



Appeal Decision

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/X1118/C/20/3246878

Land lying to the North West of Leworthy Farm, Bratton Fleming, Barnstaple, Devon EX31 4TP

- 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 John Bament against an enforcement notice issued by North Devon District Council (the notice).
 - The enforcement notice, numbered 10746, was issued on 17 January 2020.
 - The breach of planning control as alleged in the notice is within the last 10 years, unauthorised change of use of land consisting of the storage and residential use of a caravan.
 - The requirements of the notice are: (1) Cease any residential use of the land edged red on the attached location plan; (2) Remove the caravan and other non-agricultural items from the land; and (3) remove any rubbish or debris resulting from compliance with steps (1) and (2) from the land.
 - The period for compliance with the requirements is within 9 months from the date when this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) 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 is corrected by: the deletion of the words " unauthorised change of use of land consisting of the storage and residential use of a caravan " and the substitution of the words " change of use of the land to a use for the stationing of a caravan for residential purposes" in section 3 of the notice, 'The breach of planning control alleged'. Subject to the correction the appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. Given the grounds of appeal, and the arguments made, the Council and appellant were asked for their views on whether a site visit was required. The former replied with no objection and the latter did not respond. After taking these into consideration, no site visit was carried out.
3. For the purposes of accuracy and clarity, the allegation in the notice is corrected in the manner described in my decision, above. I have deleted reference to storage of the caravan, as compliance with the notice might lead to an argument that such storage would be permitted following compliance with the requirements of the notice.

Ground (f)

4. This ground of appeal states that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
5. The appellant has not submitted a statement of case, but relies on the very brief facts he has set out in his appeal form. These do not define what lesser steps might be taken to remedy the breach of planning control, but refer to his intention to submit a 'prior notice application'¹ for the conversion of an agricultural building to a dwelling. There is nothing further in his submission to clarify this, but I am assisted in this regard by the Council's statement. From this, it seems that the appellant had informed a local councillor that he was investigating submitting a prior approval application. I am not aware that any such application has been made. The appellant states that the enforcement notice makes reference to the caravan being used by the appellant on a temporary basis; it does not.
6. From the steps required by the notice, its purpose is to remedy the breach of planning control. No substantive case has been made to show that lesser steps would achieve this purpose. Therefore, I find that the steps that the notice requires to be taken to remedy the breach are not excessive. As such, the appeal under ground (f) fails.

Ground (g)

7. Briefly, this ground of appeal states that the period specified in the notice falls short of what should reasonably be allowed.
8. The appellant's case here again refers to an application for prior approval to convert a building. He states that this would allow him and his son to secure a home as they have no other place to live. In the meantime, by which it seems he means whilst the works that might be permitted by such an application were undertaken, they could temporarily live in the caravan until the completion of those works. A period of 18 months, rather than the 9 months allowed by the notice, is requested.
9. As I am not aware that an application for prior approval application for the conversion of a building has been made, and no other reason to support the case under this ground is given, there is insufficient evidence to support extending the period for compliance with the notice.
10. The Council acknowledges the difficulties with complying with the terms of the notice might be posed by the Covid-19 pandemic. It does not, however, propose an extension should be allowed to the period for this. Therefore, this is a matter that is best left to the Council, using its discretionary powers², should it feel this is warranted.

¹ The evidence shows this to be an application under Class Q, of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

² Section 173A(1)(b) of the Town and Country Planning Act 1990, as amended

11. For the above reasons, given the nature of the requirements of the notice I find that the 9 months allowed for compliance is reasonable. Therefore, the appeal on ground (g) fails.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction.

R Curnow

INSPECTOR