



Appeal Decision

Site visit made on 18 October 2022

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 17 November 2002

Appeal Ref: APP/D0840/C/22/3300221

Land East of Trengayor, St Gennys, Bude, Cornwall EX23 0NX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Paul Anthony Brown against an enforcement notice issued by Cornwall Council.
- The notice, numbered EN21/01377, was issued on 3 May 2022.
- The breach of planning control as alleged in the notice is "Material change of use of agricultural building approved under planning permission PA11/10309 to the mix storage of non-agricultural residential paraphernalia and agricultural items."
- The requirements of the notice are to:
 1. Cease the non-agricultural use of the building shown in the approximate location by a blue X on the attached plan
 2. Remove all non-agricultural items from the building shown in the approximate location by blue X on the attached, i.e. tables, chairs, oven, sink, kitchen facilities, sofa, hard wood flooring
 3. Remove from the land all materials and debris resulting from the above works and restore the land and building to its former condition of agricultural use.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice is upheld, subject to variation, in the terms set out in the Formal Decision below

1. The Appellant accepts that the barn was, as alleged by the enforcement notice, used for the storage of non-agricultural items. His evidence is that this took place on a temporary basis, between April 2021 and November 2021, to assist a friend who found themselves in a desperate situation at the height of the pandemic; all of the domestic items then stored in the barn have now been removed. The Appellant does not, then, dispute that the alleged breach of planning control took place. Rather, his case in this appeal is that the notice unfairly requires the removal of items (such as kitchen facilities and flooring) which were not part of the temporary domestic storage use, but were installed to create a rest and utility area in connection with the authorised agricultural use of the barn, and have been in place for more than four years.
2. Where (as here) the breach of planning control attacked by an enforcement notice concerns a material change of use, the notice can require the removal of any works that facilitated the unauthorised use – even if those works did not themselves require planning permission. But it can only do this if those works were *integral* to the material change of use; in other words, if they were part and parcel of initiating the new, unauthorised, use of the land.
3. The Council contends that the specific items listed for removal in requirement no. 2 of the notice are "not commensurate with the lawful agricultural use" of

the barn. It is fair to note that the size of the oven, the extent of the kitchen facilities and laminate flooring, and the amount of space given over to seating are considerably greater than one might ordinarily expect to find in a barn whose primary use was agricultural.

4. However, and importantly, there is no evidence to suggest (and the Council itself does not seek to argue) that equipping the barn with kitchen facilities and a rest area was an integral component of initiating the **storage** [my emphasis] use attacked by the notice. It is not necessary, or usual, to equip a barn with an oven, sink and seating in order to facilitate the storage of non-agricultural items. The evidence of the Appellant is that the laminate flooring was installed some years prior to the commencement of the unauthorised storage use, for the purpose of providing a safe and clean utility area for workers and volunteers using the building. I have not seen anything that would render this version of events less than probable.
5. I note that in its Statement of Case, the Council refers to the kitchen facilities, flooring, and other items identified by the notice for removal as being "arranged in a manner which suggests a domestic use of the agricultural barn." The Statement goes on to say that the presence of these facilities means the barn has the potential to be used as an independent residential unit in the open countryside. I am not able to address that argument, because it does not form any part of the breach of planning control that is the subject of this appeal: specifically, the **storage** [again, my emphasis] of non-agricultural residential paraphernalia. If the Council's concern is actually that the installation of the kitchen and other facilities has materially changed the character of the use of the planning unit from agricultural to residential, then it was (and remains) open to the Council to take enforcement action against that perceived breach of planning control. The scope of the current enforcement notice is limited to the alleged change of use to storage of non-agricultural items.
6. In summary, I find that the alleged breach of planning control took place. However, in the absence of any evidence to indicate that the installation of the items listed in the second requirement of the notice was part and parcel of the unauthorised use for non-agricultural storage, it is excessive to require their removal. All that is necessary, in order to remedy the alleged breach of planning control, is set out at the first requirement of the notice: the cessation of the non-agricultural use.
7. I therefore conclude that the enforcement notice should be upheld, but varied by deleting the second and third requirements (the third requirement being parasitic upon the second). The appeal succeeds to that extent.

Formal Decision

8. It is directed that the enforcement notice is varied by the deletion of requirements (2) and (3) from paragraph 5. Subject to this variation, the enforcement notice is upheld.

Jessica Graham

INSPECTOR