



Appeal Decision

Site visit made on 30 August 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th SEPTEMBER 2023

Appeal Ref: APP/G2245/C/22/3300910

Land known as The Old Stables, Maplescombe Lane, Farningham DA4 0LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Gary Aldred against an enforcement notice issued by Sevenoaks District Council.
 - The notice was issued on 12 May 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission;
1) Change of use of land and associated buildings from equestrian to storage of vehicles, vehicle parts, caravans, tyres, scaffolding equipment, plant hire equipment and other paraphernalia; 2) Change of use of part of the land from equestrian to the riding of quad bikes, motorcycles and other vehicles; 3) Stationing of a mobile home.
 - The requirements of the notice are: 1) Cease using the land for storage purposes and for the riding of motorcycles, quad bikes and other vehicles. 2) Remove all vehicles, vehicle parts, caravans, tyres, scaffolding equipment, plant hire equipment and any other paraphernalia from the land. 3) Remove any further resultant material from the land. 4) Return the land to equestrian use.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Formal Decision

1. The enforcement notice is quashed.

The Notice

2. The enforcement notice refers to 3 alleged breaches of planning control. Each of those allegations is unclear in different ways. The first alleged breach refers to a change of use of 'land' for the storage of various items, including caravans and 'other paraphernalia'. The second alleged breach refers to a change of use of 'part of the land' to the riding of quad bikes, motorcycles and other vehicles. The third alleged breach of planning control refers to the stationing of a mobile home.
3. It is incumbent on me to get the notice in order. Section 176 of the Act allows me to correct any defect, error or misdescription in an enforcement notice, or to vary its terms, if I am satisfied that doing so would not cause injustice to the appellant or the Council.
4. With regard to the first alleged breach of planning control, a change of use of land does not comprise development requiring planning permission, as defined at section 55 of the Act. I could correct the notice by amending the first alleged breach to ensure that it refers to a material change of use. I would also need to delete reference to 'other paraphernalia', as this term is too vague. There is a great deal of other paraphernalia which could be stored on the land without

requiring planning permission, such as that associated with the former equestrian use of the land, for example.

5. Although I could correct the second alleged breach of planning control so that it also refers to a material change of use, I am unclear as to which part of the land this allegation intends to refer to. The first allegation does not specify which land it is referring to either, and it appears that the Council is seeking to allege an unauthorised material change of use of all of the land edged in red on the plan attached to the notice to a mixed use comprising the first and second allegations. Alternatively, the Council may be alleging that different unauthorised material changes of use have taken place on different parts of the land edged in red. It is simply not clear what is being alleged where.
6. The evidence is also unclear as to how the mere riding of quad bikes, motorcycles and other vehicles has brought about a material change in the use of any land. Presumably the vehicles referred to are alleged to have been ridden for some purpose other than in association with equestrian activities, but the notice does not state this.
7. The third alleged breach of planning control refers to the 'stationing' of a mobile home without clarifying the purpose of the mobile home. It is therefore not clear how the stationing of a mobile home at the appeal site may have comprised development requiring planning permission. The term 'caravan' is defined at section 29(1) of the Caravan Sites and Control of Development Act 1960 as meaning 'any structure designed or adapted for human habitation which is capable of being moved from one place to another...'. A caravan and a mobile home are therefore the same thing, and the third allegation may be attempting to repeat part of the first alleged breach of planning control.
8. Turning to whether I can correct the notice without causing injustice to any parties, I could delete the third alleged breach of planning control without causing injustice to any parties as there is no allegation from the Council that a material change of use of any land has taken place to a residential use and the evidence indicates that caravans are stored on the land, rather than lived in. That may be incorrect, but the storage of a mobile home on the land would be covered by the first allegation referring to caravans.
9. As I am unclear as to which parts of the land edged in red on the plan attached to the notice the first and second allegations refer to, or whether the first allegation refers to all of the land, I could combine them together in referring to a material change of use of all of the land edged in red to a mixed use for the storage of the items specified and the riding of quad bikes, motorcycles and other vehicles. The fact that part of that land includes woodland would not prevent this from being accurate, with regard to the planning unit appearing to be defined by land ownership boundaries in this case.
10. Aside from the broad range of vehicles being referred to by the second allegation, combining the first and second alleged breaches of planning control would cause injustice to the appellant as it would widen the scope of the matters under consideration in the ground (a) appeal. The appellant may have wanted to make additional or different appeal submissions, or to pursue additional grounds of appeal, if the alleged breach of planning control was initially described in that manner.

11. As an alternative to combining the first and second alleged breaches of planning control, I could delete the second allegation altogether. However, that would cause injustice to the Council, as the notice would not refer to significant activities which the Council claim were carried out at the appeal site in breach of planning control. In either case, I am therefore unable to correct the notice without causing injustice.

Conclusion

12. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breaches of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
13. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (c), and (f) of the Act and the application for planning permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

L Douglas

INSPECTOR