



Appeal Decision

Site visit made on 29 May 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2024

Appeal Ref: APP/P2365/C/23/3321699

Land at Plot 1, Mercer Court, forming part of the land adjoining The Byre, 4 Mercer Court, Great Altcar, Lancashire L31 4LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Miss Helen Williams against an enforcement notice issued by West Lancashire Borough Council.
 - The notice was issued on 27 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land for the siting of a caravan.
 - The requirements of the notice are to remove the caravan from the land, together with all its associated utilities and fixings (if any).
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

The Enforcement Notice

2. An enforcement notice should enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control; and what steps the local planning authority require to be taken, to remedy the breach.
3. I have a duty to get a notice in order if I can. Pursuant to section 176 of the Act I have power to correct any defect, error or mis-description provided I am satisfied there will be no injustice to either party. However, difficulties are likely to arise when the allegation is incorrect such that the requirements may be incomplete.
4. The land edged in black includes the caravan which is used for permanent residential accommodation and land and stables which are used by the appellant for equestrian purposes. As such, it seems the land is in a mixed use for residential and equestrian purposes, including the siting of a caravan for permanent residential accommodation. The concept of a mixed use being two or more primary uses existing within the same planning unit or unit of occupation.
5. Where there is a mixed use, it is not open to the local planning authority to decouple elements of it; the use is a single mixed use with all its component activities. Accordingly, the allegation should refer to all the components of the mixed use, even if only one is required to cease.

6. It is apparent that the enforcement notice does not describe all the components of the mixed-use taking place on the site. Moreover, the notice simply alleges a change of use for the siting of a caravan. It is an established principle that an enforcement notice does not simply allege the 'stationing' of caravans but specifies what use of land the caravans are sited for. The correct approach being to establish the lawful use of the planning unit, the effect of the caravan and its use on the character of the lawful use and conclude whether there was a material change of use. The allegation does not specify what use of land the caravan is sited for, nor that the change is material, which is the act of development.
7. The requirements should reflect and follow logically from the allegation. The enforcement notice requires the caravan to be removed.
8. Were I to correct the allegation along the lines set out above, but not the requirements, it would result in deemed planning permission being granted by virtue of section 173(11) for the use of the land for a mixed use of residential and equestrian purposes, including the siting of a caravan for permanent residential accommodation, if the requirements are complied with. This would cause the Council injustice.
9. If I were to correct the allegation and requirements, this would expand the allegation and requirements and therefore the scope of the enforcement notice, making it more onerous to comply with, thereby causing injustice to the appellant. Moreover, a full description of the alleged mixed use could have given rise to an appeal on other grounds.
10. Accordingly, I do not consider that correcting or varying the enforcement notice is possible without causing injustice. Therefore, it should be quashed as inaccurate and incapable of correction without injustice to the Council or appellant. Since this is a case where the Council have misdescribed the alleged breach, they may be able to issue another enforcement notice in exercise of their 'second bite' powers under section 171B(4).

Conclusion

11. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control, or the steps required for compliance. 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.
12. In these circumstances, the appeal on ground (g) set out in section 174(2) of the 1990 Act (as amended) does not fall to be considered.

Felicity Thompson

INSPECTOR