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Rob Worgan
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Development and Environment
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Your Ref: 2017/0045
Our Ref: APP/D0121/C/17/3175079
Further appeal references at foot of letter

19 December 2017

Dear Mr Worgan,

Town and Country Planning Act 1990
Appeals by Mr G Wedlake, Mr Gregory Wedlake
Site Addresses: Land at rear, The Bungalow Inn, Kingdown Road, BRISTOL,
BS40 5TP and The Bungalow Inn, Bridgwater Road, Felton, Somerset, BS40

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

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service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Craig Maxwell

Craig Maxwell

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Linked cases: APP/D0121/C/17/3178502



Appeal Decisions

Site visit made on 9 October 2017

by Jessica Graham BA (Hons) PgDipL

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

Decision date: 19 December 2017

Appeal A: Ref APP/D0121/C/17/3175079

The Bungalow Inn, Kingdown Road, Bristol BS40 5TP

- 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 Wedlake against an enforcement notice issued by North Somerset Council on 6 April 2017.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agriculture to a mixed use of agriculture and the use of the land for the parking of vehicles unconnected with the agricultural use of the land.
- The requirements of the notice are to cease the use of the land for the parking of vehicles unconnected with the agricultural use of the land, and remove all vehicles unconnected with the agricultural use from the land.
- The period for compliance with the requirements is 7 days.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 as amended.

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

Appeal B: Ref APP/D0121/C/17/3178502

The Bungalow Inn, Kingdown Road, Bristol BS40 5TP

- 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 Wedlake against an enforcement notice issued by North Somerset Council on 25 May 2017.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agriculture to a mixed use of agriculture and vehicle reception facility for airport customers including an office/reception, the parking of vehicles unconnected with the agricultural use, airport transfers for airport customers and the movement of customer's vehicles to other sites.
- The requirements of the notice are to
 - cease the use of the land as a vehicle reception facility for airport customers including an office/reception, the parking of vehicles unconnected with the agricultural use, airport transfers for airport customers and the movement of customer's vehicles to other sites.
 - remove all vehicles not associated with the agricultural use of the land
 - remove the office/reception facility from the land
 - remove all the hardcore and any other materials from the land
 - reseed with grass
- The period for compliance with the requirements is 14 days.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variation.

Procedural matters

1. Both enforcement notices relate to the same site, but the notice that is the subject of Appeal B was issued some weeks after the notice that is the subject of Appeal A, when matters had moved on. I shall deal with each in order.
2. One of the steps set out in the requirements of the notice that is the subject of Appeal B is, in my judgment, insufficiently precise: the requirement to remove "...any other materials" from the land should provide clarity as to what those materials are, or at least, how they might be identified. Since the submissions made by the Appellant indicate that he understands what was required, I can correct the notice without injustice.
3. An application for costs was made by the Council against Mr Wedlake. That application is the subject of a separate Decision Letter of even date.

Appeal A

The appeal on ground (b)

4. Under this ground of appeal the onus of proof falls upon the Appellant to show that the breach of planning control alleged in the enforcement notice has not occurred.
5. Article 3 of the *Town and Country Planning (General Permitted Development) Order 2015* as amended (the GPDO) grants planning permission for classes of development described as permitted development in Schedule 2. Class B of Part 4 of Schedule 2 allows the use of land for any purpose (subject to some limitations and restrictions which are not relevant here) for up to 28 days in total in any calendar year.
6. The appellant's case is that on the date the notice was served, the land in question had been used for the purposes described by the notice for fewer than 28 days within that calendar year, such that no breach of planning control had at that time occurred.
7. The Council's evidence is that the land was in use for the purposes alleged by the enforcement notice from 1st January 2017 to 11 January, when the field was cleared. It was then used intermittently on a number of (unspecified) dates before being brought back into use on 9 February, then cleared on 22 February. It was brought back into use on 30 March, and the enforcement notice was issued on 6 April 2017. The Council submits that it follows from this that even if the intermittent use between 11 January and 9 February is disregarded, the unauthorised use of the land exceeded the 28 days permitted.
8. The Appellant disputes this, contending that the field was cleared on 4 January not 11 January (that it was used intermittently over a period of several months for short periods, and was in use between 9 and 22 February, and 30 March to 6 April, is not contested). The Appellant asserts that his records show that the field had only been used for 26 days as at the date of service of the enforcement notice, but has not provided copies of those records. His Appeal Statement advises that sworn evidence will be provided to support his position, but no such evidence has been submitted. As the Council points out, the argument set out in the Appeal Statement is inconsistent: after stating that the Appellant's records show the use at the date of the notice to have been 26 days, it goes on to conclude that the use was for a total of 22 days.

9. Taking all of this into account, I am not satisfied that the Appellant has made out his case on ground (b). The assertions within the Appeal Statement as to the dates on which the land was used, and the total number of days over which that use occurred, are contradictory and are not supported by copies of the documents to which they refer, or by any other submitted evidence. I have seen nothing that would cast doubt on the evidence of the Council.
10. I consider that on the balance of probabilities, it is more likely than not that on the date the enforcement notice was issued, the alleged breach of planning control had taken place on more than 28 days within 2017, and so did not benefit from Permitted Development Rights under Class B of Part 4 of Schedule 2 to the GPDO.
11. I therefore conclude that the appeal on ground (b) must fail.

The appeal on ground (g)

12. The ground of appeal is that the time given to comply with the requirements of the notice is too short. The notice specifies a compliance period of seven days. The Appeal Statement submitted by the Appellant mistakenly refers to the compliance period as 28 days (at paragraph 1.5) and 14 days (at paragraph 4.1), but in any event contends this is insufficient and requests its extension to three months.
13. The appellant's case is that the nature of his business means there will always be a number of advance bookings that need to be honoured, and it would be unreasonable and unrealistic to expect the Appellant to be able to arrange an alternative site for parking at such short notice; the alternative of cancelling advanced bookings at short notice would have a significantly detrimental effect on his business. The requested three month compliance period would enable relocation to a suitable alternative site, and prevent any prejudice to customers, who may be out of the country and difficult to contact.
14. However, the undisputed evidence of the Council is that the Appellant operates airport parking enterprises from other land within the wider area. The Council has also drawn my attention to an appeal decision dated 18 April 2017¹ dismissing an appeal by the same Appellant as is party to these current proceedings, against an enforcement notice alleging a similar change of use to that set out in the enforcement notices the subject of these current appeals, on land immediately adjoining the current appeal site.
15. In that case, the Appellant sought an extension of the compliance period from 14 days to 3 months, for similar reasons to those advanced in the current appeal. The Inspector who determined that appeal noted (at paragraph 14) that the Council had provided recent examples of having required the Appellant to vacate agricultural land being used for temporary parking within periods of 20, 16 and 23 days; he also referred to a photograph showing drivers being diverted from one field that had ceased to be used and told to go to the site that was the subject of that appeal. He went on to conclude that he had no doubt the Appellant would be able to implement similar short term arrangements to deal with any existing contracts he may have.
16. In the context of the current appeals the Appellant contends that, as evidenced by the appeal decision referred to above, he is subject to other enforcement

¹ Ref APP/D0121/C/16/3158419

- activity at other sites and so is not able to simply move vehicles elsewhere; he points out that the Council has not provided any evidence to support their comments about the availability of other land.
17. That may be so, but the Appellant has not submitted any evidence to support his comments about the availability of other land either, and it is for him to make out his case as to why three months are needed to comply with the requirements of the notice. The fact that enforcement activity may be taking place in respect of some of the other sites used by the Appellant does not necessarily indicate that no alternative sites exist on which cars could be parked. As I understand it, the nature of the Appellant's business is that customers do not park their cars themselves but rather drop them off at a reception point; it is then open to the Appellant to park the cars on other land for the agreed duration, provided they are brought back to a pre-arranged collection point at the agreed time.
 18. That being so, and in the absence of any evidence to demonstrate that the appellant is now unable to utilise any other land for his business purposes, I do not see that the availability of the appeal site is crucial to honouring advance bookings. Nor do I see how ceasing the use of the appeal site while some customers were out of the country and/or out of contact would prejudice those customers: if the parking arrangements they had made with the Appellant did not include being collected from the airport by minibus and taken to the location of their car, it would be a relatively straightforward matter to place a sign at the appeal site directing them to the alternative pick-up point.
 19. In summary, I find that in the absence of any information as to the number of bookings that must be honoured, or the extent of the other land available to the Appellant for that purpose, or indeed any supporting evidence at all, the fact that enforcement action is being taken in respect of some other sites is not persuasive evidence that the Appellant is now unable to relocate cars in the same manner as he has done previously. In my judgment, there is nothing to justify the requested compliance period of three months.
 20. However, neither have I seen any explanation or evidence from the Council as to why a seven day compliance period is considered sufficient in this case, rather than the 14 days given in the comparative case discussed above. I am not party to the evidence that was before the Inspector who determined that appeal, but note his observation that the 14 days given there was a shorter period than any of the other examples provided to him by the Council. The Council may now have reason to believe that the Appellant would be able to comply with the requirements of the current notice in only half that time, but if so, it has not disclosed what that reason is.
 21. In the absence of any explanation, I see no reason why the Appellant should be required to comply with this notice in half the time previously considered reasonable. Relocating vehicles to other sites will clearly involve some logistical and administrative work, and in the absence of any evidence that this could readily be achieved in 7 days, I consider a 14 day compliance period proportionate and reasonable.
 22. Varying the notice to increase the period for compliance by 7 days would cause no injustice to the Council. To this limited extent, the appeal on ground (g) succeeds.

Conclusion

23. The appeal fails on ground (b) but succeeds, to a limited degree, on ground (g). I will uphold the notice, subject to the variation of extending the compliance period to 14 days.

Appeal B

24. This appeal is proceeding on ground (g) only; that is, that the time given to comply with the requirements of the notice is too short.
25. In this case, the period for compliance is 14 days, rather than the 7 days specified in the notice that is the subject of Appeal A. The Appellant's argument on this ground is identical to that made under ground (g) in Appeal A. For the reasons set out above in my consideration of that appeal, I found that the Appellant had provided insufficient detail and insufficiently persuasive evidence to justify the requested extension of the compliance period to three months, and concluded that a 14 day period would be reasonable.
26. The requirements of this notice are somewhat more onerous than those of the notice that was the subject of Appeal A (and also those of the notice that was the subject of the comparator case discussed in my consideration of Appeal A). Here, the requirements include the removal of the office/reception facility from the land, the removal of hardcore from the land, and the re-seeding of grass.
27. The Council points out that the Appellant has made no reference to these specific elements of the requirements in his Appeal Statement, and assumes that this omission indicates the Appellant accepts 14 days is a reasonable timeframe for such works to be carried out. I am not convinced that such a conclusion can safely be drawn, and nor am I convinced that 14 days would in any event be a reasonable timeframe for the carrying out of these works, particularly since the Appellant will need to be making arrangements for the relocation of vehicles during this period. I am also conscious that the date of issue of this Decision Letter (from which the compliance period will start) is likely to be very close to the Christmas holiday season, which could hamper attempts to engage contractors for the removal of hardcore and re-seeding of grass.
28. The Council is right to seek prompt resolution of the breach of planning control that has taken place; it is not in the public interest to allow the harm identified in the notice to continue. However, given the serious implications of failing to comply with the terms of an enforcement notice, this must be balanced against the need to make sure that the Appellant has a fair opportunity to do what is required of him. In my judgment, a period of 28 days in which to remove the office/reception facility and the hardcore from the land, and re-seed the grass, would strike the right balance. I can vary the notice to this effect without injustice to either party.

Conclusion

29. To this limited extent, the appeal on ground (g) succeeds and the notice will be varied accordingly.

Formal Decisions

APPEAL A

30. I direct that the enforcement notice be varied by the deletion of the number "7" from paragraph 6 of the notice, and its replacement with the number "14".
31. Subject to this variation the appeal is dismissed and the enforcement notice is upheld.

APPEAL B

32. I direct that the enforcement notice be corrected by:

the insertion of the words "associated with the matters set out in paragraph 3 of this notice" between the words "...any other materials" and "from the land" in paragraph 5 of the notice

and varied by:

- numbering the five sub-paragraphs of paragraph 5 of the notice, in their current order, with the numerals 1 to 5; and
- inserting the words "For the requirements numbered 1 and 2" before the words "14 days from when this notice takes effect" in paragraph 6 of the notice; and
- adding the words "and for the requirements numbered 3, 4 and 5, 28 days from when this notice takes effect" to the end of paragraph 6 of the notice.

33. Subject to this correction and variation the appeal is dismissed and the enforcement notice is upheld.

Jessica Graham

INSPECTOR



Costs Decision

Site visit made on 9 October 2017

by Jessica Graham BA (Hons) PgDipL

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

Decision date: 19 December 2017

Costs application in relation to Appeals Ref: APP/D0121/C/17/3175079 (Appeal A) and APP/D0121/C/17/3178502 (Appeal B) The Bungalow Inn, Kingdown Road, Bristol BS40 5TP

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by North Somerset Council for an award of costs against Mr G Wedlake.
 - The appeals were against two enforcement notices alleging the change of use of the land to a mixed use of agriculture and the parking of vehicles unconnected with the agricultural use of the land (Appeal A), and the change of use of the land to a mixed use of agriculture and vehicle reception facility for airport customers including an office/reception, the parking of vehicles unconnected with the agricultural use, airport transfers for airport customers and the movement of customer's vehicles to other sites (Appeal B).
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Decision

1. The application for an award of costs is refused.

Reasons

1. Paragraph 30 of the Government's Planning Practice Guidance ("the PPG") advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
2. In summary, the Council's case is that it ought to have been clear to the Appellant, given the outcome of appeal ref: APP/D0121/C/16/3158419 ("the April 2017 Appeal"), that an appeal against the compliance periods of the two current enforcement notices would fail. As discussed in my Decision Letter, the April 2017 Appeal was brought by the same Appellant as is party to the current proceedings, against an enforcement notice alleging a very similar breach of planning control, on land adjoining the current appeal site. The Inspector who determined the April 2017 found a 14 day compliance period to be reasonable.
3. However, as set out in my Decision Letter, the notice that was the subject of Appeal A specified seven days for compliance rather than 14. The Council provided no explanation or evidence as to why it considered this shorter period reasonable. There is not, therefore, a straightforward comparison between the April 2017 Appeal and Appeal A (as there would have been had the Council specified a compliance period of 14 days in both). Having recently received an appeal decision which found 14 days to be a reasonable compliance period for a similar breach, appealing against an enforcement notice which gave only seven

days cannot be considered unreasonable behaviour on the part of the Appellant.

4. Comparison of the April 2017 Appeal and Appeal B is not straightforward either. As set out in my Decision Letter, the requirements of the notice that is the subject of Appeal B include additional steps that are more onerous than those of the notice that was the subject of the April 2017 Appeal Decision, and I concluded that the compliance period should be extended from 14 days to 28. I cannot therefore agree with the Council's view that the Appellant should have known this appeal had no reasonable prospect of success.
5. In view of the very limited evidence provided by the Appellant to support his case on both appeals, I have considerable sympathy with the Council's application for an award of costs. I also recognise that my decision to extend the compliance period in both cases was based on the exercise of my own professional judgement, rather than arguments made by the Appellant. Nevertheless, since I have allowed both appeals on ground (g), it would be inequitable to grant an award of costs against the Appellant for bringing those appeals.
6. I conclude that the application for an award of costs must fail.

Jessica Graham

INSPECTOR