



Appeal Decision

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2025

Appeal Ref: APP/J9497/C/24/3338794

Black Street Farm, Black Street, South Tawton EX20 2LN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)(the Act).
 - The appeal is made by Mr Sean McCaffrey against an enforcement notice issued by Dartmoor National Park Authority.
 - The notice was issued on 11 January 2024.
 - The breach of planning control as alleged in the notice is the change of use of the building to use a single dwellinghouse.
 - The requirements of the notice are to: permanently cease the residential use of the building.
 - The period for compliance with the requirement is: 12 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Applications for costs

2. An application for costs has been made by Mr Sean McCaffrey against Dartmoor National Park Authority (the NPA). This is the subject of a separate decision.

Preliminary Matters

3. I did not carry out a site visit having informed the main parties that I considered that it should not be necessary to do so and that the appeal could be dealt with by considering the written submissions. In addition to the grounds of appeal pleaded, the matters raised included whether or not there is an ongoing breach of planning control. That is appropriate to deal with under ground (c). The main parties were asked about the appropriateness of considering the appeal on that basis too. I will therefore consider the appeal in relation to ground (c).
4. This case had been linked with another appeal (ref APP/J9497/C/24/3338795) which was subsequently withdrawn.

The Appeal on ground (c)

5. The appeal against the notice on ground (c) is that what is alleged does not constitute a breach of planning control. The onus is on the appellant to prove that, on the balance of probabilities.
6. Planning permission was granted on appeal for the “change of use of part of an agricultural building to form a dwelling”, on 30 April 2024. It is agreed by the main

parties that this is the same development as alleged on the notice (Ref APP/J9497/W/23/3326583). That planning permission was granted with a planning condition limiting it to the personal occupation by the appellant and another named person. Another planning condition requires the use to cease if the building is occupied by anyone else. The NPA were contacted by the appellant to request the withdrawal of the notice when that appeal was allowed. The authority has not done so.

7. The NPA does not dispute that, by reason of s180 of the Act, the notice ceased to have effect from 30 April 2024 when planning permission was given. In correspondence with the appellant, they are also of the view that the notice should not be withdrawn because there is potential in future for circumstances to change and the breach to reoccur. I do not agree with their assessment of that because of a different breach of planning control would occur in those circumstances. Of more relevance here is the fact that there is now no breach of planning control.
8. This ground of appeal as set out in s174(2)(c) of the Act is worded in the present tense. An appellant may therefore rely upon matters occurring since the date of issue of the notice and on the date the appeal decision is made. It is therefore necessary for me to consider whether at the present time, a breach of planning control is occurring.
9. Given that planning permission exists for the same development as is alleged on the notice, there is no breach of planning control. The appeal on ground (c) must therefore succeed.

Conclusion

10. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a), (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act, do not fall to be considered.

Andy Harwood

INSPECTOR