

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **23<sup>rd</sup> MAY 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR JONATHAN BARTON AGAINST AN ENFORCEMENT NOTICE ISSUED BY FLINTSHIRE COUNTY COUNCIL ON THE 6<sup>TH</sup> JUNE 2011 AT WARREN DINGLE FARM, MOLD ROAD, PENYFFORDD**

**1.00 APPLICATION NUMBER**

1.01 ENF/134176

**2.00 APPLICANT**

2.01 Mr Jonathan Barton

**3.00 SITE**

3.01 Warren Dingle Farm, Mold Road, Penyffordd

**4.00 APPLICATION VALID DATE**

4.01 Not applicable.

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspector's decision in relation to an Enforcement Notice issued by Flintshire County Council under delegated powers, in respect of a variety of unauthorised changes of use of land, and the siting and habitation of two portacabins at Warren Dingle Farm, Mold Road, Penyffordd. The appeals were held by way of a Public Inquiry. The Inquiry sat for 1 day on 22<sup>nd</sup> November 2011.

5.02 On enforcement appeals there are potentially seven grounds for appeal:

**Ground A.** That planning permission should be granted for what is alleged in the notice.

**Ground B.** That the breach of control alleged in the enforcement notice has not occurred as a matter of fact

- Ground C.** That there has not been a breach of planning control
- Ground D.** That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matter stated in the notice
- Ground E.** The notice was not properly served on everyone with an interest in the land.
- Ground F.** The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- Ground G.** That the time given to comply with the notice is too short.

- 5.03 This appeal was heard under **Ground C** only and following the hearing of evidence and consideration of the same, the Inspector determined that the appeal was **DISMISSED** and the Notice **UPHELD** with corrections and variations.
- 5.04 There was no appeal for costs from either side.

## **6.00 REPORT**

### 6.01 Background

The Inspector's decision letter in respect of these appeals extends to some 4 pages which, given the highly technical, complex and interrelated nature of the matters covered, would be impractical to attempt to summarise in a manner which would not risk confusion arising. Accordingly, the decision, in full, is available for inspection should any Member wish to consider the matter in greater detail.

- 6.02 The breaches of planning control as alleged in the notice were;
- 6.03 Without planning permission the change of use of the land from use as agriculture to a mixed use comprising:
- (i) agriculture; and
  - (ii) residential facilitated by the siting of two (2) portacabins approximately in the position marked with an X on the attached plan and their use as residential accommodation and the importation onto the Land of domestic paraphernalia.

### 6.04 The Grounds of Appeal

The appeal was made under grounds (c), (as identified below) set out in section 174(2) of the Town and Country Planning Act 1990 as amended. These grounds seek dismissal of the Appeal on the basis that:

#### Ground C.

Twin unit caravan sited for accommodation purposes whilst actively involved in building and engineering works on site. Not residential use. Permitted development to work on any structure (Town and Country Planning General Permitted Development Order 1995 Part 6 Agricultural Buildings and Operations Class A, Caravan Sites and Control and Development Act 1960, First Schedule, Building and Engineering Sites.

#### 6.05 Inspectors Conclusion

That the siting and occupation did not benefit from or as part of any of the relevant regulations relating to either planning matters or under the current Caravan Regulations.

A. The Inspector considered that the siting of a caravan in connection with seasonal work connected with agriculture/horticulture is permitted in certain circumstances. However he determined that as the caravan had been on site for in excess of 12 months this cannot be considered as seasonal.

B. The Inspector came to the same conclusion in connection with any forestry works being undertaken on the site, that whilst the work might be seasonal the continued presence and occupation of the caravan is not.

C. The Inspector concluded that in connection with engineering works being undertaken there was no clear end in sight as a second project was started before the first was completed and then a third. Further that these works, by their character and scale, would not ordinarily and reasonably justify on site residential accommodation.

The Inspector concluded that the use as a caravan site on which building or engineering operations are being carried out would not benefit from paragraph 9 of Schedule 1 of the 1960 Act. Also that the circumstances are not permitted by virtue of Class A of Part 5 of Schedule of the DPDO.

### 7.00 CONCLUSION

#### 7.01 Time for Compliance

The residential occupation is to cease within 90 days of the date of the decision. The removal of the caravan and all domestic paraphernalia to be removed within 120 days of the date of the notice.

**Contact Officer:** William John Lloyd  
**Telephone:** 01352 703321  
**Email:** [William\\_john\\_lloyd@flintshire.gov.uk](mailto:William_john_lloyd@flintshire.gov.uk)

