



Appeal Decision

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/D0840/C/22/3298472

Land at Tolcarne Road, Beacon, TR14 9AA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Katrina Kevern against an enforcement notice issued by Cornwall Council.
- The notice, numbered EN20/01526, was issued on 4 May 2022.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of land from agricultural to residential for the stationing of a caravan being used for residential purposes.
- The requirements of the notice are to
 - 1) Cease the use of the static caravan for residential purposes as shown marked blue on the plan attached to the notice.
 - 2) Remove from the land the static caravan, all services such as water, gas and electric and any personal belongings that are not associated with the lawful agricultural use of the land, as shown marked in blue on the plan.
 - 3) Reinstate the land as outlined in red on the plan to its original condition before the breach took place.
 - 4) Remove all materials and debris resulting from compliance with 1-3 inclusive above from the land outlined in red on the plan.
- The period for compliance with the requirements is 12 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.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. As this appeal is proceeding on ground (d) which is that it is too late for enforcement action to be taken, the onus of proof rests with the appellant and the level of proof is on the balance of probability. Furthermore as the case relies on past events, a site inspection is unnecessary.

Reasons

3. In order to demonstrate that the alleged change of use is lawful, it is necessary for the appellant to show that the change of use occurred more than ten years prior to the notice and that the use has been continuous during that time. The relevant date is therefore 4 May 2012.
4. The appellant's case is that she became resident on the land on 30 January 2012 and lives in a static caravan with the owner's permission. Electric and water have been paid for over 19 years on the site. Multiple vehicles have been registered to the site and it has been used as the main dwelling in a residential capacity for over ten years, primarily due to the need to look after animals. The appellant is registered on the electoral roll at this address.

5. Other than the information provided on the appeal form, no further evidence or documentary evidence has been submitted in support of the ground (d) appeal. In response to a Planning Contravention Notice on 21 April 2021, the appellant indicates that the caravan was first stationed on the land in Spring 2011 and that it was intended for breaks and if need be, for overnight stays but circumstances have changed. The appellant states that she has to be on site to look after 15 horses and explains that her partner has health issues.
6. The Council advises that an enforcement notice was issued on 11 April 2006 alleging the use of the land as a site for a residential caravan. No appeal was lodged and the caravans were removed in January 2009.
7. In June 2013 enforcement investigations revealed that caravans on the land were not used for residential purposes but as a rest room. In August and November 2014 the appellant described the caravans as being used for storage and the appellant's home address was elsewhere. On a site visit on 28 January 2015, there was no evidence of residential use and a caravan was said to be used for housing cats and storage of horse feed. A smaller caravan was said to be used for storage. Submitted photos indicate a caravan containing domestic items but in a state of disorder and lack of cleanliness that suggests a lack of residential occupation at that time, or at the very best that any residential use was dormant.
8. The appellant responded to a PCN on 25 March 2015 confirming the land was used for grazing and the large static caravan had been brought onto the land in about 2010 and was used for storage (as was the smaller caravan), but not occupied residentially but was connected to water and electricity. On 20 April 2015, a further site visit showed that neither caravan was in use residentially but for storage.
9. It is apparent from the Council's enforcement investigations that the claims of the appellant do not stand up to scrutiny and that there is an absence of credible evidence in support of the appeal. At the relevant date, the caravan was not occupied residentially but was perhaps used for taking breaks which is an ancillary use of the land for the grazing of horses. Any residential use of the caravan has not been continuous over the ten year period and at best were dormant when the caravans were being used for storage purposes.
10. The appellant has not shown on the balance of probability that a residential use of the caravan occurred before the relevant date and has continued largely uninterrupted for the required period. The appeal on ground (d) fails.

Other Matters

11. A local councillor has provided a character reference for the appellant, but this comments on planning merits and is not evidence that supports the appellant's claims.

Conclusion

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

P N Jarratt

INSPECTOR