



Appeal Decision

Site visit made on 8 January 2020

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/D0840/C/19/3223914

Homestead, Carnarthen, Carn Brea TR14 9AT

- 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 Richard Neil Hart against an enforcement notice issued by Cornwall Council.
 - The enforcement notice, numbered EN17/00617, was issued on 7 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural to storage (B8 Use Class) through the storage of materials on the land not used in connection with agriculture and the storage and processing of logs.
The requirements of the notice are: (1) Cease the use of the land for the storage of non-agricultural materials/items; not limited to: topsoil, aggregates, logs and building materials. (2) Cease the use of the land for log processing.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal - Ground (b)

2. An appeal on ground (b) is a legal ground of appeal and is a claim that the matters alleged at Section 3 of the enforcement notice have not occurred as a matter of fact. The appellant must therefore demonstrate that there has not been a change of use of the land from an agricultural use to a use for the storage of materials not used in connection with agriculture and the storage and processing of logs.
3. The appeal on ground (b) concerns the circumstances leading up to, and at the time of the issuing of the enforcement notice. The burden of proof in appeals on ground (b) falls to the appellant to show that the matters which appear to constitute the breach of planning control, have not occurred. The test of the evidence is on the balance of probability. The planning merits of the matter alleged do not fall to be considered.
4. At the time of the site visit there was an array of materials being stored on the land including drainage pipes, soil, scalplings, stones, building rubble, wooden crates for building materials and pallets. There was a metal container which was largely empty, a trailer, a digger scoop and a horse lorry. The blockwork and corrugated metal building, part of which is falling into disrepair, was mostly empty apart from a few items such as wooden pallets. It was evident

that by the time of my visit, the log processing and storage of logs had ceased. That is not to say that the use has not occurred; the ground was littered with wood chips displaying evidence of the logs that had once been processed and stored within the building.

5. The appellant has provided limited evidence to support his appeal on ground (b). He states that *'the site is used for an agricultural use only'* and he has provided 4 photographs which show piles of stones and soil at various locations within the site. Written descriptions underneath each photograph state that the materials are for private use to maintain boundaries, repairing hedges and filling in around gateways, on horse tracks and fields. There is no explanation given as to where the materials originated from.
6. Additional evidence supplied within the planning contravention notice (PCN), dated 14 August 2018, shows that the appellant accepts that materials, topsoil, aggregates, hedging stone and logs were being stored on the site and that all, except for the hedging stones and logs, were part of the appellant's haulage business.
7. However, I note that the statutory declaration¹, provided as part of the evidence for the certificate of lawfulness² in respect of the storage use of the land, states: *'the land has been used for general storage of hedging stone, top soil, temporary buildings, pipes and gates related to my haulage business. I also store cars, mobile homes and aggregates on the site'*.
8. On the balance of the evidence before me, I find it more likely than not that the materials stored on the land are not for an agricultural use. There is no alternative satisfactory explanation. It is also evident from information provided by the appellant, the Council and the interested party that both the storage and processing of logs, although no longer present on the site, have taken place on the site.
9. I therefore find that the matters alleged have occurred as a matter of fact on the balance of probability. Therefore, the appeal on ground (b) fails.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed.

S Hanson

INSPECTOR

¹ Dated 17 April 2018

² Ref: PA18/03684 refused by the Council on 2 July 2018