



Appeal Decision

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/D0840/C/22/3310546

Land North West Of Aldercombe Cottages, Kilkhampton, Bude, EX23 9RP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Robert Deacon against an enforcement notice issued by Cornwall Council.
- The notice, numbered EN21/01856, was issued on 5 October 2022.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the land from woodland to residential through the stationing of a static caravan for residential purposes along with associated operational development and domestic paraphernalia. The approximate position of the static caravan is marked by a blue "X" on the attached plan."
- The requirements of the notice are to:
 1. Cease the residential use of the land
 2. Cease the residential use of the caravan shown in the approximate location by the blue "X" on the attached plan
 3. Remove all services connected to the caravan for the purposes of independent human habitation, i.e. electric cabling, water pipes etc
 4. Remove the caravan indicated by the blue "X" on the attached plan from the land
 5. Demolish and remove the wooden decking along the western elevation of the caravan shown in the approximate location by the blue "X" on the attached plan
 6. Remove from the land all materials, paraphernalia and debris resulting from the residential use of the land, including washing line, plant pots, shed, firepit, outdoor furniture, swings, motor vehicles etc.
 7. Remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place.
- The period for compliance with the requirements is twelve months.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

Summary Of Decision: The appeal succeeds in part, and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Procedural matter

1. In light of the very limited matters at issue, it was not necessary to conduct a site visit.

The appeal on ground (f)

2. The Appellant does not dispute that the breach of planning control alleged by the Notice has happened, and does not argue that planning permission should be granted for the development that has taken place. The appeal is proceeding solely on ground (f): that is, that the requirements of the notice exceed what is necessary to remedy the breach of planning control.

3. The Appellant's case is that the plant pots referred to in the Notice are used for growing saplings for replanting, and therefore should not have been included. The Council accepts that pots and planters associated with the lawful use of the land for forestry and agriculture (as opposed to its unlawful residential use) need not be removed, and has indicated that the Notice could be amended accordingly.
4. That seems to me an appropriate course of action. I shall delete the specific reference to "plant pots" in requirement no. 6. The remaining wording of requirement no. 6 is sufficient to make it clear that any plant pots associated solely with the unauthorised residential use – as distinct from those used for the purposes of forestry or agriculture – would need to be removed.
5. I note that in addition to returning the land to the condition it was in before the breach of planning control took place, requirement no. 7 requires that the land be returned to its former use. This goes a step beyond the statutory purposes of an enforcement notice; the issuing authority may require any unauthorised use to cease, but there is no provision (and no need) to specify what the land may be used for instead. I am satisfied that I can amend the notice, without injustice to either party, by simply deleting the words "and use" from requirement no. 7. It makes no real difference in practical terms: the Appellant will be able to continue with the existing lawful use of the land for forestry and agriculture, and the Council will achieve (through requirement no. 1) its aim of ending the unauthorised residential use.

Conclusion

6. For the reasons given above, I conclude that the requirements of the Notice are excessive to remedy the breach of planning control. I shall vary the Enforcement Notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

Formal Decision

7. It is directed that the Enforcement Notice is varied by:
 - deleting the words "plant pots" from requirement no. 6, and
 - deleting the words "and use" from requirement no. 7.

Subject to these variations, the Enforcement Notice is upheld.

Jessica Graham

INSPECTOR