

Appeal Decisions

Site visit made on 7 December 2021

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04/01/2022

Appeals A, B and C: APP/R4408/C/21/3281077, 3281078 and 3281079 Land associated with 44 Littleworth Lane, Monk Bretton, Barnsley, South Yorkshire S71 2JR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Christopher Brown (Appeal A), Mrs Susan Brown (Appeal B) and Mr Andrew Webster (Appeal C) against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 19 July 2021.
 - 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 a caravan for human habitation.
 - The requirements of the notice are:
 - (i) Cease the residential occupation of the caravan for human habitation purposes.
 - (ii) Remove the caravan and any associated vehicles from the land; returning the land to its original condition prior to the breach of planning control taking place.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. Appeals A, B and C are allowed, and the enforcement notice is quashed.

Preliminary matters

2. The land affected by the notice is described as "Land associated with 44 Littleworth Lane". Any association with No 44 is a familial one. Appellant C occupies No 44 and is a relative of appellants A and B.
3. The land to which the notice relates has been the subject of several planning permissions for residential development. The land is not used in connection with any adjoining residential land or properties. While ownership is not necessarily a defining factor in establishing the planning unit, in this case the ownership coupled with the planning history leads me to conclude that the land is a separate planning unit to that occupied by No 44 or any other adjacent property.

Reasons

4. To succeed on this ground the appellants must show, on the balance of probability, that the material change of use identified in the notice has not in fact occurred. The notice alleges the material change of use of land for the siting of a caravan for human habitation.

5. The definition of a caravan is '*a structure designed or adapted for human habitation*'. It is a matter of common ground that a caravan has been placed on the land and it is the use to which that caravan is being put that is in dispute.
6. While the enforcement notice does not need to identify what use the land was put to before the breach occurred, it is relevant. The land is occupied by a permanent building, which has the appearance of a 4-car domestic garage. The remainder of the land is primarily laid to lawn, although I also saw a derelict portacabin and a box trailer. The land has an inherently domestic appearance. I understand that the land was historically used for purposes ancillary to the residential occupation of adjacent dwellings. Furthermore, it has not been argued that the land has been used for any purpose other than ancillary residential purposes. In the absence of any evidence to the contrary, I therefore find that the land was used for ancillary residential purposes.
7. The Council has no evidence of its own to show that the residential occupation of the caravan for human habitation purposes has occurred. Paragraph 4.5¹ refers to complainants alleging that the caravan was lived in by the appellants. The Council also refer to their Council Tax department confirming that the appellants had moved out of their rented accommodation, although no date of when this vacation occurred is provided. The complainants' allegations of who was occupying the caravan have not been shown to be substantiated by any form of documentary evidence, by visits to the caravan by Council officers or through the serving of a planning contravention notice. Furthermore, the Council Tax evidence only shows that the appellants were no longer living at a specific address, not where they had moved to.
8. The appellants claim they inherited the caravan and needed somewhere to store it. The appellants have provided evidence to show that appellants A and B were living in rented accommodation at the time the caravan was moved on to the land in November 2019. Also, that after leaving the rented accommodation they stored their belongings in the caravan and moved abroad for work. I saw during my site visit that both bedrooms and lounge within the caravan and the 4-car domestic garage were being used to store domestic furniture, clothes, and other domestic paraphernalia.
9. While appellants A and B have moved back to the United Kingdom, I understand they are living with relatives. Appellant B also advised at the site visit that she has been working from the caravan due to the limited amount of accommodation where she is currently residing. This change in circumstances has occurred after the notice was issued and it does not necessarily amount to using the caravan for human habitation purposes.
10. The appellants evidence shows that they were living and working abroad at the time the notice was issued and that they had a permanent residential address elsewhere before. Other than unsubstantiated claims, there is nothing before me to show that the use of the caravan for human habitation was occurring at or before the date the notice was issued. I therefore find the appellants version of events, that the caravan was being stored on the land, to be credible. The material change of use of land for the siting of a caravan for human habitation has not, on the balance of probability, occurred.

¹ Council's Statement of Case

11. For the reasons given above, I conclude that the alleged breach of planning control set out in the enforcement notice is incorrect. The appeal succeeds on ground (b). Accordingly, the enforcement notice will be quashed.

M Madge

INSPECTOR