



Appeal Decision

Site visit made on 18 July 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/Y3425/C/22/3310858

The Stables, Outwoods Bank, Outwoods, Newport, Stafford TF10 9ED

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Lilian Owens against an enforcement notice issued by Stafford Borough Council.
- The notice, numbered EN526, was issued on 16 September 2022.
- The breach of planning control as alleged in the notice is:
Without planning permission:
 1. The material change of use of the land for residential purposes;
 2. The stationing of a caravan for human habitation;
 3. The use of the stable building(s) for domestic storage ancillary to the residential use of the land.
- The requirements of the notice are to:
 - (i) Cease the residential use of the land.
 - (ii) Remove from the land the caravan.
 - (iii) Cease the ancillary domestic storage use at the stable building.
- The period for compliance with the requirements is: 8 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary matter

2. Some representations from local residents make reference to the effects of the use of the land and the vehicular access to it. However, as there is no appeal on ground (a) and no deemed planning application for me to consider, the planning merits of the development are not relevant to my decision.

The appeal on ground (e)

3. The subject of the enforcement notice is a rural site set alongside a wooded slope. It is accessed from a narrow lane along an unmade track which, in part, coincides with a public right of way. The uneven site accommodates a stable block and a caravan.
4. According to the Council, in the prior knowledge that the appellant no longer resided at the address shown on Land Registry documents relating to the land and which confirm her as the sole owner of the site, it affixed a copy of the Notice to a gate post near the site entrance. Section 329(3) of the 1990 Act states that where (a) the notice or other document is required to be served on or given to all persons who have interests in or are occupiers of premises comprised in any land, and (b) it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on

all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to "the owners and any occupiers" of that part of the land (describing it) and is affixed conspicuously to some object on the land. Accordingly, as the appellant relies on the site address, I find the Notice was properly served.

5. I acknowledge the appellant's concern that the copy of the Notice could have been removed by anyone passing by. Nevertheless, this mode of service was sufficient to prompt the appellant to lodge the appeal. Through that action, it is clear that there has been no prejudice to the appellant. Furthermore, there is no claim that anybody else with an interest in the land was not duly served. The appeal on ground (e) therefore fails.

The appeal on ground (b)

6. To succeed on ground (b) the appellant must prove that the use of the land identified in the Notice had not changed to residential use. The burden of providing relevant facts under this ground rests with the appellant, and the test of the evidence is the balance of probability.
7. At my site visit, I saw that the caravan was a large single unit with 2 extended sections that increase the overall usable floorspace. It was fitted with the necessary facilities to support human habitation. The unit was connected to the stables by a power cable and bottled gas was set alongside the caravan.
8. By the appellant's own volition, it is stated that the caravan has been used as residential accommodation at certain times. This included prior to and during the Government's lockdowns associated with the Covid-19 pandemic. The appellant also indicates that overnight stays may take place when adverse or unpredictable weather affects access and refers to some 5 occasions when this has taken place.
9. The appellant's submission also confirms that, due to family circumstances, part of the stable has been used for the storage of domestic items. At the time of my site visit, items of furniture, white goods, tools, a beer barrel, electric heaters and bicycles (amongst other things) remained stored in the otherwise vacant stable building.
10. I note the appellant's contention that the caravan was used in conjunction with the use of the wider site for the keeping of ponies or for similar purposes. However, there is little substantive evidence provided to qualify that that use was in place when the Notice was served or has been since.
11. Based on the evidence, there is little to substantiate that the allegation in the Notice is incorrect. Accordingly, I find on the balance of probabilities that the change of use of the land was more likely than not to have occurred when the Notice was served. The appeal therefore fails on ground (b).

The appeal on ground (f)

12. The appellant contends that the caravan could be retained to provide health, safety and welfare facilities for those using or working on the land. However, as above, those uses are not clearly defined by the appellant, and, as the existing serviced building could potentially provide such functions, I find this an argument of limited weight.

13. The use of the caravan in conjunction with the keeping of ponies in remote locations elsewhere would require the benefit of planning permission. Where an appellant has chosen not to pursue an appeal on ground (a), the Courts have held that an appeal on ground (f) is not an opportunity to introduce general planning considerations. That matter is therefore outside the scope of my considerations in the appeal. In the context of the above, the relocation of the caravan elsewhere on the site would provide no benefit in resolving the alleged breach of planning controls.
14. I note that the storage of domestic items on the site is only intended to be temporary. Nevertheless, there are no lesser steps proposed by the appellant in relation to the storage issue that would remedy that aspect of the breach.
15. Having regard to those matters, I find that the requirements in the Notice do not exceed what is necessary to remedy the breach of planning control by discontinuing the alleged use of the land. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

16. The ground of appeal is that the period for compliance specified in the Notice falls short of what should reasonably be allowed. The period for compliance specified in the Notice is 8 weeks.
17. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with the Notice against the private interest bound up in the development subject of the Notice. In so doing, I must assume that the use of the land subject to the Notice does cause the harm alleged in it.
18. Aside from the claims made in association with the grounds determined above and highlighting the fact that winter weather can frustrate access into and from the site, the appellant has provided limited reasoning as to why the period for compliance with the Notice should be extended.
19. As the timing of compliance would not fall within the winter months, and there are no other reasons highlighted, when weighing the balance between public and private interests, I consider that the public interest in expeditious compliance with the requirements of the Notice outweighs the private interest in extending that period of compliance. I am, therefore, not persuaded that there is need to extend the period for compliance with the Notice and am satisfied the stated period of 8 weeks is a proportionate response to the breach of planning control that has occurred.
20. The appeal on ground (g) fails.

Conclusion

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

R Hitchcock

INSPECTOR