



Appeal Decision

Site visit made on 26 February 2020

by Simon Hand MA

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

Decision date: 04 March 2020

Appeal Ref: APP/F9498/C/19/3235060

Land at Sanctuary Lane, Brompton Regis, Somerset, TA22 9NN

- 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 Miss Alison Catley against an enforcement notice issued by Exmoor National Park Authority.
 - The enforcement notice was issued on 6 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission and in the last 10 years the unauthorised change of use of the Land from agricultural to a mixed use of residential use and the siting of a partially converted horse lorry with associated decking area for residential purposes (as seen in the photographs annexed at the Appendix to this Notice).
 - The requirements of the notice are 1. Permanently cease any non-agricultural use of the Land; 2. Permanently remove the Horse Lorry and associated paraphernalia from the Land and the land shown edged in blue on the attached plan; 3. Thereafter the Land shall only be used for the purposes of agriculture.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. It is directed that the enforcement notice be corrected by deleting the allegation and replacing it with "*the unauthorised change of use of the Land from agricultural to a mixed use of agriculture, residential use and the siting of a partially converted horse lorry with associated decking area for residential purposes*"; and varied by deleting the third requirement "*Thereafter the Land shall only be used for the purposes of agriculture*", and by inserting the word "*residential*" between "*associated*" and "*paraphernalia*" in the second requirement. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

The Enforcement Notice

2. The allegation is of a mixed use of the land for residential use and the siting of a horse lorry also for residential use. As these are both uses and both residential there is no mixed use alleged. The appellant argues the land is being used for agricultural and it is clear the mixed use should refer to agriculture and residential. If I correct the allegation this will not prejudice the

appellant as the arguments for the new mixed use remain the same as for the uncorrected use.

3. The third requirement, to only use the land for agricultural purposes in the future imposes a continuing requirement on the land which is beyond the scope of the notice as it will be impossible to say when it has been complied with. I shall delete that requirement. I shall also insert the word "residential" into the second requirement so that it is clear only the residential paraphernalia should be removed.
4. Both these variations reduce the scope of the notice and so will not prejudice the appellant.

Appeal on Grounds (b)/(c)

5. Ground (b) is that the matters alleged haven't happened and ground (c) is that they have happened but have planning permission. To determine these issues I need first to decide what the actual use of the land is.
6. I saw on my site visit the red line site has been split into two. The lower field contained a large lean-to and a small permanent shed-like structure. The lean-to contained bales of hay, some garden furniture, piles of wood and various items of storage such as parts of a large vehicle. Steps had been made in the sloping ground beside the lean-to that led up to the upper field. A number of planters lay around the edge of the lean-to with domestic plants such as roses and this part of the site had the feel of amenity use. It clearly was not being used agriculturally as any grazing would be bound to damage the planting.
7. Mr Edwards accepts there has been a residential use as he admits some of the site was being used as amenity land when he bought it. The evidence for this is that villagers had planted trees on it and this would tally with what I saw on the site visit and what the Council allege.
8. This lower field was separated from the upper field by a fence and gate. The upper field was connected to the rest of the blue land by a gate which was open and two Shetland ponies were grazing there. The horse lorry has been positioned in the upper field immediately behind the lean-to and the grass all around it was being grazed.
9. The horse lorry was not habitable when I saw inside, but considerable works had been made to it. The walls were in the process of being insulated and a roll of insulation was stored in the lorry. A toilet and shower in the middle of the lorry has been boarded off which creates in effect two rooms on either side, the one at the back has a large picture window installed and French windows at the rear where the tailgate would have been. The tailgate was lowered and propped up on paving slabs to create a patio. A kitchen has been installed in the area by the cab with a sink and various units. The area in the box over the cab was cleared out. There is no running water or electricity. The internal works seem to be in about the same state as when the Council took their photographs in June 2017. At that time there was bedding in the box over the cab and the tailgate/patio had garden chairs on it set up to enjoy the view across the village and over Exmoor beyond.
10. The appellant is Miss Alison Catley, but much of the correspondence concerning the use of the land has come from a Mr Chris Edwards. It would seem they both live in Waterlooville in Hampshire and from the representations it would

seem that Mr Edwards is the one who has been actively using the land. They deny any residential use and claim the horse-lorry is being used only as shelter for workers on the land.

11. It is clear that when the Council visited the site the horse-lorry had been slept in and was in the process of conversion into something capable of being used residentially. I agree that an item such as a caravan or a horse-lorry can be brought onto agricultural land and as long as that use is ancillary to the agricultural use of the land then no planning permission is required. These are often called 'Wealden' caravans after the court judgement of the same name. However, for the use to be genuinely ancillary it must be proportional to the needs of the holding. In this case the holding would seem to consist of only a few small fields and be used for grazing of two Shetland ponies. The appellant also refers to some sheep although no more information is provided. It is difficult to understand what ancillary purpose the horse-lorry serves for such a small and low-key holding. Rather than being ancillary it would seem it is actually simply convenient for the appellant and Mr Edwards as they live many miles from the site and need somewhere to stay when providing the very minimal amount of care the very modest agricultural use of the land requires. For something to be ancillary it has to be genuinely required and is not at the unrestrained whim of the appellant. It would not seem to me, given the very little information I have been provided with as to what the land or the horse-lorry are actually used for, that it is not genuinely ancillary to the use of the land for agriculture.
12. It would seem to me therefore the mixed use of the land for residential purposes (the amenity land area), for the stationing of a horse-lorry for residential purposes and agriculture has occurred and so the appeal on ground (b) fails. The fact that the land has not been actively farmed for a number of years does not change its lawful use as agriculture. The amenity/residential use is therefore a material change of use. There is no evidence it was introduced more than 10 years ago or that it has planning permission. The horse-lorry is not being used for purposes ancillary to agriculture and does seem to have been lived in at some time. Therefore these changes amount to a material change of use of the land as alleged which require planning permission. No such planning permissions exist and so the appeal on ground (c) fails.
13. I shall correct and vary the notice as explained, dismiss the appeal and uphold the notice as corrected and varied.

Simon Hand

Inspector