



Appeal Decision

Inquiry held on 8 October 2019

by Tim Belcher FCII, LLB(Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/P0119/C/18/3209491 & 3209492

Ingst Hill Farm, Ingst Hill, Ingst, Olveston, Bristol, BS35 4AP

- 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 1990 Act").
- The appeal is made by Alister Pook (3209491) & Robert John Harding (3209492) ("the Appellants") against an Enforcement Notice issued by South Gloucestershire Council ("the Council").
- The Enforcement Notice was issued on 16 July 2018.
- The breach of planning control as alleged in the Enforcement Notice is the change of use of land from agricultural use and residential access use associated solely with the dwelling confirmed as being lawful under South Gloucestershire Council ref PT12/4131/CLE to a mixed use as agricultural use, storage and distribution uses (Class B8) and the stationing of caravans for residential use without the benefit of planning permission.
- The requirements of the Enforcement Notice are: 1. Cease the use of the land for storage and distribution uses. 2. Remove all items associated with the storage and distribution uses including but not limited to generators, trailers, cabling, lighting, bowsers, skips and storage containers & lorry bodies. 3. Cease the use of the land for the siting of caravans, for residential purposes & associated residential activity except for access associated with the residential unit confirmed as lawful under PT12/4134/CLE. 4. Remove all caravans associated with the residential use. 5. Cease the use of the land for all non-agricultural use except for access associated with the residential unit confirmed as lawful under PT12/4134/CLE.
- The period for compliance with requirements 1 & 2 above is 3 months and requirements 3 to 5 above is 6 months.
- The appeal is proceeding on the grounds set out in Section 174(2)(b), (d) & (g) of the 1990 Act.

Summary of Decision: The appeal is dismissed, and the Enforcement Notice is upheld with corrections and variations.

Procedural Matters

1. The evidence at the Inquiry was given on oath.
2. Prior to the Inquiry the Council acknowledged that requirement 5 of Part 5 of the Enforcement Notice was excessive. It was agreed at the Inquiry that I should delete this requirement.
3. Robert John Harding confirmed on oath that there had been no caravans sited within the Appeal Site that had been used for residential purposes. It was agreed that caravans had been stored on the Appeal Site both within Building A and on the areas of open land outside Building A.
4. Accordingly, it was therefore agreed by the parties that I should correct the Enforcement Notice. I therefore intend to amend the allegation and requirements in Parts 3 and 5 of the Enforcement Notice to reflect this

agreement. The Appellants agreed that this would address their Ground (b) appeal.

5. Part way through the Inquiry the Appellants withdrew their Ground (d) appeal.
6. It was agreed by the parties that I could determine the outstanding Ground (g) appeal without the need to visit the Appeal Site.

Reasons - Ground (g) that the time given to comply with the Enforcement Notice is too short.

7. At the Inquiry the Appellants explained that the only person using Building A for commercial storage or distribution uses was Mr Harding's nephew, Mr Trott. Mr Harding explained that Mr Trott had relocated his business from Derbyshire to the Appeal Site as:
 - a) The location of the Appeal Site was more suited to the "events" industry that Mr Trott works within.
 - b) The premises in Derbyshire (former poultry houses) were not suitable for Mr Trott's business use.
8. Mr Harding confirmed that there was no evidence that alternative premises that could be used by Mr Trott were unavailable. The main problem faced by Mr Trott was his inability to finance the use of such alternative premises.
9. There was no evidence before me that extending the period for compliance to twelve months (as requested by the Appellants) would make any significant difference to Mr Trott's financial ability to afford alternative premises.
10. It was also suggested that a period in excess of three months may be necessary to negotiate a contract to occupy alternative premises. In my experience such relocations can be achieved within the three month period allowed by the Council. Mr Harding advised me that Mr Trott had made no efforts to find alternative premises. Even if a slightly longer period is necessary to finalise a move by Mr Trott from the Appeal Site and evidence to support this can be provided, the Council have powers within Section 174A of the 1990 Act to extend the period for its compliance.
11. I therefore conclude on the evidence that is before me that the time given to comply with the Enforcement Notice is not too short and the appeal on Ground (g) therefore fails.

Overall Conclusions

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the Enforcement Notice with the corrections and variations explained above.

Formal Decision

13. It is directed that the Enforcement Notice be corrected and varied by:
 - a) The deletion of the wording in Part 3 and its substitution with the wording, *"Change of use of land from agricultural use and residential access use associated solely with the dwelling confirmed as being lawful under South Gloucestershire Council ref PT12/4131/CLE to a mixed use as agricultural*

use, storage and distribution uses (Class B8) including the storage of caravans without the benefit of planning permission."

- b) The deletion of the wording in paragraph 1 of Part 5 and its substitution with the wording, "*Cease the use of the land for storage and distribution uses including the storage of caravans."*
- c) The deletion of the wording in paragraph 2 of Part 5 and the substitution with the wording, "*Remove all items associated with the storage and distribution uses including but not limited to caravans, generators, trailers, cabling, lighting, bowsers, skips, storage containers and lorry bodies."*
- d) The deletion of paragraphs 3, 4 and 5 of Part 5.
- e) The deletion of the second paragraph of Part 6.

Subject to these corrections and variations the appeal is dismissed, and the Enforcement Notice is upheld.

Tim Belcher

Inspector

APPEARANCES

FOR THE APPELLANTS

Robert Duff BTP – Director of Earlsfield Town Planning Limited
He called:

Alister Pook – Appellant

Robert John Harding – Appellant

FOR SOUTH GLOUCESTERSHIRE COUNCIL

Horatio Waller of Counsel
Instructed by the Council's Solicitor

Neil Howat MSc (Hons), Certificate of Continuing Education (Planning Enforcement)
– Senior Planning Enforcement Officer