



Appeal Decision

Hearing and site visit held on 1 October 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/L3815/C/23/3328152

Land Adjacent to The Spinney, B2166 Lagness Road, Runcton, Chichester, West Sussex, PO20 1LD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Myles Doran against an enforcement notice issued by Chichester District Council.
 - The notice was issued on 20 July 2023.
 - 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 the stationing of a mobile home, a touring caravan, and a motorhome for purposes of human habitation.
 - The requirements of the notice are to:
 - (i) Cease the use of the land for the stationing of a mobile home, a touring caravan and motorhome for the purposes of human habitation;
 - (ii) Remove the mobile home, touring caravan and motorhome from the land and
 - (iii) Break up and remove the hardstanding (which has been laid over the entire land) from the land and
 - (iv) Following compliance with (iii) above level the land with topsoil and reseed with grass.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by:
 - the deletion from paragraph 6 of the words "three months" and the substitution therefor with the words "twelve months" as the time for compliance.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Following submission of the appeal, the appellant instructed a new agent who subsequently requested that the appeal also proceed on ground (a), that planning permission should be granted for the development as alleged in the notice. However, the appropriate fee was not paid for the deemed application within the requisite period of time and as such ground (a) could not be pleaded.
4. The appeal form indicates that an appeal only on ground (f) was being made. It was however clarified during the appeal process that ground (g) was also being pursued. The appellant's grounds of appeal also make reference to the development not being a breach of planning control; a matter to be addressed

under ground (c). Prior to the hearing, I informed the parties that all of the above grounds of appeal would be discussed at the event, and as such no party was prejudiced in me considering these grounds.

Ground (c)

5. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
6. Class A (Use of land as caravan site) of Part 5, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) sets out that it is permitted development to use land as a caravan site where:

"The circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters."

7. The relevant paragraph of the Caravan Sites and Control of Development Act 1960, is paragraph 9 which refers to "Building and engineering sites", and states:

"Subject to the provisions of paragraph 13 of this Schedule, a site licence shall not be required for the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations."

8. It was put to me by the appellant that the development is not a breach of planning control, as the appellant is employed in the connection of operations that are taking place on the adjacent land, namely the construction of a dwelling that has been granted planning permission. It was further put to me that there is nothing that states that other members of the appellant's family cannot also occupy the land in this regard.
9. The appellant draws my attention to the foundation trenches that have been dug, it is contended which comprise a material operation in the construction of the approved dwelling (a matter which I shall return to later in my decision). The appellant dug the trenches, and it is on this basis that it is claimed that he is employed in connection with the operation of constructing that dwelling. I accept that it is not necessary for the appellant to earn a wage from undertaking the works in order to be considered to be "employed" in them. I have no reason to doubt that the appellant himself has indeed undertaken the stated works.
10. However, it is not just the appellant who was residing at the site. The information before me states that it is likely to be the appellant, his spouse, three children of school age, a further son as well as his wife and young child, and the appellant's mother-in-law, who occupy the mobile home, touring caravan, and motorhome. In this regard, I note that the site is currently unoccupied while the family are staying away for various reasons, but it was these individuals who were previously occupying the site and the appellant's

agent indicated at the hearing that it is likely that all individuals intend to re-occupy the site on their return.

11. In my view, the provisions of the GPDO cannot reasonably be interpreted as permitting the occupation of a site by such an extended family group. I note that the appellant is an Irish traveller and as such it is common for families to occupy sites in extended groups such as this. However, in this case it is the provisions of the GPDO that permit occupation. While the appellant has undertaken physical works in the course of the construction of the dwelling, and thus I consider him to accord with the requirement to be employed in the operation, it cannot reasonably be conferred that the remainder of the occupants are also employed in the operations.
12. I am conscious that, as was highlighted to me, there is nothing that explicitly states that extended family groups cannot occupy a site along with the person employed in the operations that are taking place. Nonetheless, the wording of the provision is clear in that it states:

"...if that use is for the accommodation of a person or persons employed in connection with the said operations."

13. To my mind, this is sufficient to clarify that it is only those persons undertaking the works who are permitted to occupy the land and that the provision does not extend to further individuals, or indeed an extended family as in this case. In this context, the occupation of the site by individuals other than the appellant himself, who are not involved in the undertaking of the building operation does not benefit from permitted development and requires planning permission.
14. Thus, a breach of planning control has occurred as a matter of fact, and the appeal on ground (c) must fail.
15. It was contended at the hearing, by the Council and interested parties, that the foundation trenches that have been excavated on site are not sufficient to comprise a material operation in the course of implementing the planning permission for the dwelling, as it was suggested that they have been excavated in the incorrect position. However, as I have found above that the occupation of the site does not benefit from permitted development it is not necessary for me to go any further to consider whether the operations that have been undertaken accord with the planning permission, or whether they constitute any lawful implementation of that permission.

Ground (f)

16. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. At the hearing, I clarified with the Council that the purpose of the notice is to remedy the breach of planning control.
17. Despite the appeal form indicating that an appeal was brought under ground (f), the appellant's agent agreed that the requirements of the notice were the minimum necessary to remedy the breach and that there were no other lesser steps that could be taken.
18. I raised some concern in regard to requirement (iv), in that it requires the reseeded of the appeal site with grass. It was unclear from the evidence what

the condition of the land was before the breach took place, i.e., whether it was an overgrown site. The interested party representing the Parish Council indicated that the site was not overgrown, nor were there weeds or brambles covering the site. It was common ground between the parties that the site was previously laid to grass. Moreover, the appellant's agent indicated that they were content that the reseeded with grass would not represent an improvement to the site, over its previous condition, as well as agreeing that the hardstanding should also be removed.

19. On this basis, I find that the requirements of the notice are reasonable and do not go further than is necessary to remedy the breach of planning control and restore the site. Therefore, the appeal under ground (f) fails.

Ground (g)

20. Ground (g) is that the period for compliance with the notice falls short of what is reasonable.
21. Rather than the three months provided by the notice, the appellant seeks a period of two years to comply with its requirements. This is due to the lack of alternative sites, the current level of need within the district and the personal circumstances of the appellant and his family. At the hearing, the Council accepted that the three-month period given was too short.
22. The appellant is currently not residing at the site, living elsewhere while recuperating for health reasons, and the appellant's older child and family are currently travelling. That being said, when the appellant returns to the area it is his intention to occupy the appeal site. It was accepted by the Council that there are no available, alternative sites that the appellant and family can occupy.
23. In terms of the need for sites, I was directed to a recent appeal decision¹ where the Inspector determined that there was a current residual requirement for the provision of 74 pitches to be provided to April 2028, albeit that I was informed that 3 have been provided since this time. Nonetheless, this still leaves 71 pitches to be provided by this date. As such, there seems little prospect of the appellant and extended family being able to move to another site in the immediate future.
24. I am also conscious of the personal circumstances of the individuals occupying the site, which includes children. In this regard I am particularly cognisant of my obligations under the Human Rights Act 1998, particularly Articles 8 and 14, and my duty under the Public Sector Equality Duty. I am also conscious of the best interests of the children occupying the site, and that these interests are a primary consideration.
25. While I recognise the factors above, I am also mindful that the appellant has recently sought planning permission for the development of a traveller's caravan site for five pitches on this land. This application was refused by the Council, yet within the Delegated report the Council accept that, in principle, the site is suitable for this type of development. The application was refused for reasons pertaining to its effect on the character and appearance of the area, as well as its effect on a Special Area of Conservation and a Special Protection Area. I was informed that there are currently discussions underway

¹ APP/L3815/C/23/3333619

in respect of a re-submission of this application in order to address the reasons for refusal, and that it is envisaged by the appellant that the matters can be satisfactorily addressed.

26. As a consequence of this and on the basis of the information that I have been provided with, I consider that there is a realistic likelihood that planning permission may be forthcoming for a development on this site that the appellant and family may be able to occupy. I therefore consider that a period longer than 3 months would be more appropriate, ensuring that the possibility of securing an authorised development on the site is explored.
27. The appellant has provided a copy of a previous, if somewhat outdated, appeal decision² dating from 2008 where an Inspector considered that a two-year period for compliance was appropriate, despite the Council's contention in that case that this would be tantamount to a temporary planning permission. However, for the reasons I give above I find that a period shorter than 2 years would be appropriate and this provided decision does not persuade me otherwise.
28. There would be interference with the rights of the occupiers in requiring them to vacate the site, but for the reasons given above this interference would be proportionate in light of the legitimate aims of facilitating a properly functioning planning enforcement regime. Balancing these competing interests, I find that a compliance period of 3 months would be unreasonably short, however the requested 2 years would be excessive. I consider that a period of 12 months would be appropriate in this case, which in my view strikes an appropriate balance between the rights and needs of the occupiers, including the children, and the legitimate aim of remedying the breach of planning control.
29. Accordingly, the appeal on ground (g) succeeds to this limited extent.

Other Matters

30. Interested parties have raised matters in regard, but not limited, to the Local Plan Development Strategy, the effect of the development on the character and appearance of the area and the effect on living conditions of nearby occupiers. However, these are matters relating to the planning merits of the development, which in the absence of an appeal under ground (a), or the deemed planning application, are not issues that influence my determination of the appeal.
31. There is also reference to the possibility of development on the site increasing in the future. However, it is not possible to prejudge any actions that could take place and as such this matter has little bearing on my decision.

Conclusion

32. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

Martin Allen

INSPECTOR

² APP/Q3305/C/08/2072342 & 2072343

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch

Agent for the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sue Payne

Planning Enforcement Officer

INTERESTED PARTIES:

David Maclean

North Mundham Parish Council

Alec Drury

Local Resident

Michael Lally

Local Resident

Jane Kings

Local Resident

Simon Budd

Local Resident