



The Planning Inspectorate

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Joely Day
Cambridge City Council
PO Box 700
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CB1 0JH

Your Ref: CE/5892
Our Ref: APP/Q0505/C/14/3000156

08 July 2015

Dear Joely Day,

Town and Country Planning Act 1990
Appeal by Mr Paul Sanderson
Site Address: 136 Perne Road, CAMBRIDGE, CB1 3NX

The Inspector appointed to determine the above appeal has pointed out that the subject enforcement notice is seriously flawed. Moreover, it is his considered opinion that it cannot be corrected without giving rise to injustice. This being so, correction is beyond the powers available to the Inspector under section 176(1) of the 1990 Act as amended.

The notice alleges, at section 3, the material change of use of a mobile home to a separate residential unit. The reasons for issuing the notice set out in section 4 refer to the four year time bar on enforcement action as specified in section 171B(2) of the 1990 Act as amended. The mobile home occupies part of the garden of an established dwellinghouse.

However, nothing in the written evidence before the Inspector suggests that the mobile home has at some point been converted to a 'building' as defined by the Act. Its residential occupation as a self-contained unit does not therefore constitute a material change of use to a dwellinghouse subject to the four year rule. Instead, the stationing of the mobile home amounts to a 'use of land' and is therefore subject to the ten year bar on enforcement action pursuant to section 171B(3).

Accordingly, the Inspector advises that, to reflect the breach of planning control perceived by the Council, the notice should have alleged:

- 'Without planning permission, the material change of use of the land to use for the stationing of a mobile home occupied as a separate unit of residential accommodation' (if the planning unit as perceived by the Council comprises just land associated with the residential use of the mobile home); OR
- 'Without planning permission, the material change of use of the land to a mixed use comprising a single dwellinghouse and land used for purposes incidental thereto and use for the stationing of a mobile home occupied as a separate unit of residential accommodation' (if the planning unit as perceived by the Council comprises the

whole of the original curtilage of the established dwellinghouse).

The Inspector considers that it remains less than clear from the Appellant's written submissions as to whether he seeks to establish under ground (d) an immunity from enforcement action by reason of continuous use of the land for one of the above options over a period of ten years prior to the issuing of the notice or over a shorter period. In view of this uncertainty, he is obliged to assume that the Appellant's focus for the purposes of ground (d), in preparing for the Inquiry, may well have been the four year period cited erroneously in the notice and that he may have been misled by that erroneous reference. The Appellant would thus be denied the opportunity to prepare his ground (d) case in the certain knowledge that he should focus on a ten year period of use if the Inspector corrected notice. It is therefore the Inspector's current view that, should the enforcement notice remain before him, it is beyond correction and he would have no option but to quash it. This could, of course, have implications for costs.

Accordingly, the Inspector invites the Council to consider, as a matter of urgency, withdrawing the current enforcement notice and reissuing it in the correct form under the 'second bite' provisions of section 171B(4)(b). The current appeal and associated Inquiry would thus fall away. However, the Appellant would enjoy a further right of appeal against the reissued notice. Please confirm in writing the Council's chosen course of action and, if it is minded to withdraw the notice, take the necessary steps within 7 days from the date of this letter. Prompt action is required in view of the close proximity of the Inquiry date.

Should the Council decide that it wishes to press ahead with the Inquiry irrespective of the Inspector's advice, please note that the Inspector will require:

- A list of those to whom the Council's notification letter dated 5 January 2015 was sent (which, although listed as an attachment to the Questionnaire, does not seem to have been received); and
- An agreed Statement of Common Ground (which, as the Appellant is not professionally represented, the Council should initiate and coordinate).

These items should all be received at this office at least one week before the Inquiry.

Yours sincerely,

Richard Vause

Richard Vause

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