



Decision by Trudi Craggs, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-130-2041
- Site address: Land north of West Port Beach, Kilkenzie, Campbeltown
- Appeal by Karen McMurchy against the enforcement notice dated 10 July 2019 served by Argyll and Bute Council
- The alleged breach of planning control: the unauthorised material change of use of the land affected to the use for the siting of a residential caravan
- Date of site visit by Reporter: 29 October 2019

Date of appeal decision: 18 November 2019

Decision

I dismiss the appeal and direct that the enforcement notice dated 10 July 2019 be upheld.

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of section 131(3) of the Town and Country Planning (Scotland) Act 1997.

Reasoning

1. The appeal against the enforcement notice was made on the ground as provided for by section 130(1) of the 1997 Act that the period specified in the notice to comply with the steps set out in the notice falls short of what should reasonably be allowed.
2. In her appeal statement the appellant states that she would like to appeal for the permanent use of the site. She does not dispute that the caravan is on the site or that the alleged breach of planning control has taken place. She advises that the caravan is for private use for holidays and weekends. She also explains that her use of the site is helping to stop fly tipping on the site and is supporting local businesses.
3. The appellant draws my attention to the fact that in this area there is an abundance of caravans. On my site inspection I saw that there were other caravans, many on similar sites to the west of the A83. However all of these matters which she raises are largely irrelevant to my consideration of this appeal. Similarly whether or not the council has served any other enforcement notices in respect of other caravans is also irrelevant.



4. While I recognise that the appellant derives pleasure and respite from the caravan and has sentimental attachment to its location and the surrounding area, it is not within my remit to grant planning permission or to regulate the use of the land. The only matter I am required to consider is whether the period of time specified for compliance with the enforcement notice is reasonable.
5. On my site inspection I saw that the caravan was on an area of ground to the west of the A83. Access to it was through the gap between two crash barriers erected on the verge of the A83. The access track was tarmacked for a short section where it met the A83. It then became more makeshift, crossing a relatively wide and open grassed and pebbled area which sloped gently down towards the caravan. There was a chain across the access which was attached to stakes driven into the ground on either side of the track.
6. Immediately beyond the caravan there were rocky outcrops and the land sloped down towards rocks and the sea. The caravan was on a relatively flat area. Around it, the ground had been covered with gravel made up of small irregular stones. This gravel was different to the more natural stones found elsewhere on the site and on the access track. There was no grass visible through this gravel.
7. Underneath the caravan finer gravel had been compacted to form a hardstanding. The appellant states in her appeal statement that although the caravan has wheels it needed a more safe base due to the high winds in the area. In addition to the wheels which were evident on my site inspection, to further stabilise and support the caravan, stacked breeze blocks had been placed at various points underneath it for the caravan to rest on.
8. There were also metal wires attached to the underside of the caravan which were anchored to the ground by metal pegs secured by concrete into the hardstanding. The appellant advises that there are no services to the caravan and this was borne out on my site inspection. There was a small canister of gas connected to the caravan but no other services or connections were apparent.
9. In terms of the enforcement notice, the appellant is required to cease the use of the site, remove the caravan and hardstanding upon which it is placed and reinstate the land to its former condition. The period for compliance is 6 months. The appellant has not submitted any evidence to demonstrate why that period is unreasonable.
10. The caravan is not permanently fixed to the ground. It is moveable and could be towed from the site; there was a tow bar at the front of the caravan. There are no services that would have to be disconnected. There is access to and from the site to a main road; the chain across the access could easily be removed.
11. From what I saw on my site inspection, I consider that the hardstanding could be removed from the site in order to return it to its former condition. I accept that the appellant may require to arrange for this to be done and that this may require machinery as well as a vehicle to transport the material away from the site.
12. Nevertheless, taking all this together, and even having regard to the possibility of inclement weather, for the reasons set out above, I consider that the period of 6 months to comply with the enforcement notice is reasonable. I have taken into account all other

matters raised but there are none that would lead me to alter my conclusion. Having reached that conclusion, I dismiss the appeal and uphold the enforcement notice.

Trudi Craggs
Reporter