



Appeal Decisions

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2022

Appeal Refs: APP/J1860/C/21/3283848 & 3283849

**Moseley Road, Monkwood Green, Hallow, Worcester, Worcestershire
WR2 6NX**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Malcolm Gunnell and Mrs Susan Gunnell against an enforcement notice issued by Malvern Hills District Council.
 - The notice was issued on 25 August 2021.
 - The breach of planning control as alleged in the notice is the unauthorised material change of use of agricultural land for a mixed use of agricultural and for the siting of two mobile homes (joined together) for residential use as marked approximately hatched blue on the attached plan.
 - The requirements of the notice are: 5.1 Cease the use of the two joined mobile homes approximately marked hatched blue on the attached plan for residential use; 5.2 Remove the two joined mobile homes as approximately marked hatched blue on the attached plan from the Land as edged red; 5.3 Reinstate the Land to its original condition before the breach took place (agricultural land).
 - The period for compliance with the requirements is: 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. The appeals are dismissed and the Enforcement Notice (EN) is upheld.

Preliminary Matters

2. There is only an appeal under s174(2)(f) of the 1990 Act. As such, I cannot consider any matters of planning merit which are covered extensively in the final comments from the appellants, or the information supplied about the mobile homes still being caravans under the Caravan Sites and Control of Development Act 1960. Because of this and in view of the narrow ground of appeal made, there was no need to visit the appeal site.

Reasons

3. The EN alleges a material change of use of the land to a mixed use of agricultural and the siting of two mobile homes that are in residential use. The requirements seek to cease the residential use of the mobile homes, for the mobile homes to be removed and for the land to be put back to its original condition before the breach of planning control took place. On that basis, the purpose of the EN is to remedy the breach under s 173(4)(a) of the 1990 Act.
4. In material change of use ENs it is not excessive to require items or works that have been part and parcel of enabling the unauthorised use to occur to be removed. It is not in this case therefore excessive to require the mobile homes to be taken off the land. Whether one or both might be required as a rest room for example as part of running the agricultural holding is not a matter that I

can conclude on in the absence of being unable to have regard to the planning merits of how the agricultural land is used. Nevertheless, in discussion with the Council away from this appeal, if it is accepted that a caravan(s) used for agricultural purposes could be lawfully on the land, the Council has the power to waive or relax any requirements of the EN, although that is not a matter over which I would have any control.

5. I appreciate that the appellants are no longer living in the mobile homes and in that sense, they have already complied with the first requirement of the EN. However, in the context of considering the appeal under the s174(2) of the 1990 Act, that does not matter.
6. In view of the above, the requirements do no more than seek to meet the purpose of the EN. Therefore, they are not excessive.

Conclusion

7. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the EN.

Gareth Symons

INSPECTOR