



Appeal Decisions

Inquiry Held on 4 December 2018

Site visit made on 4 December 2018

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 11 December 2018

Appeal A Ref: APP/P2365/C/17/3190196

Pear Lea Farm, 10, Hares Lane, Scarisbrick, PR8 5LQ

- 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 Angela Sumner against an enforcement notice issued by West Lancashire Borough Council.
- The enforcement notice was issued on 13 October 2017.
- The breach of planning control as alleged in the notice is without planning permission the change of use of land from agriculture to the use of land for the siting of a storage container and residential caravan with associated garden, hardstanding and decking areas.
- The requirements of the notice are (in summary):- i. cease the use for the siting of a residential caravan and storage container; ii. remove the caravan and storage container; iii. dismantle the decking area; iv. remove all flagstones; v. remove all other domestic paraphernalia.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice is upheld with corrections.

Appeal B Ref: APP/P2365/X/17/3189284

Pear Lea Farm, 10, Hares Lane, Scarisbrick, PR8 5LQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Robert Sumner against the decision of West Lancashire Borough Council.
- The application Ref: 2016/0240/LDC, dated 11 April 2016, was refused by notice dated 27 September 2016.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is siting of residential static caravan.

Summary of Decision: The appeal is dismissed.

Application for costs

1. At the Inquiry an application for costs was made by the Council against both appellants. This application is the subject of a separate Decision.

Preliminary Matters

2. At the inquiry, Mrs Angela Pearce stated that she had been incorrectly referred to on the appeal form for Appeal A as Mrs Angela Sumner. Her correct name is used henceforth. She is the joint owner of the appeal site, together with her brother, Mr Robert Sumner, the appellant in Appeal B. They both reside at Pear Lea Farm.
3. Following earlier correspondence regarding Appeal A, the Council asked me to make minor corrections to the allegation and to steps (i) and (v) of the notice to achieve greater clarity and accuracy. The appellant had no objection to such corrections and I am satisfied that no injustice would arise from my making them.
4. All evidence at the inquiry was taken on oath or affirmation.

Appeal A, ground (d)

5. For the appeal to succeed on this ground, the onus is on the appellant to demonstrate, on the balance of probability, that the land had been used as per the allegation in the notice for a continuous period of 10 years prior to the issue of the notice. However, Mrs Pearce herself stated that the caravan was first sited there in 2015 and that, beforehand, the land was a rhubarb patch. Mr Sumner, Mr Vearncombe and Mr Scullion all confirmed the accuracy of this date on which the caravan first arrived on site, when giving their evidence.
6. It appears that a caravan owned by the appellant's grandmother was sited on the land many years ago. This had been used for holidays and occasional visits. However, Mr Vearncombe, who lives adjoining the site, stated it had long ago fallen into disrepair, was believed to have been last used for storage purposes, and was demolished around 2002. The Council's photographic record is consistent with this evidence and I heard no credible evidence to the contrary from other witnesses.
7. The appellant has clearly failed to demonstrate that the use has continued for the required 10 year period and, indeed, conceded at the inquiry that the enforcement notice was correct. The appeal therefore fails.

Appeal B

8. At the outset, I asked for clarification of the appellant's case. On the one hand, it had been argued that a residential caravan had been sited on the land for a period of more than 10 years and, as such, the use had become lawful through the passage of time. On the other hand, it was submitted that the caravan was situated within the residential curtilage of the dwellinghouse known as Pear Lea Farm and had been used for residential purposes incidental to the use of the dwellinghouse as such. In that case, this would not amount to development as defined in S.55(2)(d) of The Act. Mrs Butler confirmed that the latter of the 2 arguments was being pursued by the appellant.
9. It is clear from my conclusion in the case of Appeal A that the former of the above arguments would have failed in any event. The caravan was first sited on the land in 2015 and there had been no demonstration of the required 10 year period of use.

10. Turning to the case being pursued, I can see little justification for regarding the appeal site as being part of the residential curtilage of Pear Lea Farmhouse. The land in question is a considerable distance from the house, separated by a farmyard and a range of agricultural buildings and is agricultural, rather than residential, in character. Part of the site is now covered with hardcore and the evidence indicates that it was formerly agricultural land. By way of contrast, the house itself has a well maintained garden to its front and sides which appears both physically and functionally related to the use of the dwellinghouse as such. Unlike the appeal site, this could fairly be regarded as its residential curtilage. The appellant's case therefore falls at this hurdle.
11. Even were I to have concluded that the appeal site was, indeed, part of the residential curtilage, the evidence I heard demonstrated that the caravan was occupied as a separate residential unit. The caravan has all the facilities required for independent living, as do most caravans. However, until about 3 months ago, it was owned by and lived in by friends of the appellant, known to him as Lee and Colette. Mr Sumner stated that they even erected the decking and sited the container on the land without his prior knowledge or consent. On the basis of the evidence that I heard, the appeal site was occupied as a separate planning unit for residential purposes.
12. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of siting of a residential static caravan was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decisions

Appeal A

13. It is directed that the enforcement notice be corrected by:-
 - i. replacing the allegation with "*Without planning permission, the change of use of the land from a mixed use of agriculture and residential purposes as a dwelling to a mixed use of agriculture, residential purposes as a dwelling and the siting of a storage container and residential caravan with associated garden, hardstanding and decking areas.*";
 - ii. removing the words "*the site*" from step (i);
 - iii. inserting into step (v) the words "*associated with the residential caravan*" after the word "*paraphernalia*".

Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

Appeal B

14. The appeal is dismissed.

B.S. Rogers

Inspector

Appearances

For the appellant in Appeal A:

Mrs Angela Pearce - the appellant

For the appellant in Appeal B:

Mrs Beverley Butler - the appellant's fiancée

Mr Robert Sumner - the appellant

For the Council:

Mr Killian Garvey of Counsel - Kings Chambers, Manchester

He called

Miss Eileen Woollacott - Planning Appeals Officer, WLBC

Interested Persons

Mr Gordon Vearncombe - neighbouring resident

Mr Bernard Scullion - friend of the appellants

Documents

1. Attendance list.
2. Copies of emails and records of telephone conversations between the Council and the appellants.
3. Draft costs application submitted by the Council.