



Appeal Decision

Site visits made on 14 and 28 November 2023

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 November 2023

Appeal Ref: APP/U2750/C/23/3322911

Land at Little Henny, York Road, Barlby, North Yorkshire YO8 5JZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Jack Small against an enforcement notice issued by North Yorkshire Council.
- The enforcement notice was issued on 18 April 2023.
- The breach of planning control as alleged in the notice is *Without planning permission, the unauthorised change of use of the Land for the siting of 2 No. static caravans and associated items*.
- The requirements of the notice are to (1) cease the residential use of the 2no. static caravans; (2) remove the 2no. static caravans from the Land along with associated items such as but not exclusively steps, gas bottles, water bottles; (3) remove from the Land all hardcore and other hard surfacing beneath or around the static caravans and reinstate these areas to topsoil and with the sowing of grass seed or laying of turf.
- The period for compliance with the requirements is, in respect of each of the three steps above, (1) 2 months (2) 4 months (3) 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended ('the 1990 Act').

Summary Decision: the appeal is dismissed and the corrected notice upheld.

Preliminary Matters

1. I am obliged to get the notice in order where possible and I explained to the parties that the allegation set out above did not appear to me to disclose any allegation of development as defined by the 1990 Act. The Council suggest that the allegation can be corrected by the insertion, where relevant, of the words 'to residential use' when describing the change of use. The appellant's case is predicated on there being a residential use and accordingly no prejudice would arise as a result of correcting the notice.

Main Issues

2. The appellant contends that the caravans (one of which has is said by him to have since been removed, although if so then it has been replaced: there are presently two caravans on the site) are required during the course of construction works of a new dwellinghouse on the site, which is to replace a redundant stable building. Planning permission has been granted (more than once) for the said dwellinghouse, most recently in June 2023.
3. This being the case it is unclear to me why permitted development rights are not claimed and why there is no appeal brought on ground (c) or on ground (f) which is to say that permission is not required, or rather has already been granted, for the alleged development or that the requirements of the notice are excessive.

4. Whatever the outcome of this appeal, the notice cannot have effect to override any permitted development rights that may exist, whether under Class A of Part 5 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or otherwise. The Council's questionnaire confirmed that no Article 4 Direction is in place, and so such rights, if relevant, would appear to be available.
5. At the time of my site visits there was no evidence of any building work taking place, meaning that such rights would presently be inapplicable and the development unauthorised, as is alleged. The site is presently laid out as a small caravan site. Part of the land is laid to hardstanding; there are some piles of rubble towards the rear of the site; a square to the front of the site has been fenced off and laid to grass, giving the appearance of a paddock, and there is no evidence of any works presently being carried on so as to construct the dwellinghouse that has been permitted.
6. The allegation in the notice makes no mention of the land being used as a caravan site specifically for the accommodation of a person or persons employed in connection with building or engineering operations being carried out on that or adjoining land. The allegation consists of the land being put to a residential use involving the siting of two caravans, and no more. The allegation is not disputed, and thus I shall approach the appeal on this basis.
7. The site lies in the open countryside beyond the settlement of Barlby. Policy SP2 of the Selby District Core Strategy of October 2013 provides that development in the countryside is limited to certain categories, and thus whether the development is in a suitable location is the first main issue, a previous Inspector having concluded that it is not. The second issue, decided in the appellant's favour by the same previous Inspector, is whether the development has an unacceptable impact on the character of the open countryside.

Reasons

Suitable location

8. Development in the countryside is limited, by policy SP2, to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities; or meet rural affordable housing needs or other special circumstances.
9. None of these requirements obtain here, and therefore the use of the land as a caravan site is unacceptable in principle and contrary to the Council's development strategy for the area. No suggestion is made that Planning Policy for Traveller Sites, or any local criteria for such sites, should apply here. The use of the land as a caravan site is therefore contrary to the strategy of directing the majority of new development to the (former) district's towns and more sustainable villages and conflicts with policy SP2.
10. Consistently with the findings of the previous Inspector, I consider the alleged development conflicts with the development plan for the area on this issue.

Effects on the character of the countryside

11. On this issue I have no good reason to depart from the findings of the previous Inspector for the reasons then given. I find no conflict with policies SP18 or SP19 of the Core Strategy or with policy ENV1 of the 2005 Local Plan which together seek to ensure a good quality of development without harming the natural environment or local character. The lack of conflict on this ground is however insufficient to overcome the conflict on the first ground.

The appeal on ground (g)

12. The appellant exhorts me under ground (a) to allow a temporary planning permission, although for an unspecified duration, in order to allow the caravan (or caravans) to remain on the site whilst construction works to complete the dwellinghouse are undertaken. Under ground (g) it is sought to extend the compliance period to at least six months for the same reasons. However, it has not been explained to me why the appellant could not avail himself of permitted development rights if that were the case.
13. No reasons are otherwise provided for why the use of the land as a caravan site, if unconnected with any adjoining building works, could not cease within the time specified by the notice. As this is the basis on which I have approached the appeal, the periods stipulated in the notice do not appear unreasonable and it follows that the ground (g) appeal will fail.

Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application. The proposal does not comply with the development plan for the area, and no considerations are brought to my attention that would justify a decision contrary to the development plan.
15. I must reiterate that my decision does not serve to remove any permitted development rights that might be available to use the land as a caravan site to accommodate those employed during relevant building works. Nonetheless it was apparent from my observations of the site that such rights do not presently arise.

Formal Decision

16. It is directed that the enforcement notice is corrected by inserting, at the end of the present allegation, the words 'for residential use' in paragraph 3 of the notice.
17. Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR