



The Planning Inspectorate

Appeal Decisions

Site visit made on 16 April 2024

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13TH MAY 2024

Appeal A Ref: APP/A0665/C/23/3317640

Appeal B Ref: APP/A0665/C/23/3317641

WILLASTON COMMUNITY FARM CIC, Heath Lane, Willaston, Cheshire, CH64 1TP

- The appeals made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Paul Jackson (Safe as Houses NW Limited) and Appeal B is made by Jan Rothwell (Safe as Houses NW Limited) against an enforcement notice issued by Cheshire West and Chester Council.
 - The notice was issued on 31 January 2023.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of a static caravan previously used in conjunction with the nursery business for, security, seasonal work & rest facilities to a residential use (located near to the barn called Hedgehog Stables & Blacksmiths) ["the Unauthorised Development"].
 - The requirement of the notice is: Cease the residential use of the static caravan (located near the Hedgehog Stables and Blacksmiths).
 - The period for compliance with the requirement is: one calendar month.
 - Appeals A & B are proceeding on the grounds set out in section 174(2) (b), (c), (d), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since Appeal A has also 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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Decision

1. The enforcement notice is quashed.

Preliminary Matters

2. The Council seeks that the plan attached to the notice be corrected to show a smaller area on land which more accurately reflects the site on which the caravan is located. The appellant agrees that the original plan showed an overly large area and as it would not cause prejudice to either party this correction should be made to the notice without causing injustice.
3. The notice alleges the change of use of a static caravan to a residential use. The static unit falls under the statutory definition of caravan in that it is a structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or being transported by a motor vehicle or trailer)¹. The parties do not argue that it is no longer a caravan and that it has become a building. Taking into account its attachment and permanence, including the fact that it supported by its own weight and not physically attached to the ground, and that the deck area and shed extension and attachments to services could be easily removed, it remains a caravan and is not a building in its own right.

¹ S29(1) of the Caravan Sites and Control of Development Act 1960

4. As the caravan is not a building, the allegation should refer to the material change of use of the land to residential facilitated by the stationing of a caravan. Section 171B of the 1990 Act provides that the time limit for enforcement action in relation to the change of use of land is 10 years, and not 4 years (as it would be where there has been a breach of planning control consisting in the change of use of a building to use as a single dwellinghouse). The period of 4 years is referred to in the notice as part of the reasons for its issue, and both parties have proceeded in the appeal on this basis.
5. It may be that the appellant would have argued their case differently or provided additional evidence of use if the notice had been properly put to indicate that the alleged breach was the change of use of the land. Both parties accept that there was a different caravan on the site before the one currently there, and the change in the caravan alone would not affect the use of the land. The appeal form states that the caravan has been "used for accommodation continuously since October 2018 and indeed for many years before." The Council argues that there has been a change of use since 2019 when the appellant stated in writing that the caravan would be used "in conjunction with the nursery business, security, seasonal work, and rest facilities." The Council seems to accept that there had previously been an element of residential use which they describe as "sporadic use for human habitation which was ancillary to agricultural use". They argue that there has been a material change of use with the permanent occupation of the caravan. However, the notice does not refer to a change from a seasonal or temporary use to a permanent residential use.
6. The appellant states that the use of the caravan (and therefore the land) has not altered since 2019. Whether there has been a material change of use will be a matter of fact and degree regarding the frequency and purposes for which the caravan has been used over time. It may be that the evidence would need to be tested in an inquiry for a decision to be reached.
7. In any event, I cannot correct the notice to refer to a material change of use of the land and thus lengthen the immunity period without causing injustice as both parties have proceeded based on the time period of 4 years. It is for the appellant to prove their case regarding the period of use on the balance of probabilities. However, as the allegation in the notice was not accurately put the appellant did not have the opportunity to do so or to appeal on the basis of the proper description of the breach.
8. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach 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.
9. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) & (g) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Zoë Frank

INSPECTOR