The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2017

by P N Jarratt BA DipTP MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/D0840/C/16/3152855
Tolver Water House, Tolver, Long Rock, Penzance, TR20 8YL

- 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 David Nicholls against an enforcement notice issued by Cornwall Council.
- The enforcement notice, numbered EN13/0265, was issued on 24 May 2016.
- The breach of planning control as alleged in the notice is the unauthorised construction of an annexe by way of an extension to an existing garage in the approximate position shown edged green on plan 2 attached to the notice which is not in accordance with the planning permissions approved under decision number PA11/01896 or PA11/07905 and the unauthorised material change of use of agricultural land in the approximate position shown edged orange on plan 2 to a use for domestic purposes in connection with the unauthorised annexe.
- The requirements of the notice are:
  1) Demolish the annexe extension constructed in the approximate position shown edged in green on plan 2, and ensure that the building returns to the garage building that existed prior to the construction of the annexe; shown in the 'existing' drawing numbered 040/03/12 attached to the notice which was submitted with planning application reference PA11/01896;
  2) Cease the use of the land in the approximate position shown edged in orange on plan 2 for domestic purposes;
  3) Restore the boundary treatment in the approximate position shown in blue on the attached plan to its former condition prior to the unauthorised annexe extension being constructed;
  4) Permanently remove from the land all materials and debris resulting from compliance with (1) above.
- The period for compliance with requirements (1) and (4) above is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a0, (f) and (g) of the Town and Country Planning Act 1990 as amended.

Procedural matters

1. The notice alleges both unauthorised operational development and an unauthorised material change of use of the land. These allegations are clear.

2. Four separate requirements are set out in the notice. Again these are clear.

3. Section 173 sets out the contents and effect of enforcement notices. Section 173(9) says that the notice "shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this

Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased."

4. No periods for compliance with requirements (2) and (3) are stated in the notice. In view of the compliance period for steps (1) and (4) being stated as 3 months, this suggests that the Council may have envisaged a different compliance period for the other two steps but I have no means of knowing whether this was the case as it is not within the four corners of the notice.

5. I have a duty to put the notice in order where I can through correction but in this case the compliance periods for steps 2 and 3 are missing from the face of the notice and the notice therefore fails to comply with Section 173(9). The notice is defective on its face and it is a nullity which cannot be corrected.

6. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the Act.

P N Jarratt

Inspector