
Appeal Decisions

Site visit made on 11 October 2016

by Chris Preston BA (Hons) BPI MRTPI

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

Decision date: 12 December 2016

APPEAL A: Appeal Ref: APP/Z2505/C/16/3146686

APPEAL B: Appeal Ref: APP/Z2505/C/16/3146687

50 Brothertoft Road, Boston PE21 8HN

- 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 Mr Peter Greenhalgh (APPEAL A) and Mrs Dawn Greenhalgh (APPEAL B) against an enforcement notice issued by Boston Borough Council.
 - The Council's reference is Penf0191/15.
 - The notice was issued on 01 April 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission the unauthorised stationing of a static caravan on the land to provide residential accommodation.
 - The requirements of the notice are: i) Remove from the land the caravan that is stationed to the front of the property; and ii) Remove from the land the associated decking surrounding the caravan.
 - The period for compliance with the requirements is two months after the Notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decisions in relation to Appeal A and Appeal B

1. The enforcement notice is corrected:
 - i) By the deletion of the words "the unauthorised stationing of a static caravan on the land to provide residential accommodation" following the words "Without planning permission" at section 3 of the notice and the substitution of the words "the material change of use of land from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a single caravan for residential purposes"; and
 - ii) By the deletion of the words "four years" from the first sentence of section 4 and the substitution of the words "ten years".

Subject to those corrections the appeals are dismissed and the enforcement notice is upheld.

Procedural Matters

2. Two appellants were named on the appeal form; Mr Peter Greenhalgh and Mrs Dawn Greenhalgh. Although the grounds of appeal are identical it is common practice for the Planning Inspectorate to assign a separate reference number to each appellant. Thus, I have referred to the appeals as Appeal A and Appeal B, as set out above.
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3. The description on the application form refers to the 'unauthorised stationing of a static caravan on the land to provide residential accommodation'. The Council do not dispute that the unit falls within the definition of a caravan, as defined by the Caravan Sites and Control of Development Act 1960. Having viewed the caravan on site I concur with that assessment. Consequently, the unit does not constitute a building as defined by s336 of the Town and Country Planning Act 1990 (the Act) and the 'siting' of the caravan does not amount to an act of operational development that would require planning permission, of itself.
4. Rather, having regard to the information before me, the main issue between the parties is whether a material change of use has occurred from use as a dwellinghouse, with its associated garden, to a use as a dwellinghouse and a caravan site. In other words, whether the caravan is used as an independent unit of residential accommodation or whether the use is incidental to the enjoyment of the dwellinghouse. Consequently, it appears to me that the alleged breach would be more accurately described as, '*Without planning permission, the material change of use of land from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a single caravan for residential purposes*'. I have corrected the description of the alleged breach accordingly. Given that the respective statements address the issue of whether a material change of use has occurred I am satisfied that no party will be prejudiced by my decision to do so.
5. Moreover, having regard to the time limits for taking enforcement action, as prescribed by s171B of the Act, the relevant period would be ten years as opposed to four; the four year period only applies where there has been a breach consisting of the change of use of any 'building' to a use as a single dwellinghouse. Given that the caravan is not a building that time limit does not apply and the ten year period under s171B(3) is relevant. I have corrected the notice accordingly and am satisfied that no party will be prejudiced because no ground (d) appeal has been submitted and immunity from enforcement action as a result of the passage of time is not a matter that has been raised.

The Appeals on Ground (c)

6. When making an appeal on legal grounds, including ground (c), the burden of proof, on the balance of probability, rests with an appellant. If there is no evidence to contradict or make the appellant's version of events less than probable and his evidence alone is sufficiently precise and unambiguous, the appeal should be allowed.
7. In this case, the caravan is situated in the front garden of No. 50 Brothertoft Road, a sizeable detached dwelling within a predominantly residential area of Boston. By virtue of its design, the caravan provides all of the facilities required for day to day living with a fully equipped kitchen, living room, bedroom and bathroom. The waste water is connected to the main drains and the caravan has its own gas supply, connected to refillable canisters. Water and electricity are connected to the supply of the dwelling by virtue of a standard caravan 'hook up' lead and a hosepipe. Thus, a full range of services are available within the unit.
8. At the time of my site visit, the appellant noted that the shower within the caravan did not function properly. It is not clear how long it has been out of order but, regardless of that point, hot and cold running water is available such

that it would be possible for any occupants to wash and ensure satisfactory personal hygiene. As such, the current condition of the shower does not alter my conclusion that the caravan provides all of the facilities that would be required for independent living.

9. As noted, the water and electricity are connected to the adjacent dwelling but, to my mind, the fact that the caravan relies upon those connections does not dictate that it has been occupied for a purpose that is incidental to the dwelling. It would remain perfectly feasible for the caravan to be occupied independently of any activity in the adjacent dwelling, or for an arrangement to be reached regarding utility bills for the use of electricity and water.
10. Whilst there is a degree of reliance on the connections running from the house, the arrangement would not prevent anyone residing in the caravan from leading an independent existence from those residing within the adjacent dwelling. In other words, there would be no need to share living or sleeping accommodation, meals can be prepared in the caravan and facilities for personal hygiene are available.
11. The appellants maintain that Mrs Greenhalgh has been living in the caravan for a temporary period to avoid dust and fumes relating to renovation works that were being undertaken in the house. If that was the case, the erection of the timber decking appears to be rather elaborate for a temporary use covering such a short space of time. Further, I note that the house is relatively modern and no details of any renovation work have been provided. An application for a certificate of lawful use relating to the caravan, dated 23 December 2015, indicated that the use began on 16 June 2015. There is nothing to suggest that Mrs Greenhalgh has ceased to live in the unit since that time. Thus, by the time the enforcement notice was served in March 2016, it would appear she had occupied the unit for approximately 8 months. I visited the site in October 2016 and all the signs were that the unit remained occupied, taking account of the furniture, appliances, pots and pans and foodstuffs in the kitchen, coats and shoes by the entrance, and clothes within wardrobes in the bedroom. The bed was fully made up.
12. Consequently, it appears that the caravan has been occupied for a period well in excess of 12 months. In the absence of any details relating to the refurbishment of the adjacent dwelling, that does not support the assertion that the use is of a temporary nature. Moreover, the fact that the unit appears to be used to provide living space, cooking facilities and sleeping accommodation indicate that the residential use is taking place largely independently of any activity in the house. In addition to what I witnessed at my accompanied site visit the Council's enforcement officer found a lady preparing a meal at an unannounced site visit, with the table set for four people.
13. I have noted that no washing machine is available within the caravan and the appellants' statement that Mrs Greenhalgh uses the facilities in the dwelling for that purpose. However, that alone does not suggest that the use is incidental to the residential use of No. 50 Brothertoft Road. Clothes and personal belongings were evident throughout the unit at the time of my visit and the living room, kitchen, bathroom and bedroom were clearly in use.
14. Furthermore, a degree of separation from the garden of the dwelling has been provided by the timber deck that has been erected around the caravan. Whilst

there is no physical impediment to movement between the garden and the deck, the raised platform has clearly been erected in association with the use of the caravan and, in a visual and functional sense, it provides an external recreation area that appears to be associated with the caravan as opposed to the dwelling.

15. Therefore, it appears to me that the caravan has been occupied as a separate unit of residential accommodation largely independently of the adjacent dwelling. Given the range of services and facilities that are available and appear to have been used I cannot conclude that the use of the unit is incidental to the residential use at No. 50 Brothertoft Road, notwithstanding the lack of a washing machine or the fact that electricity and water are supplied from connections at the dwelling. Moreover, given the length of time that the unit has been occupied, and the lack of evidence that has been presented regarding renovations to the dwelling, I find the assertions regarding the temporary nature of any occupation less than convincing.
16. On the balance of probability I conclude that the caravan has been used as an independent unit of residential accommodation. Accordingly, there has been a material change of use from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a caravan for residential purposes. It follows that the appeals on ground (c) should not succeed and I shall uphold the notice, as corrected.

Chris Preston

INSPECTOR