



The Planning Inspectorate

Appeal Decision

Site visit made on 4 April 2018

by V F Ammoun BSc DipTP MRTPI FRGS

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

Decision date: 01 June 2018

Appeal Ref: APP/V2255/C/17/3172005

Land at Scoggers Hill, Boughton, Kent

- 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 Master John Ebrill against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 16 February 2017.
 - The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the Land from agricultural to a mixed use of agricultural and for the storage of various materials both within and outside of a number of shipping containers, parking or storage of army style and off-road style vehicles and for the stationing of a caravan for residential use, all being located on the Land with no association to any agricultural activity.*
 - The requirements of the notice are (i) *Cease the use of any part of the Land for the storage, parking or stationing of any materials, containers, army style and off-road style vehicles or caravan, not associated with agricultural use of the Land;* (ii) *Remove all materials, containers, army and off-road style vehicles and any caravan not used in association with agricultural use of the Land.*
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)[b] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed and the Enforcement Notice is upheld.

The appeal

2. The Enforcement Notice Appeal Form completed by the Appellant included queries as to the jurisdiction of the Council, referred to inalienable rights, claimed defects in a Kent Constabulary criminal investigation, and referred to the Human Rights Act. A subsequent email of 4 August also refers to problems with Council reference numbers and generally sought guidance. In its email letter of 11 August 2017 14:10 the Inspectorate informed the Appellant as to the scope of its responsibility and gave a summary of the enforcement appeal process that would ensue, in particular drawing attention to the timetable for the appeal. On the same day details of the appeal process were set out in letters sent to both parties.

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3. In the course of the appeal process the Council provided an appeal statement which was sent to the Appellant on 27 September 2017, together with representations from the Dunkirk Parish Council. No statement or reply was received from the Appellant, who did not attend the subsequent site inspection.

The appeal on ground (b)

4. The appeal was made on the single ground (b) which is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. In this regard on 4th August the Appellant stated *"with regard to ground b: the facts speak for themselves, no contravention of the town and country planning act 1990 had or has occurred.*
5. Ground (b) is known as a "legal ground" and where a legal ground is raised against an Enforcement Notice it is the responsibility of Appellants to show that, on the balance of probability, their case should prevail.
6. The Council statement included photographic evidence of what was there in October 2016. Aerial photographs show changes to the site over time. At my visit to the site while attempting to contact the Appellant in his caravan I saw the same range of objects including but not confined to storage containers, a vehicle, and the caravan. What is on the ground thus support the Council's case. There is no evidence from the Appellant that the objects referred to and/or residential use of the caravan serves the "limited horticultural use" seen by the Council in 2016. As a matter of fact and degree I consider that the type and distribution of stored objects in relation to the area of the site is such that there has been a material change of use, while the stationing of a caravan for residential use is a material change of use of the site on its own.
7. It is therefore my conclusion that the Appellant has not shown that, on the balance of probability, the case on ground (b) should succeed. On the other hand the Council's case is supported by the facts of what is present on this site. The appeal on ground (b) fails.
8. For completeness I restate the fact set out in the headnote above, that because the prescribed fees have not been paid there is no deemed planning application before me for consideration. Accordingly while I have noted all representations made, I must take my decision on the legal grounds pleaded only.
9. I have taken into account all the other matters raised in the representations, but do not find that they are necessary to or alter my conclusions on the appeal.
10. As there are no other grounds of appeal, once the appeal on ground (b) has failed the appeal must be dismissed and the Enforcement Notice upheld.

VF Ammoun
INSPECTOR

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