APPENDIX G

The Planning Inspectorate

Appeal Decision

Inquiry held on 5 October 2016
Site visit made on 5 October 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/R3705/C/16/3142000
Lea Marston Sports Ground, Blackgreaves Lane, Lea Marston, Sutton Coldfield, Birmingham, Warwickshire B76 0DA

- 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 G Breeden against an enforcement notice issued by North Warwickshire Borough Council.
- The Council's reference is CMP2013/00135.
- The notice was issued on 23 November 2015.
- The breach of planning control as alleged in the notice is change of use of land from sports field to sports field together with the unauthorised siting of residential and touring mobile homes, hardstanding pitches, electrical hook-ups, toilet/shower block and associated items.
- The requirements of the notice are to cease the unauthorised siting of residential and touring mobile homes; dig up/break up associated hardstanding pitches and remove the resulting materials from the site; demolish and remove electrical hook-ups; demolish and/or remove the toilet/shower block from the site and also remove associated items.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Procedural Matters

1. The appellant was unrepresented and prior to the inquiry asked the Inspectorate if it would be possible to introduce at the inquiry evidence under grounds (a), (b) and (c), although it was noted by the appellant at the start of the inquiry there was no intention to introduce a ground (a) appeal. There also appears to be a hidden ground (f). It was explained at the inquiry that as a matter of natural justice if the appellant felt he had good reason for the appeal on these grounds, they would be accepted, but that he should be aware of the costs regime, as the council indicated that an adjournment would be necessary to investigate the ground (b) matters suggested. The appellant confirmed that he was happy to continue representing himself and that after an adjournment and conversation with the council he confirmed that he would not be pursuing appeals on grounds (b) or (c).

2. I would note in relation to ground (a) that the appellant can apply for planning permission in the future and should he subsequently obtain a planning permission, whether through permitted development or otherwise, this could override any relevant parts of the enforcement notice. While another licence for

caravan use was identified at the inquiry, this would only override a relevant enforcement notice if its terms were complied with and permitted development commenced and currently this would not be the case with the number of units on the site.

3. The appellant also argued that the area of the site identified by the plan in the enforcement notice was too large. A notice is for identification purposes and can cover a wide area, to ensure that uses being enforced against are not moved about on the same piece of land. It includes the area used for various sporting activities, which in my view is covered by the allegation, and the inclusion of the wider area is not unacceptable. While the land is in two ownerships, the council notes that both owners were notified of the enforcement notice.

Decision

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

Reasons

Ground (d)

5. The relevant period for considering whether it has been demonstrated that there has been a 10 year continuous use of the site for the siting of caravans for residential use is any 10 year period prior to 23 November 2015. The council accept that the unauthorised use has continued from about 2014 when the Caravan Club Licence was withdrawn and effectively the planning permission provided by permitted development ceased.

6. The appellant's written evidence, confirmed by his father in a written submission, noted the creation of the sports facilities from about 1956 and there is a general note that he has always encouraged members of the club and public to stay on the farm, camping and caravanning on the site. This is a very general description of the use, and there is no further evidence in terms of photographs, bookings, receipts etc. for camping or caravanning over the period. It was also noted that in the early days the area of land was substantially greater than just the appeal area where the camping use could also occur.

7. The council has aerial photographs that show the appeal site at various times covering the period, some in summer months when use would be likely to be much greater. None of these show any indication of camping or caravanning having occurred. When an inspector undertook an appeal at the site around 2006, he noted other uses, but siting of caravans was not mentioned. Given the location of the facilities he was considering and the general openness of the site from within, I consider that if caravans had been there at the time they would have been included in the description. Again this was in summer months.

8. In a follow up to the enforcement notice to check that the facilities provided had been removed, there is no indication that the council's officer identified any caravans. Had there been caravans on the site, given the enforcement action that had been taken, I consider that it is likely that they would have been mentioned.

9. The appellant argues that these are effectively snapshots on a particular day and that caravans might not have been on site at that time. However, he also noted that prior to obtaining the caravan club certified location status there could be periods of perhaps up to a year when the site was not used, but in that time there would have been the capability of accommodating caravans. This capability to accommodate caravans in excess of the 5 allowed under the certified location continued after 2010 when pitches for more than the 5 units were laid out and electric hook ups provided.

10. Neighbours that live opposite to the appeal site mention the use for caravans commencing about 6/7 years ago and this coincided roughly with the caravan club certified location being granted. The appellant suggests they would have a limited view of the appeal site and would not see campers. However, while walking down the lane on the site visit, even with late summer foliage it was easily possible to see much of the site, particularly through entrances and I consider that neighbours would have been aware of the use of the land.

11. While I note that there would have been an ability to accommodate caravans at any time during the period, that has little relevance. The main point is that for some of the time prior to the caravan club certified location in about 2010 there could be long periods without use. Even accepting there are likely to be some periods of non occupation of a caravan site, to my mind the breaks indicated would be substantial and therefore the use up to the caravan club certified location being granted would not have been likely to be continuous, sufficient to have established a lawful use.

12. The appellant partly argues that the caravan club certified location rules were not abided by and therefore the associated permitted development granted for the use of club sites was not implemented, particularly as again he noted there were more than the five pitches laid out and available during that time. However, in answer to questions it was noted that the appellant did aim to accord with the certified location requirements and achieved this for about 80% of the time. As part of the certified location process, the caravan club notes that there would be regular visits from the local club adviser to see that all is well. The appellant said he did not see him, but the letter also notes that there would be no prior notification normally given. To my mind if he had found more than 5 units on the site action would have been taken, as was the case later on in 2014 when the licence was not renewed. This also generally accords with neighbours' observations.

13. The planning permission associated with the permitted development for the certified location would have made use of the site for caravans lawful, and this would have commenced a new chapter in the planning history. Again when the permission ceased in 2014 there would have been another chapter in the planning history started. The lack of continuous use up to 2010 and the start and finish of the planning chapters brought about by the permitted development associated with the certified location individually means that a 10 year continuous use has not been established. I conclude that the evidence provided by the appellant is not sufficient on the balance of probability to demonstrate the continuous use of the site for the purpose identified.

14. It is well established that the appellant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the council has no evidence of its own, or from others, to contradict or otherwise make the

appellant's version of events less than probable, there is no good reason to discount that evidence, provided the appellant's evidence alone is sufficiently precise and unambiguous. In this case, I do not consider that the appellant's evidence is sufficiently precise or unambiguous and the council has evidence that indicates the continuous use claimed is less than probable. The appeal on ground (d) fails.

Ground (f)

15. It was argued whether the shower/toilet facilities are development or a use of the land. Given the very limited attachment to the ground, some of the four stands to each unit simply resting on a small piece of wood on the ground, and the relative ease of movement of each of the units, I consider that these are a use of the land and not development. The fact that there are electric, water and drainage services would not prevent them from being readily removable. In any case, even if it were development, if it is found to be provided as part and parcel of the caravan use, it would not be unreasonable for the facilities to be required to be removed. The council also note that if they were development they would be contrary to the previous enforcement notice.

16. The appellant argues that the requirements should not include the toilet and shower facilities, noting that their use is also for the sporting facilities and construction workers on a pavilion and on the house, as well as for the caravan site. The pavilion has been in the process of construction for a long period, with little activity appearing to be occurring at the moment. The facilities provided are well away from the pavilion, much further than would be expected for such facilities if provided for that use, similarly with the main house, where there is a road to cross. I accept that they may have been used for this purpose, but given the location I consider it unlikely that their provision would have been directly associated with that purpose.

17. The facilities arrived at around the same time that the site was being prepared for the caravan club certified location and the position is very well located in relation to the pitches. I note that this was at the time that the appellant purchased the farm and was a period of investment and development. I also acknowledge that some facilities were provided and enforced against in 2006. I also accept that there is no requirement to provide these facilities, but clearly they enhance the site for caravan users.

18. To my mind, acknowledging that some use is made in association with the lawful sports use, it seems most probable that given the type of facilities and their location, they were provided as part and parcel of the caravan club use being developed. The evidence submitted by the appellant does not demonstrate on the balance of probability that they were provided for the use he alleges of them. I accept that appropriate facilities can be provided for temporary use associated with new construction works within the bounds of that development, and clearly if some appropriate facilities were provided it would not be prevented by the enforcement notice.

19. The appellant was concerned that all the electrical cables on site would have to be removed. However, the notice only requires removal of the electrical hook-ups. Cables on site would not need to be removed that are associated with the lawful use of the land.

20. The period of 6 months is more than adequate to cease the use and remove the facilities.

21. The appeal on ground (f) fails.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr G Breeden	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Maxey	Solicitor to North Warwickshire Borough Council
He called	
Mr P Gittins	Senior Enforcement Planner, North Warwickshire Borough Council

DOCUMENTS

Document	1	Council's opening submission
	2	Appellant's further evidence