



Appeal Decision

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/04/2024

Appeal reference: CAS-02445-W7P8Q6

Site address: Land adjacent to existing Traveller's site at Glyn Millwr, Stones Houses, Blaina

- 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 Robert Smith against an enforcement notice issued by the Blaenau Gwent County Borough Council.
 - The enforcement notice, numbered, C20/082 was issued on 9 December 2022.
 - The breach of planning control as alleged in the notice is, without the benefit of planning permission, the material change of use of land to a residential traveller's site including the siting of caravans and associated vehicles.
 - The requirements of the notice are to:
 - Cease the use of the land as a residential traveller's site.
 - Remove all motorhomes/caravans and associated vehicles from the land.
 - Remove all outbuildings and enclosures.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) 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 have lapsed.
 - No site visit was made.
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Decision

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

Procedural Matters

2. As this appeal was proceeding by ground (f) only, and having regard to the submissions made, it was considered that a site visit was not needed in this instance. PEDW wrote to the parties indicating that no site visit was necessary. No response was received raising concerns about this matter, and the appeal has proceeded to a decision.

The ground (f) appeal

3. The ground of appeal is that the steps required in the notice to be taken, exceed what is necessary to remedy any breach of planning control or, to remedy any injury to amenity which has been caused by any such breach.
4. Under the ground (f) appeal the appellant claims that the field which is used at Glyn Millwr has no other use except as grazing. However, it has provided a stable home to 5 families and 8 children and there is no other lawful site for them in this Council area which is available. If they were to be evicted, they would have nowhere to go and are likely to end up anywhere. At the present location the families are safe, and the children can attend school. Forcing these families out shows that the local authority is breaching its statutory duty under Section 103 of the Housing (Wales) Act 2014. It is asserted that it would be far better if the local authority would rent the land on a temporary basis and set-up a temporary site with minimum facilities until such time as suitable land for a permanent site can be found to fulfil the legal duty and set-up an official temporary site. The appellant contends that this way children can continue their education and be safe while the Council has time to locate suitable land and to meet its duty under the Housing (Wales) Act.
5. The appellant has provided no case as to what lesser step would achieve the purpose of the enforcement notice (EN). As it has been confirmed no fee was paid for the ground (a) appeal and deemed application, the ground of appeal had lapsed. There is no case before me relating to planning merits.
6. The EN requires the residential use to cease, the removal of motorhomes/caravans and associated vehicles from the land and the removal of all outbuildings and enclosures.
7. Having regard to the requirements of the notice it appears that the purpose of the notice is to remedy the breach of planning control within Section 173(4)(a) of the Act as amended. The local planning authority has confined itself to the purpose specified in Section 173(4)(a) and I am similarly bound by that purpose.
8. No lesser step has been put forward and the appellant's submissions in the ground (f) appeal all relate to the issue that planning permission should be granted for the development because there is a housing need to accommodate the families to reside on site and that the best interests of the children would not be met if they were removed from the site adversely affecting their safety and education.
9. Case law indicates that in the absence of a ground (a) appeal reliance on varying the EN under Section 176(1)(b) to some lesser step, and none have been put forward here, cannot properly be used to challenge the substance of the EN where no ground (a) is pleaded. In this case the pleaded ground (a) has lapsed.
10. I cannot therefore deal with general planning considerations through ground (f) alone. I am conscious of the fact that what has been raised are factors that relate to the Public Sector Equality Duty (PSED) and Human Rights. However, it has been clarified in case law that PSED and Human Rights do not come into play in grounds (f) appeals where the question is whether the steps exceed what is necessary to remedy any breach of planning control.
11. The appeal on ground (f) therefore fails and the enforcement notice is upheld.

Iwan Lloyd

INSPECTOR