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## Appeal Decisions

Site visit made on 9 April 2019

**by A A Phillips BA(Hons) Dip TP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 May 2019**

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**Appeal A: APP/M2325/C/18/3199432**

**Appeal B: APP/M2325/C/18/3199433**

**The Bush, Pool Lane, Freckleton, Lancashire**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs Norma George and Mr Antony George against an enforcement notice issued by Fylde Borough Council.
- The enforcement notice was issued on 14 February 2018.
- The breach of planning control as alleged in the notice is the material change of use of the land from use for a caravan site comprising one caravan to a mixed use for a caravan site for two caravans and for the storage of shipping containers and vehicles.
- The requirements of the notice are:
  - i. Stop using any part of the land as a site for the storage of shipping containers or vehicles.
  - ii. Remove from the land all shipping containers, vehicles and caravans except for one caravan and up to two vehicles used for the personal transport of persons occupying the remaining caravan.
- The period for compliance with the requirements is six months.
- The appeals are proceeding on the grounds set out in section 174(2) (b), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decision: The appeals are dismissed and the enforcement notice is upheld.**

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### **The appeals on ground (b)**

1. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be demonstrated that the material change of use of the land to a mixed use for a caravan site for two caravans and for the storage of shipping containers and vehicles as alleged had not occurred.
2. The appellants have stated that it is not their intention to store containers or put more mobile homes on the land and that the containers and caravans were on the site when they moved there in August 2016. The appellants have explained the history of the site since they moved in and the evidence provided does not appear to argue that the land in question is not used for the mixed use for the storage of caravans and shipping containers and vehicles.
3. The evidence provided by the Council, including photographic records show that there are at least two caravans on the land plus some storage containers and numerous vehicles. I also observed these at my site visit.

4. Therefore, on the evidence before me the material change of use of the land as alleged in the enforcement notice has occurred as a matter of fact and thus the appeals on ground (b) must fail.

### **The appeals on ground (c)**

5. The ground of appeal is that the matter alleged in the notice does not constitute a breach of planning control. The material change in the use of land comprises development within the meaning of s55 of the Act for which planning permission is required.
6. In September 2010 a certificate of lawfulness for an existing use was granted for the use of the land for the stationing of one residential mobile home. It is my understanding that since that date there have been no further applications for planning permission or certificates of lawfulness. Therefore, this remains the lawful use of the land.
7. The change of use of the land from the authorised use for the stationing of one residential mobile home to a mixed use for a caravan site for two caravans and for the storage of shipping containers and vehicles goes beyond what is lawful on the site and is materially different from the authorised use. Consequently, planning permission is required for such a material change of use. I am not aware of planning permission having been granted for such a development.
8. The appellants contend that the containers are not stored on the land they are in use for purposes connected with the occupation of the land and running a smallholding. There is insufficient evidence before me that there has not been a breach of planning control or that the correct permissions are in place which authorise the material change of use of the land that has clearly occurred. Therefore, the appeals on ground (c) fail.

### **The appeals on ground (f)**

9. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve its purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the cessation of the use of part of the land for siting shipping containers or vehicles and the removal of shipping containers, vehicles and caravans except for one caravan and up to two vehicles used for personal transport purposes, the purpose is clearly to remedy the breach.
10. Under ground (f) the appellants argue that they should be allowed to keep the site as they state they purchased it. It is also contended that they can improve the area for recreational users by collecting rubbish, for example. However, this does not point to any lesser measures that would achieve the overall purposes of the notice.
11. Furthermore it is suggested that a legal agreement could ensure that everything is removed from the site when the appellants leave and could be used as a mechanism to prevent development of the land in the future. However, since there are no appeals on ground (a), notwithstanding any detailed consideration of this matter, there are no grounds to consider the merits of such an approach. I appreciate that the land allows the appellants to have a quality of life they enjoy, but compliance with the enforcement notice would allow one caravan to remain on site for their occupation.

12. Given the circumstances presented to me in evidence, any measures short of those specified in the notice would not achieve the purpose of the notice and therefore the appeals on ground (f) fail.

**Formal Decision**

13. The appeals are dismissed and the enforcement notice is upheld.

*A A Phillips*

INSPECTOR