



Appeal Decision

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/W3330/C/22/3305733

Muddy Acre Nethercott Lane, Lydeard St. Lawrence, TAUNTON, TA4 3SQ,

The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Jeremy Walsh against an enforcement notice issued by Somerset West and Taunton Council.

- The notice, numbered E/0026/22/19, was issued on 25 July 2022.
 - The breach of planning control as alleged in the notice is the stationing of a residential caravan.
 - The requirements of the notice are to:
 - 1 Cease the use of the land for the stationing of a residential caravan; and
 - 2 Remove the caravan from the land.
 - The period for compliance with the requirement is three months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is dismissed and the enforcement notice is upheld.

Preliminary Matter

2. As the appeal is made on ground (c) and relates to matters of permitted development, a site visit is unnecessary. With appeals made on legal grounds the onus of proof rests with the appellant and the level of proof is on the balance of probabilities.
3. Although the appellant has suggested that the notice was not served correctly as it contained an error and omission he has chosen not to appeal on ground (e) as he considers that it would not make the notice invalid. I therefore do not intend to pursue any ground (e) matters.

The site and relevant planning history

4. The appeal site is in open countryside and extends to 0.42 hectare. It was acquired by the appellant in January 2019.
5. The appellant has responded in part to a Planning Contravention Notice (on 6 January 2020). His response included a letter from his GP regarding his health. Personal circumstances such as these are normally more relevant to an appeal on ground (a) which has not been pleaded in this case.
6. An enforcement notice was served on 10 March 2020 to resolve a breach of planning control created by the living accommodation and non-agricultural storage in a barn on the appeal site. The appellant moved out of the barn into the caravan the subject of the notice but the barn is still being used for non-

agricultural storage (although the appellant claims that certain items have a dual purpose).

Reasons

7. The appellant's case is that the siting of the caravan on the land is permitted development under Part 5, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (the GPDO).
8. The appellant states that he has been living in the caravan since August 2021 and that the caravan has been sited for his occupancy as a seasonal worker. His 'End Plan' is to become a part-time farmer growing vegetables, fruit and flowers on the land for himself and to sell the surplus. He intends for the caravan to be sited seasonally but due to his ill-health, that has not been possible.
9. The appellant sees his agricultural year being divided into four periods (seasons); late February to end May for late winter pruning, watering and early growing tasks with caravan on site; June for watering, weeding and other ongoing management but not necessarily requiring overnight use of the caravan; late June to end October for harvesting, marketing and pruning, digging, planting and requiring the caravan on site; November to January for wildlife work, fence maintenance, pruning with no envisaged use of a caravan on the site. Additionally, the appellant refers to an art history project he is engaged in which when written will involve touring the country giving talks, etc.
10. Reference is made to ODPM Circular 02/2005 section 15 (e) but this circular (which relates to Temporary Stop Notices) was withdrawn when Planning Practice Guidance was introduced in March 2014. Nevertheless I note the appellant attaches considerable weight to the reference in that withdrawn circular to the uncertainty and controversy in defining a particular season where season follows season and workers' caravans remain most, or all, of the year. Similarly reference to the 1995 GPDO, which has been superseded by the 2015 GPDO is not relevant to this appeal.
11. Part 5, Class A of Schedule 2 of the GPDO 2015 permits the use of land as a caravan site (in the circumstances set out in paragraphs 2 – 10 of Schedule 1 of the Caravan and Control of Development Act 1960) (the 1960 Act). for the accommodation during a particular season of a person employed in farming operations on land in the same occupation. The requirement to remove the caravan from the land when the season ends is set out under Condition A.1 of Part 5 Class A which states that 'development is permitted by class A subject to the condition that the use is discontinued when the circumstances specified in Paragraph A.2 cease to exist, and all caravans on the site as soon as reasonably practical.
12. The caravan has been continuously on the land and occupied by the appellant with no indication that the caravan would be moved. It cannot therefore be considered as a caravan for use of a seasonal worker who sites a caravan on land temporarily during a particular season. The Council considers that no substantive agricultural or horticultural activities were taking place at the time the notice was served but make reference to a couple of fruit trees, a potato patch and a handful of chickens (although the appellant considers the Council's

description of the activities to be belittling). The Council add that the number of ornamental plants have given the site the appearance of a garden although the appellant explains that these ornamental chimney pots and Belfast sinks are for flower growing. The photographs attached to the Council's statement indicate little agricultural activity taking place on the land.

13. The Council considers that it is difficult to conclude that the appellant is 'employed' in agriculture as specified in Paragraph 7 of the 1960 Act although the appellant considers himself to be an agricultural worker in a seasonal capacity regardless of whether the work constitutes a business, profit-making or otherwise.
14. It is accepted that the terms 'season' and 'seasonal' are not defined in planning law. In such cases, the interpretation of such terms rely on normal dictionary definitions which should suffice to let a reasonable person to understand their meaning. It also a matter of fact and degree. In the context of agriculture, a season is usually (but not necessarily always) related to planting or harvesting and has a start and an end frequently dependent upon the weather. The appellant's 'seasons' seem to be composed of a series of future tasks, many of which are of a routine nature and would not normally require the presence of a seasonal worker for the periods identified.
15. The Council has drawn attention to appeal APP/B9506/CC/15/3136274 in which at his Paragraph 13, the inspector confirms that Paragraph 7 of the 1960 Act does not provide a general exemption to all agricultural activities and the minor works being carried out by an occupier of the caravan on the land did not amount to seasonal work. Although the facts and their interpretation relating to other appeals are bound to vary, it appears that in the current appeal, the appellant carries out a similar and minimal amount of work that is difficult to consider as being seasonal work for the purposes of the GDPO and the 1960 Act.
16. Whilst it is acknowledged that the appellant has health problems that have disrupted his plans and that he has an 'End Plan', which has yet to come to fruition, the ground (c) appeal relates to the situation at the time of the appeal and not to future intentions, which would have been better explored as part of a ground (a) appeal when personal circumstances and future intentions could have been considered.
17. The appellant has carried out various works including to a parking area, pathways and other hardstanding, the erection of storage buildings, a polytunnel, chicken facilities and a wildlife observation point, maintenance on the barn, and the installation of wind turbines and solar panels.
18. The Council has considered whether Paragraph 9 of the 1960 Act would support the siting of the caravan. This indicates that the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (which has planning permission, if required), would be permitted development under Part 5, Class A of the 2015 GDPO, if that use is for the accommodation of a person employed in connection with the operations. Any siting of a caravan under this provision is intended to be temporary. Additionally, the Council considers that most of the works carried out required planning permission but no application has been made. They also point out that as the works have been completed, there is no reason for the

caravan to remain on site and it should be removed in accordance with Condition A.1 of Part 5, Class A.

19. The proposed future works the applicant intends to carry out including installing additional solar panels, works on gates, fences, parking area and the barn and installing a borehole are not relevant to the appeal but in any event permitted development rights do not allow a caravan to be kept indefinitely while sporadic activities are carried out. Furthermore, the Council does not consider the works deemed to be those that would permit the siting of a caravan. The appellant points out that a number of his intended works do not require planning permission or would be permitted development.
20. The appellant has not shown on the balance of probabilities that the stationing of a residential caravan on the land is permitted development. Paragraphs 7 and 9 exemptions of 1960 Act do not apply and planning permission is not granted by the GDPO 2015 for the siting of a caravan in respect of the circumstances pertaining at the time the enforcement notice was served or those circumstances that might prevail in the future based on the appellant's 'End Plan'.
21. The appeal on this ground fails.
22. The decision on this appeal, once the requirements of the notice have been carried out, does not preclude the appellant doing what he is lawfully entitled to do in the future once the notice has been complied with.

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

P N Jarratt

INSPECTOR