

**WRITTEN STATEMENT
OF
WINCHESTER CITY COUNCIL
APPEAL BY MR N BUTLER
LAND AT DRADFIELD LANE, SOBERTON, HAMPSHIRE
Pin Refs: APP/L1765/C/21/3256531
WCC REF: 21/00333/WKS**

JANUARY 2022

INTRODUCTION

This written statement relates to an Enforcement Notice served on Mr N Butler by Winchester City Council on 6th October 2021. The notice was served in relation to the material change of use of land from agricultural to a mixed use of agriculture and use for siting of a residential unit (namely a converted lorry trailer) including the construction of hardstanding to facilitate the residential use.

The notice requires the cessation of the land for residential use. The removal of the converted trailer and any paraphernalia associated with the residential use, the notice also requires the removal of an area of hardstanding, the packaged treatment plant and piping and any materials or debris resulting from compliance with the requirements of the notice and the laying of topsoil and reseeded to grass.

The enforcement appeal relates to ground (b), (c), (f) and (g).

The inspector can amend a notice under s176 of the Town and Country Planning Act 1990 (as amended) without causing any injustice to either party.

SITE DESCRIPTION

Land at Dradfield Lane is a field in the countryside of Soberton, for the purposes of agricultural.

PLANNING HISTORY

20/01508/FUL Retrospective planning permission for an improved site access with new 2.05m high timber entrance gates, 1.8m high close boarded support and associated hardstanding and works. Refused 10.09.2020.

20/00117/FUL Provision of 2 general purposes storage agricultural buildings, access track and hardstanding. Withdrawn 15.03.2020.

21/01858/FUL Improved farm access (retrospective), with the erection of 1.75m high oak access gates and polytunnel. Pending decision

21/02844/HED Hedgerow Applications, pending decision

GROUND (B) THAT THE BREACH OF CONTROL ALLEGED IN THE ENFORCEMENT NOTICE HAS NOT OCCURRED AS A MATTER OF FACT

The appellant states that the hardstanding identified in the notice were installed to support the agricultural use of the site, the appellant then states that the hardstanding supports the lorry trailer, which if it was not being used for the current overnight residential use could remain insitu if it was being used incidentally or ancillary manner to the agricultural use.

The council takes the view that the hardstanding, outlined in the Enforcement Notice, was created to facilitate the residential use of the site and is being used for a residential use and not incidentally or ancillary to the agricultural use. The notice relates to a small area of hardstanding, notably where the lorry trailer is positioned.

The appellant states that it could be used for an agricultural use but does not state how it could be used in relation to the agricultural use. The council view is that no reason exists for this area of the site to have hardstanding and takes the view that the works have been merely created to allow a residential use, this is demonstrated by the size and location of the piece of land outlined in the Enforcement Notice.

The appellant statement also states the hardstanding for the site has already been accepted as permitted development as part of the inspectorate decision regarding a previous enforcement notice (APP/L1765/C/20/3256531). The area of hardstanding outlined on this enforcement notice was not present on site when the Planning Inspectorate made a decision regarding the other hardstanding and therefore this decision is not relevant.

As such the appeal on ground (b) should fail.

GROUND (C) THAT THERE HAS NOT BEEN A BREACH OF PLANNING CONTROL

The appellant states that the hardstanding and septic tank were installed under Schedule 2, Part 6, Class B (c) and (e) and as such these elements are permitted development and do not constitute a breach of planning control.

The council does not take the view the hardstanding and packaged treatment plant can be considered reasonably necessary as outlined under schedule 2, part 6, Class B (c) and (e) as this area of land is being used residentially, notably for the siting of a residential lorry trailer and not for any agricultural use.

The council takes the view that the area of hardstanding and the packaged treatment plant have been installed in relation to a residential use.

The area of hardstanding subject to this notice is adjacent to a hedge on the northern boundary of the site and adjacent to a new track that runs across the site from west to east, this area of new track is notably not covered by the Enforcement Notice and allows access to the agricultural use on the eastern side of the site.

The council only included this small amount of hardstanding, notably the aforementioned area off the new northern track, as outlined above, that relates to the residential use within the Enforcement Notice. It is notable that this area does not currently have any obvious agricultural use and it being removed would not affect the agricultural function of the site.

The GPDO states that the hardstanding constitutes permitted development where the development is reasonably necessary, in this instance due to the nature of the site this hardstanding is not considered reasonably necessary by the local authority. The requirements of the enforcement notice would not have a negative impact on the ability to use of the site for agricultural purposes and therefore these works do not constitute permitted development.

The appellant states that provided the trailer is used as a day facility in support of the agricultural use, with the provision of a toilet and kitchen facilities would not in itself be a breach of planning control. The council takes the view that no justification has been established for such a use to exist on this site as the necessity has not been demonstrated.

As such the appeal on ground (c) should fail.

GROUND (F) THE STEPS REQUIRED TO COMPLY WITH THE REQUIREMENTS OF THE NOTICE ARE EXCESSIVE, AND LESSER STEPS WOULD OVERCOME THE OBJECTIONS

The appellant states that the steps required in the notice are excessive and by simple ceasing the use of the lorry trailer for overnight accommodation that

this would overcome the objections to the trailer remaining on the site. They then state that the lorry trailer could be used for a 'day base' whilst working on the site, it is apparent that the appellant has not stated why a 'day base' is required and indeed the appellant has never stated that they have used it as a day base or indeed intended to use it as a day base.

The council takes the view that a need for a 'day base' has not been demonstrated by the appellant and is not required. The local authority also takes the view that if a day base was deemed appropriate on the site the lorry trailer situated on the site would be unsuitable in view of its size and nature.

As such the appeal on ground (f) should fail.

GROUND (G) THE TIME GIVEN TO COMPLY WITH THE NOTICE IS TOO SHORT

The appellant states that the time given to cease the residential use is too short a period to find alternative accommodation for himself and his family.

The time to comply with the notices was considered by the Council prior to service, having taken into account the circumstances of this case, the council takes the view that the timeline given is acceptable and gives an appropriate timelines for the cessation for residential use and the works to the site. It is notable that under a Section 21 landlords have to give notice of 2 months to tenants to cease the use of rented properties prior to applying to the court for a possession order.

In view of these timelines that are deemed acceptable in law regarding the cessation of a residential use, the council considers that the timelines given regarding the steps required to cease the residential use are reasonable.

The appellant also states that is likely that it would be difficult to identify a site suitable for the accommodation of the lorry trailer. It is notable that no evidence has been submitted demonstrating this difficulty in identifying a new site for the lorry trailer or details regarding the precise details regarding why this would prove difficult and the research undertaken to demonstrate this.

As such the appeal on ground (g) should fail.

CONCLUSION

It is the Council's position that without planning permission a material change of use has occurred from agricultural to a mixed use of agriculture and use for siting of a residential unit (namely a converted lorry trailer) including the

construction of hardstanding to facilitate the residential use. As such the appeal should fail on ground (b), (c), (f) and (g).