



Appeal Decisions

Site visit made on 4 March 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal A Ref: APP/W1145/C/24/3355161

Appeal B Ref: APP/W1145/C/24/3355162

Land at The Laurels Inn, Petrockstowe, Okehampton EX20 3HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Paul Johnson and Appeal B by Mrs Lorraine Johnson against an enforcement notice issued by Torridge District Council.
- The notice was issued on 11 October 2024.
- The breach of planning control as alleged in the notice is: Without planning permission and within the last four years, operational development consisting of the change of use of building from a mixed use of a public house and private dwelling to a private dwelling.
- The requirements of the notice are to:
 - (i) Restore the public house to the original use and configuration apart from the shared kitchen area, including but not limited to the following:
 - (ii) Restore the use of the ground floor Living Room (shown on Appendix B and shown as Images 4-6 on Appendix C) to public house use,
 - (iii) Remove the new walls to the ground floor office Room (shown on Appendix B and shown as images 1-3 on Appendix C) and restore the floor area for public house use;
 - (iv) Replace the pumps to the bar area,
 - (v) Make good all works.
- The period for compliance with the requirements is: Three (3) months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (d) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The enforcement notice is quashed.

Procedural matter

1. The spelling of Petrockstowe in my heading above is taken from the enforcement notice ("the Notice"), in the interests of consistency.

Applications for costs

2. Applications for costs have been made by the appellants against the Council, and by the Council against the appellants. These applications are the subject of a separate decision letter.

The enforcement notice

3. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. I have powers under section 176(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act") to correct any defect, error or misdescription in an enforcement notice or, under section 176(1)(b), to vary its terms. In each case, the only test is whether the correction or variation would cause any injustice to the appellants or the local planning authority.

4. The alleged breach of planning control at section 3 of the Notice is clearly defective because it alleges that operational development has occurred consisting of a change of use. Operational development cannot be a change of use. It also alleges only a change of use when, to constitute development, a change of use must be material.
5. Both parties appear to understand that a change of use from a mixed use of public house and private dwelling to a private dwelling is alleged to have occurred. The change of use must have been deemed by the Council to be material, otherwise there would be no breach of planning control. The front cover of the Notice also states that the Notice concerns a 'material change of use'. Moreover, a challenge to the materiality of the change can be brought on a ground (c) appeal and the absence of the word 'material' from the allegation would not prevent such a case being made.
6. Thus, on its own, it may be possible to make a correction to the Notice to give absolute clarity that only a material change of use is alleged. However, within the four corners of the Notice, it is not clear (due, in part, to a lack of clarity in the reasons for issuing the Notice) whether the Notice seeks to remedy the alleged breach of planning control, or remedy any injury to amenity. Indeed, the requirements at Section 5 do not expressly remedy the alleged breach of planning control because they do not explicitly require the alleged new use to cease.
7. Instead, the requirements target various internal alterations that have been carried out and require a return to the original use and configuration. They provide an open list of particular things that need to be done, while expressly indicating that the required steps are not limited to those items. As to the use, while the first step includes a generic requirement to restore the public house to the "original" use, it does not specify what the original use is and, the specific steps below it only refer to the restoration of a public house use to the "ground floor Living Room" and restoration of the floor area of the, now separate, so-called "Office Room". The photographs referred to confirm that these are just small parts of the ground floor, that notably exclude the larger area that still contains the bar, equipment, glasses and other paraphernalia of the public house. The kitchen is specifically excluded from the overarching requirements in the first step.
8. The lack of precision in the wording leaves uncertainty as to what steps must be taken, whether the bar area has, in the Council's view, been subject to a change of use and whether the purpose of the Notice is to remedy the breach of planning control or to remedy injury to amenity through lesser steps.
9. Given the uncertainty when reading across the allegation and requirements, the recipient of the Notice would be justified in not understanding whether the Notice was targeting the use of the whole building, part of the building, or just the works that may, or may not, have facilitated the alleged breach. The extent to which remedial action may or may not be required in respect of the bar area and kitchen could influence arguments presented at appeal in respect of the materiality of any change of use.
10. Having confirmed in evidence that the Notice does seek to remedy the breach of planning control, the Council contend that it could be corrected so as to require the unauthorised use to cease. Such a correction would be required to provide a consistency in wording to ensure that the alleged breach was, in fact, remedied. It

says that in providing this, the overall effect of the Notice would be the same because, in ceasing to use the building as a single dwellinghouse, the appellants would be entitled to resume the previous mixed public house and dwelling use.

11. However, whether or not a Notice can go so far as to require the resumption of a use, I cannot know whether a return to the previous use would be the way that the appellants sought to comply with the Notice. They may, for example, choose (or, given the claimed non-viability of the public house, feel forced) to vacate the property with the added consequence that they would stand to lose their home. There may be other ways to comply, depending on any final redrafted requirements read in their totality. The consequences of the necessary correction may, therefore, be different. That could affect the grounds of appeal or the way that the appellants had argued their case.
12. The appellants recently sought planning permission for a change of use of the public house to a dwelling. That application was refused, and a subsequent appeal dismissed. Given the similarity to the matters alleged in the Notice, this may mean that the appellants were unable to appeal on ground (a). However, even if that were the case, an explicit requirement to cease the residential use may (for example) have resulted in an appeal on Ground (g), that any time specified to comply with the requirements of the Notice falls short of what should reasonably be allowed.
13. It may well be that the recipient of the Notice would understand that the Council was trying to prevent the public house becoming a dwelling and that the Council would like to see the public house reopened. The planning history indicates why that may be the intention, and that the Council may be justified in taking enforcement action if it appears to them that a change has already occurred.
14. However, the Notice is poorly drafted. While the appellants, and I, could read between the lines to arrive at a set of requirements that did, as far as possible, achieve the Council's perceived aims, the necessary corrections would result in a vastly different notice to the one issued by the Council and served on the appellants.
15. It has been suggested that following correction to an enforcement notice, an appellant would have opportunity to re-cast their grounds of appeal. However, the basis on which this could occur has not been set out. The new terms would only be set out in my Decision, by when, the ability to lodge an appeal against the re-drafted enforcement notice would have passed.
16. In this case, while I have canvassed possible corrections to the Notice with the parties, that was to seek views on the potential for injustice. It was not a statement that I would make those corrections and so could not be read as an invitation, or even a suggestion, that the appellants should re-cast their case, or bring an appeal on entirely new grounds.
17. The appellants have understood the Notice sufficiently to make arguments in support of the various grounds of appeal. While those points could be equally applied to a re-drafted notice, they have also been clearly distracted by the uncertainty that the Notice causes. Ultimately, I cannot be satisfied that the same grounds and arguments, and only those arguments, would be made in response to a redrafted version and, therefore, injustice would occur.

18. For the reasons given above, I conclude that the Notice does not specify with sufficient clarity what the breach of planning control is and what must be done to remedy it. It is not open to me to correct the errors, because doing so would cause injustice to the appellants. As the Notice is invalid and incapable of correction, it must be quashed.
19. While I appreciate that local residents may wish to see resolution to this case, in these circumstances, the appeals on the grounds set out in section 174(2)(c) and (d) do not fall to be considered. It will remain open for the Council to consider issuing a further enforcement notice if it deems it expedient to do so.

Formal Decision

20. The enforcement notice is quashed.

M Bale

INSPECTOR