



Appeal Decision

Hearing held on 23 April 2025

Site visit made on 23 April 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 28th April 2025

Appeal Ref: APP/A3655/C/24/3339781

Brookwood Lye Mobile Home Park, Brookwood Lye Road, Brookwood, WOKING, GU24 0HD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr F Connors against an enforcement notice issued by Woking Borough Council.
 - The notice was issued on 24 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to residential comprising a caravan site for gypsies/travellers and associated ancillary storage.
 - The requirements of the notice are (i) permanently cease the unauthorised residential use of the Land comprising a caravan site and associated ancillary storage; and (ii) permanently remove all caravans and mobile homes, any structures/vehicles capable of human habitation, other vehicles/trailers, walls/fences or other means of enclosures that have been erected to demarcate pitches, building materials, and any other paraphernalia associated with the unauthorised use from the Land; and (iii) remove from the Land all materials, rubble and debris arising from compliance with requirements (i) and (ii) above.
 - The period for compliance with the requirements is 24 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (d) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice upheld.

Preliminary Matters

2. During the course of the appeal the ground (c) was withdrawn.

The Appeal on Ground (d)

3. The argument on this ground is that Mr Connors and others have lived on the appeal site for 10 years or more prior to the issue of the enforcement notice, that is since January 2014.
4. The first issue is to determine exactly where the appeal site is. Brookwood Lye mobile home park lies on the southern side of the A324 and is a long established gypsy and traveller site. Next to Brookwood Lye to the east is a bungalow separated from the mobile home park by a strip of land and that opens up to the rear of the bungalow and runs adjacent to the mobile home park southwards about two-thirds of the way towards the railway line. This is the appeal site. Beyond it is another parcel of land that fills the gap between the appeal site and the railway.

5. The bungalow itself and a small parcel of land mostly to its south is not part of the appeal site, whilst the mobile home park has migrated east, and now covers only about half its original, official site and has taken over much of the appeal site. Most of the land to the west is owned by a housing developer with planning permission to develop a housing estate. Mr Connors, who now owns the mobile home park, the appeal site and the bungalow site is in negotiations with the Council to regularise the mobile home park on its partly new site, so that the appeal site will become part of a larger, formal gypsy and traveller site. The Council have resolved to grant planning permission subject to conditions and a s106 agreement. Negotiations over the s106 have stalled and the Council, concerned to prevent the unauthorised use becoming established without the control of conditions or a s106, have issued the notice, hence this appeal.
6. For many years there was a hard edge between the mobile home site and the appeal site, and this is still visible within the mix of caravans currently on the site. To make matters more complicated, although the mobile home site was a rectangle, with this hard eastern edge, the ownership of the land showed that the site actually encroached into the appeal site. A long narrow triangle of land about 3m deep at the road end narrowing to a point at the southern end of the appeal site actually belongs in the mobile home site. This is called the 'yellow triangle' land from the helpful plan at appendix 4 of the appellant's original appeal documents. This will be important later.
7. The appellant has provided aerial photographs, Google Streetviews and various statutory declarations to support his contention that he and others have lived on the appeal site since 2012. In 2018 the aerial photograph shows clearly a considerable number of caravans on the land and spilling out onto the parcel of land to the south as well. This pattern is repeated in the photographs from then onwards and I have no doubt the appeal site was occupied by residential caravans from 2018 onwards.
8. The physical evidence for the earlier years is more sparse. The oldest photograph is a Google Streetview from 2012 which shows a small touring caravan tucked round the corner from the entrance opposite the bungalow and this is corroborated by the 2013 aerial photograph. Mr Connors says he moved into this tourer in 2012 as he wanted to set up a separate household from his parents who lived on (and I think owned) the mobile home park. The 2014 aerial photograph, although out of focus, appears to show the same as in 2013. However 2015 and 2016 Streetview photographs show several more caravans within the appeal site, yet the 2017 aerial shows they have all gone and just Mr Connors' tourer is left.
9. However, the 2013 and 2017 aerials show rather more than the Streetview photographs. The top part of the appeal site appears to be within the, for want of a better word, curtilage of the bungalow, which has a clearly defined square of land around it, separated from the rest of the appeal site by a fence with a gate in the middle giving access to a track that bisects the rest of the appeal site and runs to the southern parcel of land. In those aerials the rest of the appeal site is just a grassy paddock and there is no evidence of any actual use.
10. The land around the bungalow that I have described as curtilage was, at that time in split ownership, but appears to be used as one. Mr Connors has his tourer in there and behind the bungalow are a couple of other vans. These belonged to the Donovans, another gypsy family, but are not part of this appeal as they are not in

the appeal site. Mr Connors says the bungalow itself was rented out and the tenants and caravan dwellers all just used the land as they wanted.

11. The caravans in the 2015 Streetview photograph all appear to be within this top part of the appeal site, i.e. that part I have described as the curtilage of the bungalow. The larger part of the appeal site is clearly separated off by the fence and not occupied. In the 2016 Streetview photograph the simple fence appears to have been replaced by a close boarded fence. There might be a large tourer beyond the fence (ie in the larger part of the appeal site) but this is not clear. In any event the 2017 aerial shows no caravans in the larger part of the appeal site, which is grassed over and shows no sign of being occupied. If there were any caravans on this part of the appeal site before 2017 they would have been only temporary. All that is there in 2017 are the Donovan's vans and Mr Connors' tourer all in the top 'curtilage' part of the appeal site.
12. This suggests strongly to me that the appeal site, was at that time, split into two. The part nearest the road, which formed a single planning unit with the bungalow and the rest, which was clearly separated off and unused. This interpretation is further supported by the statutory declarations. Mr Connors explained that the only address for the land to the east of the mobile home park was 'the bungalow'. Post was addressed to named people, such as himself, or the Donovans as at 'the bungalow' and the post office knew how to differentiate. Indeed, Penny Collyer's statutory declaration supports this. She worked in the bakery where, from 2012, the post office was co-located. All the post for 'the bungalow' was kept at the post office for the occupiers to collect, including Mr Connors. She says explicitly there have always been caravans on the site forming 'the bungalow'. The plan she attaches to the statutory declaration is the enforcement notice plan showing the whole appeal site, but as I noted above the bungalow land was fenced off from the rest of the site so I assume it is that, the more obvious 'bungalow site' to which she is referring.
13. Mr Khan a local taxi driver also refers to the bungalow which he visits frequently and is aware of Mr Connors living there in his caravan. Mr Collins, another local, is more expansive and refers more generally to the caravan site at the bungalow. However, none of these people make it exactly clear to where they are referring. Indeed given the fact that the occupation of the appeal site was definitely consolidated over the years, beginning with 1 tourer and ending in dozens of vans over a much larger area, it is impossible to know which phase they are referring to, or if they were indeed aware of the different phases of growth.
14. There are other problems with the statutory declarations. Mr Connors' first statutory declaration clearly states he lives on the property shown in the plan FAJC1. Yet this is a plan of the mobile home park. It includes the yellow triangle of land, but none of the rest of the appeal site. It might be accurate as Mr Connors' caravan was indeed on the yellow triangle and I shall discuss this further below. Louis Barr provides a statutory declaration. It turns out she managed the mobile home site (and more recently the whole area of caravans). But her statutory declaration attaches a plan from an old planning application which only shows the mobile home site. Like Mr Connors' plan it includes the yellow triangle but not the rest of the appeal site. This seems odd but does fit with her comments that there were never less than 7 caravans on the property, as that is clearly not true of the appeal site.

15. Turning to Mr Connors' caravan. It seems his first tourer, subsequent larger tourer and eventual mobile home have all been within the yellow triangle. I am fairly sure that if this triangle of land is lawfully part of the mobile home park then the stationing of a caravan for residential purposes on that land would be lawful. It could not then be used to establish an unlawful use on the overlapping appeal site. If it could, then the Council could amend the enforcement notice plan to remove the yellow triangle. However, that was not an issue raised by the parties and I do not need to consider it, because Mr Connors' plot, as it eventually became, straddles both sites. In 2021, when visited by the Council Mr Connors was living in a tourer on the mobile home park. He explained this was only because he was waiting for his new mobile home to be delivered, which would be (and indeed was) stationed on the yellow triangle (ie the appeal site). The aerial photograph from 2018 appears to show Mr Connors' large plot solely in the mobile home park, but I think that is just an error when super-imposing the red line, as in 2019 the red line includes part of, what is clearly, the same plot, now extending into the appeal site. In these more recent years there do not appear to be any caravans on the part of the plot that lies within the appeal site (and the yellow triangle) until 2024, when the current large mobile home is moved on and takes up a larger area within the appeal site. The rest of the plot is used, according to Mr Connors for storage and has an amenity building on it. As I saw on my site visit it also has an elaborate Wendy house.
16. The point is twofold. By his own admission Mr Connors was not living on the appeal site in 2021 and the mobile home does not seem to have been delivered until 2024. But more importantly his plot straddles both sites, the appeal site and the mobile home park site. Given there are several years with no images of caravans on his plot that are also on the appeal site suggests his occupation of the plot has had a certain fluidity.
17. Finally there is an enforcement notice from 2003. This was issued by the Council and is still in force. It alleges a material change of use to a mixed use of agriculture, residential and storage of mobile homes and points to two touring caravans. The plan shows the tourers at the bottom of the land close to the railway line, that is not on the appeal site. But the red line covers all the land between the railway and the road, excluding the bungalow, that is the entire current appeal site except for the yellow triangle.
18. The appellant argued this did not bite on the current occupiers because they are gypsies. There is no mention of gypsies anywhere in the enforcement notice which was clearly directed against the establishment of a C3 use whereas gypsies are a sui generis use. For example, he said, caravan sites are always reserved specifically for gypsies when they are the intended occupiers as they have specific land use needs that are not shared by non-gypsy caravan dwellers.
19. This is true, but that restriction is created by attaching conditions. If a gypsy is living in a caravan then they have made a material change of use of the land in exactly the same way as anyone else living in a caravan. The 2003 notice, although somewhat oddly worded, was clearly directed against persons who had made a material change of use of the land by stationing caravans for residential purposes. The notice thus prevents anyone from living in a caravan on the land whether or not they are a gypsy. The notice clearly was not concerned with establishment of a C3 dwelling which is an entirely different thing to a caravan being used residentially. The weakness of the appellant's argument was exposed

when he agreed that as the current notice was directed against a gypsy site, then even if it was upheld, anyone who wasn't a gypsy could still occupy the caravans. That is clearly not the case.

Conclusion

20. Bringing all this together, the 2003 notice prevents the use of the appeal site, except for the yellow triangle, for the stationing of caravans for residential purposes. All the caravans that are not in the yellow triangle are therefore unlawful and cannot count towards establishing a new lawful use. The 10 year period thus relies solely on Mr Connors' caravan. It seems that he has not been resident on the appeal site for the entire 10 years, but more importantly, in my view when he was resident, particularly in the early years, it was only on part of the appeal site. The appeal site was not, at that time, being used as a single site, the top section by the bungalow was clearly a separate planning unit. The caravans then encroached onto virgin territory during 2018 extending the unlawful use to eventually fill the entire appeal site and land beyond, creating a new planning unit and so starting the clock again. Therefore the appeal site as now defined has not been used for residential caravans for 10 years and the appeal on ground (d) must fail.

Simon Hand

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Colin Begeman - MRTPI

Keith McDonald - Solicitor ret'd

Felix Connors – appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mike Ferguson – Woking BC