



Appeal Decision

Site visit made on 14 January 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/G5180/C/18/3217165

Land at Knockholt Farm, New Years Lane, Knockholt, Sevenoaks TN14 7PQ

- 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 Alan Howell against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The enforcement notice was issued on 29 October 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from use for agriculture to a mixed use for agriculture and for the stationing and use of a mobile home for residential purposes.
 - The requirements of the notice are:
 1. Cease the unauthorised use of any part of the Land for the stationing and use of a mobile home for residential purposes,
 2. Remove from the Land the mobile home and any items ancillary to that use, and
 3. Leave the Land in a neat and tidy condition.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (d) and (f) of the Town and Country Planning Act 1990 as amended.
 - This decision supersedes that issued on 9 October 2019. That decision on the appeal was remitted for re-hearing and determination by consent order of the High Court.
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Decision

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

Application for Costs

2. An application for costs was made by Mr Alan Howell against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Preliminary Matters

3. In comments received 4 January 2021 the appellant stated they have appealed on grounds (b), (d) and (f). However the appeal form indicated the appeal was made on ground (b) only. Consequently, it was not clear to me that the Council had had the opportunity to respond to each of the grounds of appeal raised by the appellant, in its statement received 29 December 2020. Therefore, comments of the Council were sought in respect of grounds raised by the appellant that the Council may not previously have been aware of.
4. In addition, in light of the above (particularly the ground (d) appeal), confirmation was sought from the Council and the appellant as to whether the

written representations procedure remained suitable for the appeal. Both main parties have confirmed this to be the case and I have no reason to disagree.

The Notice

5. For two reasons, the appellant considers the notice is a nullity. First, as it does not specify one of the two purposes of section 173(4) of the 1990 Act, and second, as the Council is said to have been uncertain whether the case concerns a mobile home or a building.
6. Whilst some enforcement notices do specify their purpose, pursuant to section 173(4), there is no requirement for them to do so under the 1990 Act or its associated regulations¹. The purpose of a notice is determined by its requirements, which must be specified pursuant to section 173(3).
7. I am satisfied the notice contains all that is required by section 173 and the relevant associated enforcement notice regulations and there is no evidence to the contrary. So I do not agree the notice is a nullity for this reason. I address the matter of whether the case concerns a mobile home or a building under the ground (b) appeal below.

Reasons

The appeal on ground (b)

8. An appeal on ground (b) is that the breach of planning control alleged in the notice has not occurred as a matter of fact. The onus in a ground (b) appeal is on the appellant to make out their case and the standard of proof is the balance of probabilities.
9. The appellant's ground (b) case is focussed on two principal issues. First, that the 'mobile home' referred to in the notice is a building rather than a material change of use, as is identified in the notice; and second that the mobile home is used as a welfare unit associated with the agricultural use of the land, rather than for residential purposes, as is alleged in the notice.
10. The appellant has referred to court proceedings brought against him by the Council, in respect of his alleged failure to respond to a planning contravention notice. He says that during those proceedings an enforcement officer and solicitor for the Council confirmed the structure on the site is in fact a building and not a mobile home. Even if this is how it was described at that time, the Council is entitled to have changed its position in this regard, as its investigation into the alleged breach of planning control progressed.
11. The structure on the site rests on a chassis with wheels. Jacks are positioned at its corners and at various locations under its base. The jacks sit on breeze blocks or timber boards placed on the ground. Aside from a soil pipe and a few cables, which it appears could easily be detached, there is nothing to physically attach the structure to the land. There is no evidence of any permanent appendages to the structure.
12. The Council describe the structure as 10.09 metres long and 4.6 metres wide with a dual pitched roof to a height of 4.95 metres. These dimensions have not been disputed by the appellant. The structure has the appearance of a mobile home and the appellant states that it was towed to its present location which

¹ The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

- he says proves it is mobile. There is no evidence to suggest the structure is not moveable, eg by towing or lifting, or that it has any degree of permanence.
13. I acknowledge that the Council may have accepted that the structure has been 'permanently situated within its location'. But this does not necessarily mean that it is therefore a building.
 14. A mobile home is a 'caravan' for the purposes of the Caravan Sites and Control of Development Act 1960 (the CSCDA60). Section 29(1) of the CSCDA60 defines a 'caravan' as 'any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent'. Specific size limitations for caravans are set out in The Caravan Sites Act 1968.
 15. From all of the information available to me, the structure on the site meets the above statutory definition of a caravan and does not exceed any of the relevant size limitations. No evidence has been provided to indicate this is not the case, including the Woolley Valley² case I have been referred to. Therefore, I am satisfied the structure is not a building, as alleged by the appellant.
 16. In respect of how the structure has been used, the Council has provided photographs which it considers appear to show the mobile home in domestic use. The photographs show a kitchen/lounge area, a shower room with toilet and sink, a washing room and a storeroom. This is consistent with what I could see at my site visit. No other evidence of residential use has been provided.
 17. The appellant states the mobile home has never been used for residential purposes. In a statutory declaration dated 8 December 2020, the appellant states that the site is a working farm being used for the rearing of sheep and pigs and that the mobile home is used for animal feed preparation, animal medicine storage and for him to sit down, make a cup of tea or lunch, washing farm overalls, clothes and bathroom needs.
 18. No specific response to the above statutory declaration has been provided by the Council. Moreover, the above description within the statutory declaration is consistent with my observations on my site visit where I found the site is remote from any structures which could be utilised for the above purposes. I therefore accord this statutory declaration significant weight and I have taken into account the Wealden case³ that my attention has been drawn to in this regard.
 19. The Council accepts the mobile home could be used to provide shelter for farm workers but considers the mobile home appears to stray beyond what may be deemed reasonably necessary for the purposes of farming on the site. The Council's case is not further substantiated in this regard.
 20. The appellant states the Council's photos are 'correct' but that they do not show any clothes, shoes, wardrobe, bed or bedroom, interior lights, food in

² *R (oao Save Woolley Valley Action Group Ltd) v Bath and North Est Somerset Council* [2012] EWHC 2161 (Admin)

³ *Wealden DC v SSE & Day* [1988] JPL 268

cupboards or the fridge that one would expect to find in a mobile home being used for residential purposes.

21. In addition, the appellant has provided electricity bills which he describes as showing very little use of electricity. He states that there is no gas or any other form of energy at the site and that if the "building" were to be in residential use then electricity consumption would be a lot higher.
22. No specific response to the electricity bills has been provided by the Council and I have no reason to disagree with the appellant's submissions in this regard. So I accord the electricity bills significant weight, as evidence that the structure has not been used for residential purposes.
23. Considering all of the above points, in my judgment the structure provides facilities that one would expect to find in a welfare unit on a working farm. So whilst I have found the structure on the site is not a building, I conclude on the balance of probabilities that based on the evidence provided it is a welfare unit on the site for agricultural purposes and not for residential purposes. As such, the breach of planning control alleged in the notice has not occurred and the appeal on ground (b) succeeds.

Conclusion

24. For the reasons given above, I conclude that the appeal succeeds on ground (b) and so the enforcement notice is quashed. In these circumstances, the appeals on grounds (d) and (f) do not fall to be considered.

L Perkins

INSPECTOR