
From: Jules Tustin <[REDACTED]>
Sent: 01 February 2025 18:49
To: TeamE5
Cc: Warren Davies
Subject: Comments on points raised by LA re: Appeal 15,Sytch Lane,Wombourne,WV50NF

[REDACTED]

YOUR RE:APP/C3430/C/24/3350826

LINKED CASES:APP/C3430/C/24/3350827, APP/C3430/C/24/3350828

FAO:-CASE MANAGER-FAIZA KANWAL

Please see responses as follows:-

8-COMMENTS TO RESPONSE FROM LA TO GROUNDS OF APPEAL UNDER GROUND C WE RESPECTFULLY ASK THIS SHOULD BE UPHELD

8.11 Condition 3 -The garage IS being used for purposes incidental to, and in connection with, the use of the site as a dwelling house for the following reasons:-

Warren's son lives in the accommodation when back from Shri Lanka, no bathroom is in the garage so he uses the dwelling house bathroom for bathing or showering.

He has very kindly allowed us to "Kit" out his dining room so that it's a hygienic area to make cobs. (he usually joins us for cooked meals in the dwelling house,) so does not particularly need a dining room, and so, is happy for us to leave the portable tables in-situ rather than taking them out and bringing them back in on a Tuesday, Thursday, and Saturday just for a few hours each time.

When cobs are made in the garage, for a few hours, three times a week by family members and the help of local staff who are friends (no more than four, at any one time) the dwelling house is still used and accessed to bring rubbish through, to use the toilet and to bring tea towels and aprons over to be washed and dried in the dwelling house laundry, the kitchen is used to make drinks, and if anyone wants to have a five minute break, they do so in the lounge area of the open plan kitchen.

In the Winter and Summer the garden is used for cigarette breaks. There is a wooden Sheltered, gazebo with heating and a seating area if the weather is cold or it is raining In the Summer months we often all sit and enjoy a BBQ in the garden once all the cob have been made, as a family with friends would do.

8.1.2-MATERIAL CHANGE OF USE. By the LA's own admission there is not a statutory definition for this, therefore it's merely an interpretation. Therefore, I interpret there to be no material change of use, it is merely a business being run from a residential Property which is not unlawful. Family with the help of friends make cobs for a couple of hours three times a week, using both kitchens at the property. There are no deliveries for ingredients being delivered in the week, (these have not been delivered since 08/04/2024- so not sure why they are included in the LA statement) these are purchased from a local supermarket, which we find better value for money, environmentally friendly, regarding plastic and cardboard packaging, hence less rubbish and pollution for the planet, and all produce is British. The shop for any ingredients needed, is incorporated in our family weekly shop.

Cobs are delivered three times a week only, as these are better value for money than our supermarket. The delivery arrives on a Tuesday, Thursday and Saturday, between 7am and 8am. The van always pulls onto our driveway, turns his engine off, so, no noise or traffic is associated to the property, in fact less than some of the residential properties surrounding us, who have online parcel deliveries, food shopping deliveries vans and cars pulling off their drives to

go to work, in many cases starting at 6am everyday for 5/6 days of the work, which is interpreted and accepted as ordinary, day to day living. We also live next to a school, who run a breakfast club starting at 7.30, parents start dropping children off from 7am, onwards, parking in the street, blocking drives, leaving engines running when children are dropped off, this causes a great deal of congestion, noise and fumes, yet this is accepted by residents in the street and by the LA.

I am not aware of any local council legislation which states that planning permission is required for van deliveries to your home, for anyone living in a residential area?

8.1.3-There is no material change, please see above comment.

8.1.4-As explained in 8.1.1 Warren's son doesn't use his dining room as he eats with us in the dwelling house, so allows us to keep the portable hygienic, stainless steel tables which are on wheels, and for the record and avoidance of doubt are not static counters, as implied, permanently in his dining room as a favour to us. He can transform his room back into a dining room, whenever, he wishes, it's his choice not to at the moment.

In the downstairs area there are boxes, computer, printer, filing cabinet etc as this is used by all the family as an office, Warren's son doesn't use or need this area so it's more beneficial for all of us to use as an office and is a quiet space to work, for myself as I have two businesses to run, my eldest daughter also has a business as does Warren and his son. It is not unlawful to have an office based at your own residential property.

The small kitchen area used by Warren's son only has for his sole use, a domestic kettle, toaster, microwave, washing machine and small fridge in it, as this is all he requires, as, apart from takeaways, basic snacks, coffee, drinks etc he joins us for meals in the dwelling house. So, a little bemused by LA's comment "kitchen doesn't resemble for use in a residential property." This appears to be the LA's officer's personal opinion rather than based on any factual evidence. A kitchen is personal choice to meet the needs of the individual residing at the property, an area "80 square feet, or more, intended and arranged, designed for use of cooking or heating up food, and to complete washing up"

8.1.5 Strongly contest this comment, please see my response 8.11 On what basis has this assumption been made? Where is the supporting evidence to substantiate this claim? A LA officer visited our home to view the garage/outbuilding on a day when no cobs were being made.

The garage/outbuilding IS incidental to the dwelling house.

There IS a necessity for individuals who help us to access and utilise the dwelling house.

This is merely an inference made by an LA officer whilst undertaking a 30 minute visit on a non operational day.

8.1.6-please see my comment to 8.1.2

There is no material change, therefore planning permission is not required and a clear breach of planning control, in fact has not occurred.

8.2 COMMENTS TO RESPONSE FROM LA TO GROUNDS OF APPEAL UNDER GROUND D.-WE RESPECTFULLY ASK THIS SHOULD BE UPHOLD

8.2.2-the use of the property has previously been registered as a farm, producing and retailing jam, Chutneys and vegetables etc etc to sell. The production of making Cobs to sell is no different to the production of jams and chutneys to sell.

The use of a farm producing food is NOT materially different from producing cobs.

It is clear that the site has the benefit of commercial use, established from the farming trade that was carried out for well in excess of 10 years. No planning permission for current operation is, therefore required.

8.2.3-the six-month timeframe within legislation to serve the enforcement notice was NOT met.

First contact from LA, when they had sufficient evidence of the apparent breach was,

03/01/2024 (please see the attachment in my appeal notice to evidence this) Enforcement notice served and to take effect 30/08/2024 (please see notice sent in my appeal notice as evidence) Confirmation on enforcement notice also submitted by LA to collaborate this date.

South Staffordshire clearly state on their website dated 27/02/2024 (1) "An application for a planning enforcement order in relation to an apparent breach of

Planning Control may be made WITHIN THE 6 MONTHS beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the....."

This clearly shows that the enforcement notice was served outside their six month Enforcement notice policy.

8.3 COMMENTS TO RESPONSE FROM LA FOR GROUNDS OF APPEAL UNDER GROUND E.-WE RESPECTFULLY ASK THIS SHOULD BE UPHeld

8.3.1-Strongly dispute this comment. Notice was not served on the owner of the Property (current address unknown) Please could supporting evidence be supplied to confirm, at which address the LA allegedly served the notice of enforcement to Mr Cartwright?

8.3.2-Yvonne Cartwright and the landlord separated in November 2021. They have not lived at the same address since this date. They are currently going through a divorce and have no contact with each other.

8.3.3-The Landlord (Mr Cartwright)does not live at 15, Sytch Lane Wombourne, WV5 0NF and has not since 06/11/2021 so it would be impossible to serve an enforcement notice on him at this address. The council tax and voting data which the South Staffordshire council hold on record, clearly states name of all occupants over 18 yrs of age who live at this address.

9.CONCLUSION

It is respectfully requested that the appeal be upheld, as outlined in the above comments made in response to the LA's statement.

SUMMARY

9.1-The garage/outbuildings ARE USED for purposes incidental to, and in connection with the use of the dwelling. We use this as an extension to our house and kitchen.

The only people who have to help make cobs are four local residents who are friends, who live near, so walk to our house, three days a week for a few hours.

We only have deliveries three times a week for cobs, between 7am and 8am, in a van, which pulls onto our drive, he turns the engine off and takes approx 15 mins to unload

No other deliveries are made to the property, ingredients for cobs are, included in

Family weekly shop and have been since 08/04/2024 before the enforcement was Served.(so not sure why this was included in the LA statement?)

Our own van, leaves our property at 7am/8am three times a week to distribute and deliver Cobs, returning 4/5pm. This is no different to anyone else who has a delivery and leaves their home each morning to fulfil their employment responsibilities and requirements.

No commercial waste is being produced. We do not create enough waste to contract to a commercial service, although this was trialled for a period, it was concluded we produced an insufficient amount of waste to warrant a commercial waste collection.

As a matter of fact and degree it is considered we do not have a negative impact on the amenity of local neighbours, there is no increase in noise or disturbance from our deliveries from the one delivery we have made three times a week.

NO cobs are stored on the premises, and never have been. This is a presumption which has been made by someone with no factual evidence to support this claim.

Cobs only are produced on the premises, distribution takes place away from the premises, on the road in our van, we do not operate a home based business. The scale

of the business actually done on site ie the production of the cobs is minimal

compared to the amount of business conducted out on the road. This shows, this does not constitute a material change of use requiring planning permission.

9.2 The property and land is registered as a farm, and has operated as a commercial business selling farm produce, including the production of jams and chutneys to sell, this was operational well in excess of 10yrs, therefore the property has permitted rights and is immuned from enforcement action under the 10year ruling.

9.3 The enforcement notice was not served within the 6 month time frame, as per, South Staffordshire's Notice of Enforcement policy.

Please see appendix 2 in their statement and the enforcement notice.

This clearly shows the notice has not been served in the 6 month timeframe.

9.4 The Enforcement notice has not been served on the owner.

Confirmation sought by the LA via a phone call to Yvonne Cartwright, to ask if she had received the Enforcement notice, received up on her, is not any guarantee or confirmation that David Cartwright Owner/Landlord has received it as they are estranged and do not live at the same address or have any contact with each other.

JULIE TUSTIN AND WARREN DAVIES