



Appeal Decision

Site visit made on 19 August 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 3 September 2024

Appeal Ref: APP/U2750/C/24/3336780

The Dog and Gun Inn, Carlton Road, Thirsk, YO7 4NJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr William Mason against an enforcement notice issued by North Yorkshire Council.
- The notice was issued on 18 December 2023.
- The breach of planning control as alleged in the notice is *Without planning permission, the siting of 14 static caravans on the Land*.
- The requirements of the notice are to remove the 14 static caravans from the Land.
- The period for compliance with the requirements is four 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). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: the enforcement notice is quashed.

Reasons

1. On reviewing the notice I wrote to the parties indicating my view that the allegation raised by the notice did not describe anything amounting to development, and querying whether the allegation could be corrected without any resulting injustice.
2. The Council's response did not appear to grasp the point that the mere 'siting' of caravans does not describe development. Notwithstanding the Council's reference to the breach having occurred within the previous four (rather than 10) years, a caravan is not a building and 'siting' a caravan would not on the face of it amount to operational development requiring permission. A caravan is normally sited in order to facilitate a land use, which may or may not be materially different from any previous use. Here, no use of the land is identified by the notice, still less any material change of use. The caravans were not occupied when the notice was issued, and no use as a caravan site is alleged.
3. Notwithstanding that, the existing operative permission relating to the site appears to date from 2017, granted under reference 16/02082/FUL. That itself did not expressly describe a land use, but the overall effect of the permission is to allow the land's use as a caravan site for 14 touring caravans. A condition limits the number of caravans to 14. Another condition requires that the 'caravans/cabins/chalets' are not to be used as a main place of residence and are to be occupied for holiday purposes only. No condition restricts the particular type of caravan that may be used; and condition 3 anticipates a broad description. Thus on reviewing the position in the light of my decision here, the Council may wish to consider how it is that the land use would materially change by the replacement of one type of caravan with another.

4. No appeal has been brought on legal grounds to the effect that the allegation raised by the notice is incorrect, or that permission is not required. The deemed application raised by the appeal on ground (a) would require consideration of whether to grant permission for the matters alleged in the notice. However, as those matters do not disclose any allegation of development, it is not an application that I should entertain. The notice does not tell the recipient with any certainty what the breach of planning control is, and it is a matter upon which I remain unclear after receiving the Council's correspondence.
5. I have considered whether the allegation is capable of correction, but the Council have not suggested any substantively different allegation: their proposed amendment continues to allege 'the siting' of caravans on the land. The caravans, save for one, are not occupied and hence I am unclear whether the Council wish to allege that the land is being used as a caravan site. If they do, I consider that the appellant might have wished to raise additional grounds of appeal, in the light of the 2017 permission. Thus I do not consider that the allegation is capable of correction without causing injustice to one or both parties. That being so, I do not have a discretion to correct the notice because the condition of section 176(1) of the 1990 Act is not satisfied.

Conclusion

6. 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) 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. In these circumstances the appeal under the various grounds as set out in section 174(2) 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.

Formal Decision

7. The enforcement notice is quashed.

Laura Renaudon

INSPECTOR