

REPORT OF THE DEVELOPMENT MANAGEMENT TEAM LEADER ON MATTERS RELATING TO ENFORCEMENT.

Reference No: EC13/0146
Case Officer: Carys Vaughan
Received on: 10-Feb-2014
Site Address: Land at Caermeini Fields, Mynachlogddu, Clunderwen,
Pembrokeshire, SA66 7RY
Alleged Breach: Change of use of land from agricultural use to a mixed use of
agricultural and residential purposes through the siting of a
converted van-type vehicle and touring caravan, both used for
residential purposes.

Summary

An Enforcement Notice was served by this Authority on 21st May 2014 following development undertaken at Carmeini Fields, Mynachlog-ddu without the benefit of planning permission. No appeal was made against the Enforcement Notice and as a result the Enforcement Notice came into effect on 23rd June 2014 with a compliance period to remove the unauthorised works by 23rd December 2014. As of to date, the Enforcement Notice has only been partially complied with.

Background

A complaint was received by the Authority in November 2013 alleging a breach of planning control involving the change of use of land from agriculture to residential.

Following initial investigations by officers of this Authority it was noted that the land was being used for residential purposes and a converted van and a touring caravan had been parked on the land. Despite earlier communications with the person responsible and advising that planning permission was required for the proposed development.

A Planning Contravention Notice was issued on 4th February 2014 regarding the alleged breach of planning control. This notice was hand delivered by an officer of this Authority to the land known as Caermeini Fields and addressed to the occupant of the property. The Planning Contravention Notice was to be completed by the recipient and returned to this Authority within 21 days from the date that they were served with the Planning Contravention Notice.

Despite numerous attempts by this Authority to seek a voluntary resolution to remedy this breach of planning control, no attempt was made by the person responsible for the unauthorised works to remedy the breach. As a result, and in view of issues identified in the unauthorised development it was considered expedient by this Authority to pursue action through the service of an Enforcement Notice to secure the removal of the residential converted vehicle and the touring caravan and cease the use of the land for residential purposes.

On 21st May 2014 an Enforcement Notice was issued and served on all persons with an interest in the land.

The Enforcement Notice required the persons with an interest in the land to permanently cease the use of the land for residential purposes and permanently remove the converted van type vehicle (registration no. TEP 187Y) and the touring caravan and all associated domestic paraphernalia from the land within six months beginning with the day on which the Notice took effect. No appeal was made against the Enforcement Notice by the recipients and therefore the Enforcement Notice took effect on 23rd June 2014. The date for complying with the Enforcement Notice expired on 23rd December 2014.

The owners of the land use this land for transitory residential purposes and for wintering over. They understand that they are in breach of planning control when they enter this land for residential purposes.

On 22nd January 2015 a site visit was carried out by officers of this Authority whereupon it was evident that the Enforcement Notice had not been fully complied with as the land was still being used for residential purposes and the touring caravan was still on the land. The converted van type vehicle, registration no. TEP 187Y, has been removed and replaced with another converted lorry type vehicle. Since the serving of the Enforcement Notice, there have been a number of different converted vehicles on site being used as residential accommodation.

The owners/occupiers have been reminding that failure to comply with the Notice could result in prosecution proceedings against them in the Magistrates Court by this Authority.

At the time of writing this report the Enforcement Notice has still not been complied with.

Planning History

No planning history

Conclusions

The Authority has a statutory duty to ensure that new development does not damage the natural beauty, character and special qualities of the National Park. The site lies in the open countryside outside of a defined Centre boundary as set out within the Local Development Plan and the use of the land for residential purposes has not been justified as being essential for agriculture or another related purpose for which a countryside location is essential. As such the principle of the development is therefore considered to be contrary to Technical Advice Note 6 – Planning for Sustainable Rural Communities as well as policies 1, 7, 8, 15, 29, 30 & 44 of the Pembrokeshire Coast National Park Local Development Plan (Adopted September 2010).

The vehicles and associated paraphernalia result in an unnecessary incursion into the rural countryside which causes significant visual intrusion to the detriment of the

special qualities of the National Park. The development is insensitively and unsympathetically sited within the landscape, results in a use incompatible with its location and fails to harmonise with, or enhance the landform and landscape character of the National Park contrary to policies 1, 7, 8, 15, 29 & 30 of the Pembrokeshire Coast National Park Local Development Plan (Adopted September 2010). As such the development fails to comply with the aims of the Local Development Plan in that the development is insensitively and unsympathetically sited within the landscape. The enforcement of planning control is in the wider public interest by preventing inappropriate and harmful development and to allow unauthorised development to remain on the land undermines the Authority's ability to take action against similar inappropriate, development in the countryside within the National Park.

The failure to comply with an Enforcement Notice after it has taken effect is a criminal offence answerable to in the Magistrates Court.

Human Rights Act

As the development is in domestic occupation it is necessary for the authority to consider if the rights of the occupiers under the Human Rights Act 1998. In particular, the rights under Article 8 to the respect for private and family life are engaged. This provides:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

It is considered that the recommended action is founded in law and the occupiers are provided with a right to appeal against the Enforcement Notice, which they have chosen not to exercise and which has therefore come into force. Ample time has been given to enable the occupiers to relocate and appropriate and timely advice has been given to them. In the circumstances, the commencement of criminal proceedings for failure to comply with a lawful and subsisting Enforcement Notice is a proportionate and necessary response, in a democratic society, in the public interest in the proper planning control of the use of land and especially in the protection and preservation of the special qualities that have led to this location being included within a National Park.

Accordingly, it is considered there would no breach of any of the occupiers' rights under Human Rights Act by a decision to instigate a prosecution for non-compliance with the Enforcement Notice.

RECOMMENDATION

That the Chief Executive/Director of Park Direction and Planning/Team Leader Development Management be authorised to instruct solicitors to commence prosecution proceedings in the Magistrates Court for failing to comply with the requirements of the Enforcement Notice dated 21st May 2014.