The Planning Inspectorate

Appeal Decision

Site visit made on 29 October 2018

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2018

Appeal Ref: APP/B5480/C/18/3195148
Land to the east of Lake View Caravan Park, (3 Kempster Way), Cummings Hall Lane, Noak Hill, Romford RM3 7LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Linda Baldock against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice, numbered ENF/92/18 - 3196, was issued on 8 January 2018
- The breach of planning control as alleged in the notice is (i) either: a. the material change of use of the land which lies outside the licensed area and lawful extent of the caravan park, to a caravan park involving the creation of residential pitches and placement of mobile homes on the land, or alternatively; b. If (which is not admitted) the Caravan Park and the land be one planning unit the material change of use of the planning unit comprising the caravan Park and the Land through intensification of the mobile home use by the creation of additional residential pitches outside the licensed area of the caravan park and the placement of mobile homes on the land. (ii) Without the benefit of planning permission operational development on the land comprising the laying of concrete bases, construction of roads and paths, construction of plinths, ramps and steps, excavation of land and associated provision of services including water, electricity and drainage and alterations to existing ground levels.
- The requirements of the notice are:1. Remove all hard standings including concrete bases laid for stationing of mobile homes, paths and roads; 2. Remove all ramps, steps and plinths; 3. Remove all services, including drainage, water supply and electricity; 4. Remove all mobile homes including those identified on Plan A and Plan B attached to the enforcement notice, as 2a Long Meadow, 6a Long Meadow, 12a Long Meadow, 12b Long Meadow, 14a Long Meadow, 1 Kempster Way, 2 Kempster Way and 3 Kempster Way and cease all residential uses of the Land; 5. Remove all building materials, rubble etc. from the Land in connection with complying steps 1, 2, 3 and 4 above; and 6. Restore the Land, marked edged black on the plan attached to the enforcement notice, to its condition before the breach occurred.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) (c) and (d) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice be varied by the substitution of 12 months in paragraph 5 as the time for compliance with requirement 4 and the substitution of 15 months as the time for compliance with requirements 1-3, 5 & 6. Subject to this variation the appeal is dismissed and the enforcement notice is upheld.

Main Issues

2. I consider the main issues in this case are:

   On ground (b): whether the alleged change of use has occurred as a matter of fact and if it has;

   On ground (c): whether the development enforced against is authorised through falling within the planning unit that contains the established caravan park and, if it is, whether the addition of the development enforced against would bring about a material change of use.

   On ground (e): whether the notice has been properly served on everyone with an interest in the land.

Site and surroundings

3. The appeal site is a parcel of land within the Green Belt and lies immediately adjacent to an established caravan park which contains 'park home' type units for permanent residential occupation and a car park. The caravan park is approached via Cummings Hall Lane, a track leading from Noak Hill Road and there is a public footpath (part of the London Loop) running from Cummings Hall Lane close to the corner of the appeal site, along its eastern boundary.

4. The appeal site is enclosed within the boundary fence that surrounds the wider caravan park and is in the same ownership. The site owners state that this has been the case since at least 2002.

5. 20 Concrete bases have been laid on the land and the construction of an access road has begun. This was halted when the Council served a stop notice to prevent further work. At the time of my site visit there were 8 bases with park homes stationed on them of which 5 were apparently occupied.

Reasons

Ground (b)

6. An appeal on ground (b) claims that the development concerned has not taken place as a matter of fact. It is clear that caravans have been sited on the land identified in the enforcement notice and that hard standings and the base of an access road have been laid. Whether or not this amounts to development requiring planning permission will be considered under the appeal on ground (c). However, the development has taken place and the appeal on ground (b) therefore fails.

Ground (c)

7. The appellant has not addressed the Council's reasons for issuing the notice in her representations but these have been fully discussed in appeal ref: APP/B5480/C/18/3196202, which has been brought by the owners of the site. In that Decision, which considers whether the site has a lawful use as a caravan site, I have found that that there is no specific planning permission for the use of the land as a residential caravan park and it appears never to have had a site license for this use. I have found the appeal site was physically and functionally separate from the licensed caravan park prior to the installation of the additional caravans and the related operational development. It is in a separate planning unit that requires planning permission to authorise the material change of use to a caravan park.

8. In any event, I have also found that, if the appeal site were to be included within the caravan site planning unit, the additional development would amount to a material change of use through intensification, because it would bring about a change in the character of the use which would have planning consequences.

9. The appellant in this case has noted that she has lived on the site since March 2017 and I have no reason to doubt this statement but unfortunately this is not relevant to whether planning permission exists for the development. The appeal on ground (c) does not therefore succeed.

Ground (e)

10. The appellant has not explained why she considers the enforcement notice was not properly served. Nevertheless, she received a copy of the notice and an appeal on ground (e) would only be upheld if a party with an interest in the land to which it relates would be prejudiced by any procedural irregularities in its service. In this case, the appellant has been able to submit a valid appeal in respect of her address and has not therefore suffered prejudice in this matter. The appeal on ground (e) consequently fails.

Other matters

11. I note the safety concerns raised by the appellant but these are as a consequence of the appellants being required to stop carrying out unauthorised development and do not provide a reason for allowing the appeal.

12. I recognise that if the enforcement notice is upheld, the outcome would be that the appellant would be in danger of losing her home. This would represent a serious interference with her right to respect for private and family life and the home (Article 8 of the European Convention on Human Rights).

13. However, I consider that those rights are qualified and that my role in relation to this appeal is to ensure that any interference with those rights is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. I take the view that, in this case, the harm to the Green Belt is such that dismissal of the appeal is a necessary and proportionate response.

14. Although there is no appeal on ground (g) has been made in this particular case, I have varied the enforcement notice in appeal ref: APP/B5480/C/18/3196202 to allow more time for compliance so I will repeat that variation here, for the avoidance of doubt.

Conclusions

15. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations.

Katie Peerless

Inspector