



Appeal Decisions

Site visit made on 3 January 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal A Ref: APP/W3330/C/23/3321487

Appeal B Ref: APP/W3330/C/23/3321488

Land at Parks Farm, Brompton Ralph, Taunton, Somerset

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr James Flannigan and Appeal B is made by Ms Rebecca Briar, against an enforcement notice issued by Somerset West and Taunton Council.
 - The notice was issued on 30 March 2023.
 - The breach of planning control as alleged in the notice is the change of use of the Land to use for the stationing of a mobile home in the approximate position shown edged blue on the plan.
 - The requirement of the notice is to remove the mobile home from the area shown edged red on the Plan.
 - The period for compliance with the requirement is four months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. No further action will be taken.

Applications for costs

2. Applications for costs were made by Mr James Flannigan and Ms Rebecca Briar, against Somerset West and Taunton Council. These applications are the subject of a separate decision.

The Notice

3. The Notice alleges the change of use of land for use for the stationing of a mobile home. However, the stationing of a mobile home in and of itself is not a use of land. It is the use that the mobile home is sited for that must be explored. Such uses could include a residential, storage, or incidental use.
4. The Council set out in its Statement of Case that it contends that the appellants are using the mobile home for permanent residential use. However, this use is not included as part of the allegation. The appellant is entitled to be able to ascertain "from within the four corners"¹ of the Notice what they are required to do or abstain from doing. Moreover, a Notice must be drafted to fairly tell the recipient what they have done wrong and what they must do to remedy it.
5. The Council contend that it is appropriate to refer to the stationing of a mobile home within the allegation as the Mobile Homes Act 1983 similarly refers to

¹ *Miller-Mead v MHLG* [1963] 2 WLR 225:

“station a mobile home”. However, it is not the term “the stationing of a mobile home” that is problematic. It is incumbent on the Council to state the use to which the mobile home is being put to in the allegation. This is lacking from the Notice.

6. The Council state that “the land beneath the mobile home is no longer available for agricultural use due to the siting [sic] of the mobile home.” However, as the siting of the mobile home comprises a use of land, the mere fact of the siting does not preclude an agricultural use subsisting. It is necessary to establish the effect of the caravan and its use on the character of the lawful use of the land, and then determine if there has been a material change of use.
7. The appellant accepts that the mobile home is in use for residential purposes, yet this does not mean that the flaw in the allegation is acceptable. The appellant highlights that the allegation does not include any use of land, and consequently has not pursued a ground (a) appeal, for the grant of planning permission, as there is no use stated for which permission could be granted. I agree with this stance.
8. I have the power to be able to correct the notice, but in doing so must cause no injustice. To correct the defect in this case, it would be necessary to include reference to the residential use within the allegation, and consequently it would then also be necessary to include the cessation of that use within the requirements of the Notice. However, doing so would put the appellant in a worse position than currently, as it would make the Notice more onerous and would also in the absence of a ground (a) appeal, which cannot now be made, deprive the appellant of the opportunity to seek planning permission for the residential use of the land. There would be clear injustice to the appellant as a result.
9. In addition, the allegation refers to the change of use of the land (notwithstanding it doesn’t clarify what use), whilst the reasons for issuing the notice refer to the development comprising a permanent residential dwelling. There is a clear irreconcilability between a use of land, and a dwelling which is operational development. While not determinative, this also results in further ambiguity.
10. Consequently, I find that the Notice is defective on its face, and I am unable to correct any defect. The Notice is therefore a nullity.

Conclusion

11. Since the notice is found to be a nullity, no further action will be taken in connection with the appeals. In light of this finding, the Local Planning Authority should consider reviewing the register kept under section 188 of the Act as amended.

Martin Allen

INSPECTOR