



Appeal Decision

Site visit made on 14 February 2024

by Graham Wraight BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2024

Appeal Ref: APP/Y2430/C/22/3305881

Cranyke Farm, Eastwell Road, Scalford LE14 4SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("The Act").
 - The appeal is made by Mrs Donna Albery-Arrowsmith against an enforcement notice issued by Melton Borough Council.
 - The notice was issued on 28 July 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised material change of use of two outbuildings to short term holiday let accommodation and the provision of a wooden camping pod for use as short term holiday let accommodation.
 - The requirements of the notice are to:
 - (i) Cease the use of the outbuilding as short term holiday let accommodation.
 - (ii) Cease the use of the garage building as short term holiday let accommodation.
 - (iii) Cease the use of the wooden structure in the rear of the site for short term holiday let accommodation.
 - (iv) Remove the wooden structure within the rear of the site and restore the land to its former state.
 - The period for compliance with the requirements is: 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f), (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

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

Reasons

Ground (c)

2. Appeals under s174(2)(c) of The Act are made on the ground that the matters stated in the notice do not constitute a breach of planning control. The burden of proof falls on the appellant and the standard of proof is the balance of probability.
3. The enforcement notice alleges that there has been a material change of use of two outbuildings to short term holiday let accommodation. It also alleges that there has been the provision of a wooden camping pod for use as short term holiday let accommodation. Essentially, the appellant considers that no laws have been broken by their having an Air BnB at their property and that Air BnB does not require any permissions from local government.
4. Whilst a detailed explanation has been provided as to how the buildings came to be used for such a purpose, there is no substantive explanation of why, in

the appellant's view, what is alleged on the notice does not represent a breach of planning control.

5. The appellant states that The Nest was previously a barn. The building was residentially converted at the same time as the adjoining Bramble Barn, which is now in residential use and under separate ownership. However, there is nothing before me to indicate that express planning permission was granted for the conversion or works to create The Nest. Its residential use as a short term holiday let is different to the previous use as a barn. Such a change in the use of the building is likely to be different in character.
6. The second outbuilding, which is referred to by the appellant as Woodland View, was granted planning permission in 2020. The approved development was described as being a detached garage and ancillary office above and the Council state that a householder planning application was submitted for the development. The approved plans show that the first floor of the building was to accommodate the home office (potentially with the inclusion of a kitchenette), a small store and a bathroom containing a toilet, sink and shower. It is clear from the information available that what was applied for and what was approved could reasonably be construed to be the use of this new building on a basis ancillary to the residential use that occurs at the main dwellinghouse at Cranyke Farm.
7. However, the first floor of the building, as constructed, contains a bedroom with a bath in, a bathroom with toilet, sink and shower, a sitting area and a full kitchen. Access to the first floor is via an external staircase to the side of the building. There is also an external area associated with Woodland View, which contains a hot tub, decking and small wooden seat. This area is entirely partitioned off from the rest of Cranyke Farm by a high fence. Collectively, what has been built has to all extents and purposes been laid out to provide for a living accommodation separate from the main dwellinghouse. Woodland View has not therefore been constructed for use ancillary to the main dwelling, but instead it has been built as a fully self-contained unit which can be, and is, let independently as short term holiday let accommodation.
8. The nature of use of Woodland View is different to it being used on an ancillary basis to the main dwelling such as for the home office that was permitted. It is used and occupied independently from the main dwelling and has all the facilities which allow for day-to-day living. The evidence presented clearly shows the use of Woodland View for short term holiday let accommodation and this change of use is likely to have significant effects, in particular in the comings and goings to the site and building both in terms of their frequency and timings, but also in terms of the occupiers of nearby properties being able to recognise a change in the character of the use of the appeal site.
9. There is nothing before me to suggest that the provision of the wooden camping pod, which is a modified pig ark, did not require planning permission. Indeed, there is the matter the Council identifies relating to whether or not the building is within the residential curtilage of the dwelling, along with the fact that Cranyke Farmhouse is a grade II listed building, which cast uncertainty on whether the building could have benefited from permitted development rights afforded to dwellinghouses. Nor is there any evidence provided by the appellant to suggest that the building would not have required planning permission for any other reason. I find that it has not been demonstrated that

the provision of the wooden camping pod did not represent a breach of planning control.

10. Whilst the appellant says that the wooden camping pod is no longer used as short term holiday let accommodation, their submissions are clear that it has previously been used for this purpose, albeit briefly. This alongside the fact that there is nothing to suggest that the provision of the building was lawful in the first instance reinforces my finding that there has been a breach of planning control with respect to this particular building.
11. In conclusion, the matters alleged constitute a material change in the use of the site and, on the balance of probability, express planning permission is required and it has not been obtained. The appeal under ground (c) does not succeed.

Ground (f)

12. The notice requires the ceasing of the use as short term holiday let accommodation in each of the three buildings and the removal of the operational development that has taken place in the form of the wooden camping pod. This is consistent with the purpose of remedying the breaches of planning control in accordance with s173(4)(a).
13. Appeals under s174(2)(f) of The Act are made on the basis that the requirements of the notice are excessive. The appellant has not set out any reasons as to why they consider the requirements of the notice to be excessive, or what lesser requirements might be appropriate. With respect to the requirement to cease the use of each building for short term holiday let accommodation, these requirements are necessary to remedy the breach of planning control that has occurred and therefore are not excessive.
14. The removal of the wooden camping pod is also necessary to remedy the breach of planning control and too is not excessive. Furthermore, I have noted that the appellant has not demonstrated that the erection of the wooden camping pod did not require planning permission, and therefore there is nothing to lend support to a potential lesser requirement than its removal. In conclusion, the appeal made on ground (f) does not succeed.

Ground (g)

15. The appellant advances no case why the compliance periods set out on the notice are not reasonable. Requirements (i), (ii) and (iii) are to cease the use of the buildings for short term holiday let accommodation. This could reasonably be achieved within the two month compliance period allowed. The wooden camping pod is a relatively small building which does not appear to have any substantial foundation into the ground nor does it have substantial walls. There is no apparent reason why this could not reasonably be removed within two months, either. Accordingly, the appeal on ground (g) fails.

Other Matters

16. The other matters advanced, including obtaining Building Regulation approval, go to the merits of the development. There is however no ground (a) appeal before me.

Conclusion

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

Graham Wright

INSPECTOR