

Appeal Decisions

Site visit made on 10 September 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal A Ref: APP/X0360/C/22/3309531

Land at Chloes Cottage, Highlands Avenue, Barkham, RG41 4SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mrs Sally Pike against an enforcement notice issued by Wokingham Borough Council.
 - The notice was issued on 22 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to use for residential purposes comprising of the stationing of a mobile home together with its brick skirt and steps (the approximate location of which is shown marked A on the attached plan), the erection of an ancillary outbuilding (the approximate location of which is shown marked B on the attached plan), hardstanding (the approximate location of which is shown marked C on the attached plan) and fencing (the approximate location of which is shown marked D on the attached plan).
 - The requirements of the notice are: i) Cease the use of the Land for residential purposes. ii) Remove the mobile home, brick skirt, and steps, as shown in the approximate position marked A on the attached plan from the Land. iii) Remove the outbuilding as shown in the approximate position marked B on the attached plan from the Land. iv) Remove the areas of hardstanding as shown in the approximate positions marked C on the attached plan from the Land. v) Remove the fencing along the east, west and northern boundaries the approximate positions of which is shown marked D on the attached plan from the Land. vi) Remove all resultant materials associated with steps (ii), (iii), (iv) and (v) from the Land. vii) Restore the Land to its former condition prior to the breach of planning control taking place.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
 - An identical appeal (3309532) has been made by Mr Russell Pike
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Decisions

1. The appeals are allowed and the enforcement notice is quashed.

Applications for costs

2. An application for a partial award of costs has been made by the Council against the appellant and is the subject of a separate letter.

The Appeal on Ground (d)

3. The arguments for this ground are that the dwelling in question is a building and not a moveable structure and so 4 years is the relevant period in which to achieve immunity from enforcement. There is no dispute the dwelling has been in place for more than 4 years but less than 10, so this ground turns on whether it is a building or not.
4. There would also seem to be no dispute that the dwelling was originally a two section mobile home. It was purchased by the appellant and moved from its previous location to Highlands Avenue in 2016. A statutory declaration from Thomas Roberts, who carried out the move says that the mobile home was already in pieces, with no wheels or tow bar. He loaded the pieces onto his lorry and it was reconstructed in its current location. There it was welded onto a metal frame which was in turn concreted into the ground.
5. I was not able to see the underside of the dwelling on site, but it is clear from photographs this is the case, and it is not disputed by the Council. After it was rebuilt a builder, Michael Rushton, was employed to finish it off. His statutory declaration records that he constructed the roof and replastered and floored the dwelling internally to create a single unit. I also note it has been externally rendered.
6. If this is the case, and I have no reason or evidence to suggest it is not, then clearly the dwelling is no longer a twin unit mobile home but has become a permanent structure. I do not see how it could sensibly be decoupled into two or more units without substantially dismantling it. It is also permanently fixed to the ground. The Council's suggestion that the metal struts could be cut through, does not suggest to me a structure that it is practicable to move. They also suggest the whole building could be craned onto a lorry as one piece and moved. Setting aside this would need the metal struts to be severed, it is surely far too large to be carried on a lorry? It is my understanding that anything over 4.8m needs to split into two parts for road transport, but in any event, there is no evidence that something as wide as 6.36m would be transportable. There is also a structural engineers report that supports the contention that it is now a building not a movable structure.
7. Where the end walls would originally have split to create two separate units is visible as a covering strip that has been rendered over, but that does not mean the split is still there, or that if it is, it is practicable, for all the reasons given above, to utilise it. I note there is a PCN response from 2021 that says the wheels were removed after delivery, but now the person who actually moved it states they were never there in the first place. I don't think this discrepancy undermines the appellant's evidence. The PCN was a wide ranging questionnaire concerning several areas of the wider scrap yard. One part of it referred to the mobile home. It is explained that Mr and Mrs Pike assumed the wheels were removed on arrival, but now, having sought out Mr Roberts views realise they were never there. This fits with the idea the mobile home was in pieces before delivery. In any case, the wheels have become irrelevant now the building is concreted into the ground.
8. In my view, on the balance of probabilities, the mobile home has become a building and so is immune from enforcement. The appeal on ground (d)

succeeds. I shall quash the notice and do not need to deal with the other ground of appeal.

Simon Hand

INSPECTOR