



Appeal Decisions

Site visit made on 20 April 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Appeal A: APP/Q1445/C/21/3275147

Appeal B: APP/Q1445/C/21/3275148

18 Lower Rock Gardens, Brighton BN2 1PG

- The appeals are made under 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Paul Davis (Appeal A) and Ms Alison Bullough (Appeal B) against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 6 April 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a shed/outbuilding on the front hardstanding of the property.
 - The requirements of the notice are: Remove the shed/outbuilding from the front of the Property.
 - The period for compliance with the requirements is 1 month.
 - 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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Summary of Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

The ground (b) and (c) appeals

2. For the ground (b) appeal to succeed the onus is on the appellants to demonstrate, on the balance of probabilities, that the alleged breach of planning control has not occurred as a matter of fact. For the appeal to succeed on ground (c) the onus is on the appellants to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development.
3. The appellants contend that the 'object' the subject of the enforcement notice is not a shed/outbuilding, but rather a caravan, as it is a structure designed or adapted for human habitation which is capable of being moved from one place to another.
4. The structure in question is of timber construction, albeit I accept the choice and use of materials is then not in itself a decisive factor. It is however akin to a garden shed or outbuilding in terms of its construction, and in particular its size, which are widely held to be buildings. Whilst it's dead-weight may not be

sat directly on a concrete slab, or bricks, or similar, it is sited on two wheels, a jockey wheel and 4 corner stands, all of which are bolted into timber. It's dead-weight and therefore anchorage and physical attachment to the ground is accordingly transferred by these means. Like many sheds, it need not be physically fixed into the ground to be a building.

5. Whilst I accept that it might be possible to move the structure, it has been in situ since May 2020, when the Council assert it was built on the front forecourt of the property. It therefore has planning significance and permanence, despite the appellants asserting that they do intend to move it.
6. It is specifically contended by the appellants that the structure accords with the definition¹ of a caravan because it has space for a bed. It has a shower, built-in and plumbed sink, hot and cold water and internal electrics. However, whilst the structure may contain these, and that there may be space for a bed, nominally, does not demonstrate on the balance of probabilities that it is a caravan. Neither do any of the other attributes advocated by the appellants, such as decoration or insulation, demonstrate on the balance of probabilities that it is a caravan that has been designed or adapted for human habitation as opposed a building. This is because it does not contain the fixtures and fittings readily associated with a caravan that is adapted or used for habitable purposes.
7. Moreover, the appellants state that the structure is not being used for habitation, nor is there any intention of such use, albeit this is later contradicted by reference to an eventual use for 'glamping'. Whatever the intention may or may not be, or that the appellants consider it to be akin to a traditional wheeled bathing hut or other such objects, does not demonstrate on the balance of probabilities that it is a caravan that has been designed or adapted for human habitation as opposed a building.
8. Accordingly, in considering the structure in the round, as a matter of fact and degree there is little compelling evidence or case law before me to demonstrate on the balance of probabilities that it is not development and therefore not a shed/outbuilding for the purposes of the Act².
9. There is then very little evidence before me to demonstrate on the balance of probabilities that planning permission has already been granted for the matter alleged in the enforcement notice or it is permitted development.
10. The appellants have therefore not discharged the necessary burden of proof to demonstrate on the balance of probabilities that the alleged breach of planning control has not occurred as a matter of fact or that there has not been a breach of planning control.
11. I conclude that the appeals on ground (b) and (c) therefore fail.

Overall Conclusion

12. For the reasons given above I conclude that the appeals should not succeed. I shall therefore uphold the enforcement notice.

¹ The Caravan Sites and Control of Development Act, 1960

² Section 55 of the Town & Country Planning Act, 1990

Formal Decision

Appeals A and B

13. The appeals are dismissed and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR