



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 20 November 2020

Appeal Ref: APP/J9497/X/20/3254097

Lower Hole, Lane to Lower Hole Farmhouse, Bridford, Devon EX6 7HU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs J Tully against the decision of Dartmoor National Park Authority (DNPA).
 - The application Ref: 0119/20, dated 28 February 2020, was refused by notice dated 27 April 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is siting of two mobile field shelters on skids.
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Decision

1. The appeal is dismissed.

Reasons

2. Under S191(2)(b) of the 1990 Act, uses and operations are lawful at any time if they do not constitute a contravention of any of the requirements of any Enforcement Notice (EN) then in force. In this case, there is an extant EN affecting the land which was issued by DNPA on 24 October 2018. An appeal against that EN (Ref: APP/J9497/18/3216327) was also dismissed on 30 September 2019. The breach of planning control alleged in the EN is *"operational development consisting of the erection of two timber stable buildings on the land as shown edged in blue on the plan attached to the notice"*. Whilst the two buildings are denoted edged in blue on the plan attached to the EN, it is clear that the land to which the Notice relates (Section 2 of the EN) is the land edged in red which is a much wider area than where the buildings are shown to be sited.
3. The two buildings have been moved within the site twice since the last appeal was determined and thus are no longer located where the extant EN shows their positions in blue. However, it is the case that they are still on the land attacked by the EN as shown by the red line. As such, they are in contravention with the requirements of the EN which specify that they should be removed from the land (the land being that outlined in red). This matter was brought to the attention of the appeal parties by the Scheduling Officer from the Planning Inspectorate (PINS) before I was appointed to determine this

LDC appeal. I note the appellant's response to PINS, but the view given there is incorrect, and it is very clear that the requirements of the EN have not been complied with for the reason given above.

4. I cannot therefore issue an LDC. Consequently, there is no need to consider DNPAs second reason for refusing the LDC application based on the field shelters being development that require planning permission.

Conclusion

5. For the reasons given above I conclude that DNPAs refusal to grant a certificate of lawful use or development in respect of siting of two mobile field shelters on skids was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Gareth Symons

INSPECTOR