
Appeal Decision

Site Visit made on 18 August 2021

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 August 2021

Appeal Ref: APP/X1118/C/21/3272219

Land and buildings on the South side of Trimstone Cross, West Down, Ilfracombe, Devon

- 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 Clint Pain against an enforcement notice issued by North Devon District Council.
 - The enforcement notice was issued on 4 February 2021.
 - The breach of planning control as alleged in the notice is: Change of use consisting of the storage of a motorhome.
 - The requirements of the notice are: 1. Cease the use of the land edged red on the attached location plan for the storage of non-agricultural vehicles; 2. Cease the use of the land and buildings for the storage of a motorhome; 3. Remove the motorhome stored within the building edged blue on the attached location plan from the land; 4. Remove any rubbish and or debris resulting from compliance with steps 1 and 3 from the land.
 - The period for compliance with the requirements is: 3 months from when the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d) and (f) 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.
-

Decision

1. It is directed that the Enforcement Notice (EN) is corrected and varied by
 - deleting 'motorhome' from section 3 and replacing that with 'caravan';
 - deleting requirement 1 at section 6;
 - deleting requirement 2 at section 6 and replacing that with a renumbered requirement 1 to read "Cease the use of the land and buildings for the storage of a caravan;
 - renumbering requirement 3 at section 6 to become requirement 2 and deleting the word 'motorhome' and replacing that with 'caravan';
 - Renumbering requirement 4 at section 6 to become requirement 3.
2. Subject to these corrections and variations, the appeal is allowed and the EN is quashed.

Preliminary Matters

3. I have read the appellant's grounds of appeal and a letter with accompanying photographs. Concerns are raised about numerous matters. These include alleged failings by the Council to respond to requests for information about allegations of people living at the site, contact with the Council about applying for planning permission and trespass. However, these are procedural issues between the appellant and the Council that do not bear on the grounds of appeal pleaded.

The EN

4. The appellant draws a distinction between a motorhome and a motorcaravan, with the DVLA apparently classing the vehicle in the building on the appeal site as the latter.
5. For the purposes of determining this appeal I shall have regard to the statutory definition of a caravan as contained in s29(1) of the Caravan Sites and Control of Development Act 1960 (CSCDA) which states that a caravan is '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' (my emphasis). Although the vehicle in this case has had the inside living facilities stripped out, so that apart from the drivers' cab it is more or less empty, it is typical of a motor vehicle designed for human habitation.
6. In view of the above, whilst the different terms used by either side both appropriately describe the type of vehicle that is there, in the statutory context of the CSCDA it would be more precise to define the vehicle as a caravan. I shall correct the EN accordingly and hereafter refer to a 'caravan'. No injustice is caused to either side by doing this because all I have done is take account of the evidence already submitted and defining the vehicle in terms of the law.
7. As the corrected EN is only attacking a storage use, that being of a caravan, it is not appropriate to require any other use to cease, such as the storage of other unspecified non-agricultural vehicles as set out in requirement 1 of the EN. Furthermore, the other requirements need varying to reflect the correction I intend to make to the allegation.
8. In legal grounds of appeal, such as those under s174(2)(b), (c) and (d) of the 1990 Act, the burden of proof to make out the case rests with the appellant.

The ground (b) appeal

9. This appeal is based on the claim that the matters alleged in the EN have not occurred. Having regard to the above, as a matter of fact there is a caravan that does not appear to be anything other than parked/stored in the building on the appeal site. Consequently, the ground (b) appeal fails.

The ground (c) appeal

10. The issue under this ground of appeal is whether, on the balance of probability, there has been a breach of planning control. S55(1) of the 1990 Act defines development as including "the making of any material change in the use of any land or buildings".

11. The appellant suggests that the building may have a history as a dwelling. However, the Council advises that there is no planning history for the site, and I saw no residential use of the building. Furthermore, the appellant refers to the building being built as a garage and that it is still a garage. The Council also states that the building is a rendered blockwork garage and stable. A record of the Council investigating an alleged previous breach of planning control in 2010 refers to "stable buildings and workshop". Photographs taken at that time show this being the case. The caravan the Council is concerned about is in the garage/workshop which has a conventional garage door.
12. Taking the position as set out by both sides that the building is a garage, to my mind garages/workshops are usually used for storage that often includes vehicles and caravans. It has not been alleged that the caravan is used for non-agricultural purposes, such as commercial or residential use. It is merely the storage of a caravan. Moreover, looking at what the land looked like in the photographs from 2010 and comparing those with what appear to be more recent pictures from the appellant, and what I saw, the storage use has not caused any change in the character of the use of the buildings and land that comprises the planning unit in this case.
13. In view of the above, there has not, on the balance of probability, been a material change of use of the land. Consequently, there has not been a breach of planning control and so the ground (c) appeal succeeds.

Conclusion

14. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeals on grounds (d) and (f) do not fall to be considered.

Gareth Symons

INSPECTOR