



Appeal Decision

Site visit made on 28 September 2022

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2022

Appeal Ref: APP/D0840/C/22/3302234

Wheal Rumfrey, Telephone Lane, Stenalees, St Austell, PL26 8TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Alan Bottrell against an enforcement notice issued by Cornwall Council.
 - The notice, numbered EN20/00074, was issued on 17 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural to residential use through the siting of a residential static caravan, shipping container, caravan for residential storage, storage of motor vehicles and associated operational development to create a car port and sheds. The approximate position of the residential caravan is marked with blue 'X' on the plan attached to the notice.
 - The requirements of the notice are;
 - 1 Cease the use of the caravan for residential use, approximate location shown by the blue X on the plan;
 - 2 Remove all services connected to the caravan shown by the blue X on the plan, including solar panel with electricity cabling, gas bottles etc;
 - 3 Remove caravans from the land;
 - 4 Demolish and remove the carport, approximate location shown by a blue A on the plan;
 - 5 Remove from the land the shipping container, approximate location shown by a blue B on the plan;
 - 6 Remove from the land all materials and debris resulting from the residential use of the land, including generators, sheds, patio furniture, washing line, plant pots etc;
 - 7 Cease the use the land for the storage of motor vehicles and other non-agricultural paraphernalia.
 - The period for compliance with the requirement is 18 months.
 - The appeal is proceeding on ground (b) 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 upheld.

Preliminary Matters

2. As the site is visible from the adjacent footpath I was able to carry out an unattended site visit.
3. The appellant originally appealed on ground (a) but that was withdrawn and the appeal was made on ground (b) in its place.
4. In a statement accompanying the appeal, which appears to be part of correspondence with a development officer called Ben Bassett, the appellant questions the location of Wheal Rumfrey referred to on the notice as being the wrong address for the property. Whether that is the case or not, the plan

attached to the notice identifies the site against which the allegation is made. The appellant also states that the plan does not identify all of his land but this is not relevant to this appeal. Comments are also made about highway matters, the activities of travellers and other matters of no relevance to this appeal. Reference is also made to the 'Equality, Diversity Act 2020' and to the 'Discrimination Act'.

Reasons

5. The appeal has been made on ground (b) which is that the breach of control alleged in the notice has not occurred as a matter of fact. This is a legal ground of appeal and the onus rests with the appellant to prove his case and the level of proof is on the balance of probabilities.
6. The appellant makes reference to three planning applications for residential development on or adjacent to the appeal site but fails to explain their relevance to a ground (b) appeal.
7. No relevant evidence has been provided by the appellant to support the ground (b) appeal and I have seen from my site visit and from the photographs attached to the Council's evidence that the breach has occurred as a matter of fact.
8. The appeal on ground (b) fails.

Other Matters

9. Although it is unclear what specific point is being made by the appellant in his reference to the laws relating to equality, diversity and discrimination, I am satisfied that the upholding of the enforcement notice is a necessary and proportionate response to the harm caused by the continuation of the unlawful development set out in the reasons for issuing the notice, and that this harm clearly outweighs the needs of the appellant. There is no conflict with the Human Rights Act 1998 or Equality Act 2010.

Conclusion

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

P N Jarratt

INSPECTOR