
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/01/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.05.2020

Appeal Decision

Site visit made on 14/01/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 27.05.2020

Appeal Ref: APP/B6855/C/19/3240124

Site address: Plot 1, 1 Lon y Felin, Gorseinon, Swansea SA4 4BE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Mr Victor Bruno against an enforcement notice issued by City and County of Swansea Council.
 - The enforcement notice, numbered ENF2018/0038, was issued on 27 September 2019.
 - The breach of planning control as alleged in the notice is "without planning permission, the change of use of the land to residential with the associated siting of a caravan used for residential purposes".
 - The requirements of the notice are: "(i) cease the residential use of the land; (ii) remove the static caravan from the site; (iii) remove any rubble and associated material or rubbish which has occurred as a result of the actions of point (ii) above, from the land".
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

Ground (b) – that the breach of control alleged in the enforcement notice has not occurred as a matter of fact

2. The appellant does not appear to dispute that a caravan used for residential purposes has been sited on the land. At the time of my visit I observed the caravan, equipped for residential occupation, in place on the land. Rather, the basis of the appeal on ground (b) appears to be that a material change of use of the land to residential use has not occurred, as the land already has a lawful residential use by virtue of a previous planning permission for residential development.
3. In relation to this contention the appellant refers to planning permission reference 2003/0363 and permission reference 2004/1346, which it is said establish the residential use of the land by way of permission to construct a dwelling on plot 1. However, the Council has responded that whilst it is correct that outline planning permission was granted for the residential development of land including the enforcement notice land under reference 2003/0363, conditions attached to the

permission were not complied with. The Council says that dwellings completed on some of the other plots have become lawful due to the passage of time. It says that no valid permission remains for the construction of a dwelling house on plot 1. The Council has informed the appellant of this and invited him to make a fresh application.

4. The appellant has produced no documentation or supporting evidence which leads me to conclude that any full permission for a dwelling on plot 1 which might have been granted in the past remains capable of implementation. Much of the submitted evidence concerning development-related matters does not relate to plot 1. The onus is on the appellant to produce evidence to show, on the balance of probability, that what he claims represents a correct version of events. From my inspection of the site I saw nothing to show that construction of a previously-permitted dwelling had been commenced. Even if such development works had been evident, questions would remain to be answered about the continued validity of any permission pursuant to which the works might have been carried out. Activities on the site referred to in the appellant's submissions, such as the deposition of hardcore and works associated with the relocation of an electricity substation, have not been demonstrated to be commencement works forming part of a previous full planning permission for a dwelling on plot 1.
5. On the evidence before me I find no basis for disagreeing with the Council's stance that there is no extant permission for residential development of plot 1, and that the land therefore does not benefit from a lawful residential use. I therefore conclude that the siting of a caravan for residential purposes has resulted in a material change in the use of the land concerned, and that the matters identified in the notice have occurred as a matter of fact. The appeal on ground (b) therefore fails.

Ground (c) – that the matters do not constitute a breach of planning control

6. The argument made in relation to this ground appears to be similar to the ground (b) argument above. In essence it is contended that the residential caravan is permitted on the land because the land has a residential use right by way of the previous planning permission alluded to above. However, as I have concluded, the local planning authority considers that the historical planning permission granted more than 15 years ago is no longer capable of lawful implementation. No evidence has been produced which indicates that the Council is in error on this matter. Consequently, the appeal on ground (c) does not succeed.

Ground (f) – that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections

7. Although the appellant has appealed on ground (f), he has not explained why the steps in the notice are considered excessive. On its face the requirements of the notice, set out at the head of this decision, stipulate what is necessary to remedy the breach of planning control identified by the notice; in short the ceasing of the residential use, the removal of the caravan enabling the residential use and the removal of any residual material arising from the removal of the caravan. I consider that the requirements do not go beyond what is necessary to remedy the breach. Accordingly, the appeal on ground (f) fails.

Ground (g) – that the time given to comply with the notice is too short

8. The appellant has referenced his personal circumstances, which are affecting his ability to work. However, it would be a simple matter to engage someone else to remove the caravan and any associated materials from the site. The appellant evidently owns a permanent dwelling nearby and has not advanced any reason why he

is unable to occupy that property. For these reasons I conclude that 3 months is a reasonable period for compliance with the notice. The appeal on ground (g) fails also.

Other matters and overall conclusion

9. Whilst the appellant did not formally appeal on ground (e) "that the notice was not properly served on everyone with an interest in the land", he has made comments concerning the service of the notice. However, these comments do not identify anyone with an interest in the land who has not been provided with a copy of the notice. The appellant has plainly been notified as required. I conclude that there is no evidence that anyone has been disadvantaged by not being made aware of the enforcement notice.
10. The appellant has also made comments about the reasons why he wishes to have a residential caravan on the site. He also contends that residential caravans have been permitted on development sites elsewhere and argues that the presence of the caravan is not harmful to amenity. However, such arguments relate to the possible planning justification for a caravan on the land; no appeal on ground (a) has been made in this instance. These points about the justification for the development concerned are relevant to an appeal on ground (a) seeking a grant of permission for the residential use concerned. They are not relevant to the grounds pleaded in this case.
11. For the reasons given, therefore, and having taken account of all matters raised, I dismiss the appeal and uphold the enforcement notice.

Alwyn B Nixon

Inspector