the storage container they refer to in the notice is the amenity block, which they state that has the appearance of a storage container.
6. That being the case, there can be little doubt that the alleged breach of control has occurred as a matter of fact, and so the appeal on ground (b) fails. For clarity, I have directed that the enforcement notice be amended to recognise that the structure in question is an amenity block.

The appeal on ground (c)

7. Ground (c) is that there has not been a breach of planning control, for example, because permission has already been granted, or it is permitted development. Under this ground of appeal, the onus of proof falls on the appellant.
8. The Council made an initial visit to the site on 22 February 2019, and observed that two unoccupied caravans were present on the site, along with the amenity block. They state that on 19 December 2019, they received notification from the Camping & Caravanning Club (CCC) that the site was subject to temporary closure and would not be accepting any future members. In support, they have provided a screenshot dated 10 November 2020 from the CCC website which shows that there are no certified sites in the location in question. The appellant does not dispute this evidence.
9. Instead, the appellant relies heavily on his statement that the site benefits from a caravan site licence (ref: 093/074) issued by the CCC under the Caravan and Control of Development Act 1960 for the siting of up to five caravans and up to ten tents. Therefore, he contends that planning permission is not required for the structures on the site, and that there has been no breach of planning control.
10. On 2 February 2021, the appellant forwarded a copy of one page of an undated CCC certificate ref: 093/074. The certificate states that the use of the land at 'Ponderosa Caravan Park, Great Ayton, North Yorkshire, TS9 6QG' is approved as a camping and caravan site for recreational purposes by the members of the CCC until 28 February 2021 without a licence, providing conditions (a) to (h) overleaf are met.
11. This evidence gives rise to a number of issues. Firstly, I note that there is little in the evidence to corroborate that the appeal site is identified as the 'Ponderosa Caravan Park'. However, the Council do not dispute that the certificate applies to the appeal site in this case. Secondly, because only one page of the certificate is provided, I do not know what conditions (a) to (h) require, or whether or not they have been complied with. Thirdly, the land is

to be used for recreational purposes by CCC members. Nevertheless, there is little evidence to show that this has been the case. For example, it would be expected that records of bookings and stays by CCC members could have been provided by the appellant.

12. As noted above, the burden of proof falls on the appellant under ground (c). In this case, however, there is insufficient evidence to show that the appeal site has been operating within the terms of the certificate. I am therefore unable to be certain that it benefits or has benefitted from the exemption under the Caravan and Control of Development Act 1960.
13. It is therefore necessary to consider whether the storage of the caravans and amenity block amounts to a material change of use of the land. Section 55(1) of the 1990 Act says that 'development' includes the carrying out of building, engineering, or other operations in, on, over or under land, or the making of a material change of use. The concept of a material change of use is not defined in statute or statutory instrument; it is a question of fact and degree in each case. For there to be a material change of use, there needs to be some significant difference in the character of the activities from what has gone on previously.
14. The Council state that the land is classed as agricultural. There is little evidence to suggest that the storage of the caravans and amenity block is ancillary to any agricultural usage at the site. I am therefore satisfied that it has resulted in a clear change to the character of the previous agricultural use made of the land.
15. In conclusion, I find that this material change in the use of the land amounted to development in the terms of s.55 of the 1990 Act, such that it required a grant of planning permission. There is little evidence that any such planning permission has been sought or granted, and insufficient evidence of any exemption from the need for planning permission.
16. The appeal on ground (c) therefore fails.

Conclusion

17. For the reasons above, the appeal is dismissed and the enforcement notice, as varied, is upheld.

Elaine Gray

INSPECTOR