



Appeal Decision

Site visit made on 24 March 2017

by Pete Drew BSc (Hons) DipTP (Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 March 2017

Appeal Ref: APP/D0840/C/16/3158918

Wilderland Herb Farm, Morwenstow, Bude, Cornwall EX23 9PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 [hereinafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Lang against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 26 July 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land for the stationing of three caravans for residential purposes (indicated in the approximate positions on the [*plan attached to the notice*] marked with a cross and numbered one to three) and the operational development to form an area of hardstanding and a bund.
 - The requirements of the notice are: 1. Cease the use of the Land, and the caravans on the Land, for residential purposes; 2. Cease the use of the Land for the stationing of the caravans; 3. Remove the caravans indicated in the approximate positions on the [*plan attached to the notice*] marked with a cross and numbered one to three from the Land; 4. Disconnect all services from the caravans, including gas bottles, electric, water and waste (foul drainage) and remove the waste (foul drainage system) from the Land; 5. Remove the associated hardcore and concrete pads, used for the stationing of the three caravans indicated in the approximate positions on the [*plan attached to the notice*] marked with a cross and numbered one to three from the Land; 6. Remove the bund (indicated in the approximate position on the [*plan attached to the notice*] marked with a black hatched area); 7. Remove the area of hardstanding indicated in the approximate position hatched in green on the [*plan attached to the notice*] from the Land; 8. Reinstate the land to its former condition prior to the breach of planning control.
 - The period for compliance with these requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d), (f) and (g) of the Act.
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Formal Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words in paragraph 3 of the enforcement notice and their replacement with the words: "*Without planning permission, the material change of use of the land to a mixed use for residential, by the stationing of three caravans used for residential purposes (indicated in the approximate positions on the attached plan marked with a cross and numbered one to three), and agriculture, together with operational development to form an area of hardstanding and a bund*". Subject to this correction the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Procedural matters

2. At the accompanied site inspection on 24 March 2017 it was agreed, in line with paragraph 5.29 of the Council's statement, that there was an agricultural

use subsisting at all material times. Accordingly the allegation needs to be corrected to refer to the mixed use of the land for residential use and agriculture. I am satisfied that this correction can be made without causing injustice to either main party because there are no material implications and it is almost a technicality. However I do have a duty to try and get the notice right and so it is necessary. I should also make clear that the correction that I intend to make is without prejudice to the grounds of appeal examined below.

Ground (d)

3. Under this ground of appeal the onus of proof falls on the Appellant to show that: *"...at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice"* [as per section E. (d) of the appeal form].
4. I have read the Appellant's case as a whole but find that no claim is advanced that the operational development, to form an area of hardstanding and a bund, was substantially completed more than 4-years before the date of issue of the notice. To the contrary the grounds of appeal say the Appellant bought the land in November 2013, which is less than 4-years before the date of issue of the notice, and the strong inference from page 4 of the grounds of appeal is that the bund and hardstanding have been constructed by the Appellant since acquiring the land. Even if that might be wrong the Appellant has failed to demonstrate on the balance of probability that those works were substantially completed more than 4-years before the date of issue of the notice.
5. In these circumstances I propose to focus on the residential use in respect of the ground (d). The relevant date for this purpose is 10-years before the date of issue of the notice, i.e. 26 July 2006, hereinafter referred to as '*the material date*'. In order to succeed under this ground the Appellant needs to show, on the balance of probability, that the use alleged in the notice commenced prior to the material date and has continued in breach of planning control.
6. Page 3 of the grounds of appeal asserts that the material change in the use of the land: *"...occurred in 1999 when the first caravan arrived on the land"*. The Appellant has indicated that the first caravan is marked No 1 on the plan. The comments in section E. (d) of the appeal form then refer me to page 12 of the grounds of appeal but, with respect, there is no evidence on either page 12 or 13, where the text continues, to support this bold claim. Comment 8. says the first breach of planning control: *"...as far as I am aware occurred in 1999"*, but given the Appellant's admission that he bought the land at auction in November 2013 it is unclear why he would have personal knowledge of the site in 1999. That is approximately 14-years before he bought the land and in comment 8. he admits that: *"I have no way of knowing what the 'former condition' was"*.
7. I do not doubt that the Appellant knows the previous 2 owners of the land, but there is no suggestion that he personally came onto the land prior to 2013. Although there is a suggestion of hearsay evidence that would not discharge the onus of proof. Moreover the previous owners have not provided evidence, such as in the form of a statutory declaration, to support the Appellant's claim.
8. The Appellant says he: *"...was told by the last owner that the land had planning for residential caravan(s)"*, but that because the Appellant has been unable to find that on the Council's website: *"It would appear the previous owner was referring to the time scales in the [Act]"*. I disagree. Section 3 of the Council's

statement lists the planning permissions that have been granted over the years for the siting of a mobile home for temporary agricultural accommodation for a horticultural worker. Starting in 2003 [application No 2003/0069], the evidence is that the last temporary permission expired on 3 December 2010. On the limited information before me it is unclear whether the most recent temporary planning permission [application No 2007/02065] required the mobile home it permitted to be removed at the expiry of that permission and, if so, whether it was removed. However I do not consider that this is a point I need to resolve.

9. No ground (c) has been lodged and the Appellant has not shown that these permissions are not material. Even if there might have been such a condition it would have been breached within the last 10-years such that the caravan would not be immune. On the balance of probability it would appear that the caravan referred to by the Appellant was either that permitted by the expired planning permission or it has only been occupied for residential purposes since November 2013, when the Appellant first acquired the land¹. The Appellant has not discharged the onus of proof to demonstrate continuous residential use.
10. For these reasons I conclude that the Appellant has not discharged the burden of proof to show that the mixed use of the land for residential purposes and agriculture commenced prior to the material date and continued in breach of planning control as opposed to, for example, being permitted by the temporary planning permissions. In any event the submitted evidence is not sufficiently precise and unambiguous to justify allowing the ground (d) on the balance of probability. There is no clear evidence to show that the residential use has been continuous over the relevant 10-year period. In finding that ground (d) should fail I have taken account of all the arguments that have been advanced.

Ground (a), planning merits: *Main issues*

11. I consider there are 2 main issues that fall to be determined in the ground (a) appeal. The first is whether, having regard to local and national planning policies, which seek to resist new dwellings in the countryside, there is an essential need to accommodate rural workers on the appeal site. The second is the effect of the development on the character and appearance of the area.

The planning policy framework

12. The Development Plan [DP] has changed since the notice was issued and now includes the Cornwall Local Plan [CLP], which was adopted in November 2016. Relevant LP Policies, as cited in paragraphs 4.14-4.19 of the Council's appeal statement, include 1, 2, 2a, 7, 12, 23 and 27². I intend to deal with this appeal on the basis that these have replaced policies DVS1, HSG4, HSG6 and ENC4 of the former North Cornwall Local Plan [NCLP], cited on the notice. However I note from Appendix 3 of the CLP that NCLP Policy ENV1 has been saved³. In the light of paragraph 5.7 of the Council's statement, when tested against paragraph 215 of the National Planning Policy Framework ['the Framework'], I

¹ Amongst other things I note from the agricultural land appraisal, at Appendix 6 to the Council's statement, that it acknowledges that there was a mobile home on the land when it was purchased in 2013 and it says it: "...had been *in situ* for some years", but this does not assist the ground (d) because it would still fall in one of these categories.

² Paragraph 4.17 refers to a design policy but this appears to be Policy 12, not 13, in the adopted version.

³ I note from page 11 of the grounds of appeal that what appears to be a 'typo' on the face of the notice, insofar as it refers to Policy ENV51 rather than Policy ENV1, has unfortunately led to confusion. However I have a duty to determine the deemed application in accordance with the DP unless material considerations indicate otherwise and so it is necessary for me to correctly identify the components of the DP in order to apply the statute correctly.

find no reason to conclude it is inconsistent with the policies in the Framework. Accordingly I attach NCLP Policy ENV1 significant weight in this appeal.

Reasons

(i) Is there an essential need for rural workers to be accommodated here?

13. Paragraph 55 of the Framework says new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This national policy has been interpreted locally in CLP Policy 7, which also requires special circumstances to be shown for the development of new homes in the open countryside, which is defined in paragraph 2.33 of the supporting text to be the area outside of the physical boundaries of existing settlements. This definition plainly includes the vicinity of the appeal site.
14. CLP Policy 7 says new dwellings are restricted to 5 categories of which the only ones of relevance are: 4. Temporary accommodation for workers (including seasonal migrant workers), to support established and viable rural businesses where there is an essential need for a presence on the holding, but no other suitable accommodation is available and it would be of a construction suitable for its purpose and duration; or 5. Full time agricultural and forestry and other rural occupation workers where there is up to date evidence of an essential need of the business for the occupier to live in that specific location. Allied to this paragraph 2.37 of the supporting text says development, particularly providing homes that meets needs arising from activities that require an essential, functional presence in the rural environment, will be supported.
15. The Appellant seeks 3-years to comply with the requirements of the notice under his ground (g). However I consider that this is tantamount to a request for a 3-year temporary planning permission. Accordingly I propose to consider that argument against category 4 of CLP Policy 7. However that appears to be the default argument and the Appellant's starting point is that a permanent planning permission should be granted. This determines that my starting point in ground (a) is to assess the development against category 5 of CLP Policy 7.

Is there up to date evidence of an essential need to live in this location?

16. The Council has undertaken an agricultural need appraisal by a suitably qualified Officer⁴. It unambiguously concludes that there is no functional need for accommodation on this site and, although the language is different to the Framework and the CLP, I consider it has effectively applied the same test⁵. The Appellant had a chance to dispute this appraisal but has not done so. In that context I shall examine the arguments that the Appellant has advanced.
17. The grounds of appeal say that a building 105ft x 30 ft [32 m x 9.1m] is being built on the land and I saw that building in its substantially completed state at the site visit. The Appellant says the building will be used as a hop processing plant to process hops being created at the British Hop Research Centre, with a

⁴ With an MRICS qualification.

⁵ This appears to be the language of Planning Policy Statement [PPS] 7 "Sustainable Development in Rural Areas", which footnote 1 and Annex 3 of the Framework confirms has been revoked and replaced. However paragraph 4 of Annex A to PPS 7 said: "A *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night: (i) in case animals or agricultural processes require essential care at short notice; (ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems" [*my emphasis*].

view to producing hops for beer making to rival foreign competition. It is said that a small number of seedlings have been acquired but were subsequently lost as a result of a power failure. Whilst no formal business plan has been provided the grounds of appeal indicate that, if successful, the hops could be grown locally in rented fields. This broadly reflects the position set out in the Council's agricultural need assessment which, in addition, says the Appellant owns and manages Forge Brewery, which is located 5 miles away from the site.

18. The Appellant says he has one employee who lives in caravan No 1 for free so as to make employing him affordable. It is claimed that if he could not live there the wage would not enable the employee to rent privately, such that his job might be at stake. It is also stated that during a separation the Appellant lost his own house and that he has sold up everything else he owns to invest in the appeal site, which is approximately 1.4 hectares [3.5 acres] in extent.
19. The grounds of appeal go further and say that the Appellant would like to turn the building into a visitor centre for the public to see how hops and barley are grown and to demonstrate the processes these crops go through. The Appellant also appears to have a functionally unrelated vision for a petting centre for a small number of farm animals to keep children entertained and for the balance of the appeal site to be planted with unusual plants from around the world: *"to form a beautiful garden to make this a place people will really want to visit"*. Located on a prominent site adjacent to the A39, which is one of the main routes into Cornwall, I accept that this strategic site on a gateway into the County has the potential to fulfil this dual agricultural/leisure role.
20. Page 3 of the grounds of appeal makes clear that whilst there are 3 caravans, Nos 2 and 3 are proposed to be joined to make one residential unit⁶. It follows that the case is being made for 2 dwellings rather than 3. However, although the Council's agricultural need appraisal, dated July 2015, found that the residential use related to a new activity that was yet to be established, it does not appear that a great deal has materially changed in the interim. In short, it has not been clearly demonstrated why there is an essential business need for the Appellant and/or his employee to permanently live on the appeal site.
21. The grounds of appeal justify living on the land in order to look after livestock. Amongst other things at the site inspection there was reference to pigs having escaped, but the core business plan appears to be unrelated to livestock⁷. The petting centre appears to be a relatively minor component in the overall plan that might only be progressed once the crops are planted on rented land and the visitor centre is up and running. For these reasons it has not been shown that the need to feed, care and protect livestock from predators gives rise to an essential need to permanently live on the appeal site.
22. The first and crucial step in the Appellant's plan for the appeal site appears to be the development of the hops and yet there is no evidence that they have been successfully trialled. The trial that did take place failed even though it would appear that there has been a residential presence on the land for some

⁶ I shall deal with this appeal on this basis although I do so with a degree of scepticism given that my inspection revealed the units to be physically separated on concrete pads that appeared to have been laid for that purpose. Moreover the answer to question 8 of the Agricultural Questionnaire, at Appendix 7 to the Council's statement, indicated at that stage that the caravans were intended to be used separately for seasonal farm workers.

⁷ The Council has also drawn attention to the answer to question 9 of the Agricultural Questionnaire, at Appendix 7 to the Council's statement, which indicates that no livestock was kept on the holding at the time it was completed.

- time⁸. It has not been explained why there was no further trial in the Spring of 2016. In any event I consider that an automatic system, such as a generator to back up any mains failure, might be a better solution to this identified problem. Although there has been reference to sprinkler failure⁹, in my experience back-up systems exist, whether linked to a mobile phone or other electronic device, to ensure that there would not be a catastrophic failure or loss of crops.
23. In the circumstances I do not accept that there is a sound justification for living on the land in order to look after seedlings. No reasons have in any event been advanced as to why this would require a full-time residential presence, as required by category 5 of CLP Policy 7, as opposed to a part-time or seasonal presence, for example in the Spring¹⁰. Amongst other things there is also no evidence of rental agreements being entered into with adjoining landowners and so no prospect of developing the business in the foreseeable future beyond what the Council's agricultural need appraisal calls: "...*development plots*".
 24. The only other justification that is given on page 3 of the grounds of appeal is for general security. However, having regard to paragraph 22 of the Shipston-on-Stour appeal decision¹¹ and paragraph 7 of the Bishopsteignton appeal decision¹², this factor can only be given limited weight. There is no evidence of any reported instances of theft or vandalism and so this consideration does not demonstrate an essential need to live on the appeal site.
 25. Moreover the case for 2 dwellings on the land appears to be wholly unrelated to any notion of an essential need and instead appears to be based on economic considerations. Although paragraph 28 of the Framework requires a positive approach to sustainable new development in rural areas this is not a sound basis to justify new residential development where there is no essential need.
 26. The Appellant has not explained why the employee needs to be based at the site when the strong inference is that he is employed at the brewery, in part if not in whole. The Council's agricultural need appraisal says: "...*the applicant and one other are employed full-time at Forge Brewery which has been running since 2008*", and this assertion has not been challenged. I appreciate that the employee might have been engaged in the development of the appeal site, for example in the building works undertaken to date, but I am unconvinced that a case exists for any residential presence on the land, let alone 2 dwellings. Moreover the answer to question 8 of the Agricultural Questionnaire¹³ said that the other caravans were: "*needed for seasonal farm worker during harvesting, processing and possibly germination and propagation*". No explanation has been offered as to what has changed since that statement was made in 2015 in order to justify a second permanent residential dwelling on the appeal site.
 27. For these reasons I find no up to date evidence of an essential business need to accommodate rural workers on the appeal site that would justify the grant of

⁸ Page 8 of the grounds of appeal say that the crop was lost in 2015 due to not being on the premises, but there is no elaboration. The Agricultural Questionnaire, at Appendix 7 to the Council's statement, is evidence that the 3 caravans were on site in March 2015 and so it is unclear whether the Appellant and/or his employee were simply away for the night or quite what happened. However this does not alter my substantive findings.

⁹ Answer to question 12 of the Agricultural Questionnaire at Appendix 7 to the Council's statement.

¹⁰ The answer to question 8 of the Agricultural Questionnaire, at Appendix 7 to the Council's statement, is relevant insofar as it was said that even the first caravan was only: "...*needed as main residence at certain times of year during germination, propagation and harvesting*" [*my emphasis*].

¹¹ Appeal reference APP/J3720/W/15/3133183.

¹² Appeal reference APP/P1133/A/09/2100615.

¹³ Appendix 7 to the Council's statement.

a permanent planning permission. I shall therefore turn to consider the case for a temporary planning permission.

Is there a need for temporary accommodation for rural workers?

28. The test in category 4 of CLP Policy 7 is that the accommodation should support established and viable rural businesses. In that context the Council's agricultural need appraisal says: "*Whilst there is some confidence that the applicant has been managing the Forge Brewery since 2008, no financial information has been provided for the proposed hop enterprise*". This appears to be a fair assessment and the position has not changed because the grounds of appeal do not materially add to the financial equation. However to the extent that they do there is at least the suggestion that the business might not have been planned on a sound financial basis. The Appellant admits he: "*...paid a lot more than I had hoped to for the land meaning finances are super tight*". When taken with the earlier admissions about relatively low wages being taken by the Appellant and paid to the employee the business finances do appear stretched.
29. Notwithstanding the above, it is clear that the brewery itself is an established and viable rural business. However no case is even made that the residential accommodation is related to the brewery and, in the policy context, nor could it because it is literally miles away. On the limited information before me it is possible that there are existing accommodation options either at or in close proximity to the brewery, which appears to be located in Hartland. Although the focus of the enterprise on the appeal site is related to the brewery it does appear to be a radical departure from that core business at least insofar as it involves significant new financial outlays, for example on land and buildings. The absence of any financial projections for the proposed hop enterprise is therefore both surprising and of concern given the scale of the likely outlay. Viewed in this way the hop business potentially has implications for the long-term financial position of the brewery itself.
30. In applying other policy tests I have no evidence of suitable accommodation being available on, or in close proximity to, the appeal site and I accept the caravans would be fit for the purpose of a temporary planning permission. The issue therefore comes back to the absence of an essential need for a residential presence on the landholding, even in the short-term. The Council's agricultural need appraisal says: "*Once established, the applicant's hop production will involve period of high labour demand during planting and harvesting. The applicant anticipates a requirement for up to 5 members of staff of which one would be full-time and based on site*" [*my emphasis*]. However this appears to be the case put at its highest. Not only do the planting and harvesting periods appear to be seasonal, but no case is made for a second worker to be based on the appeal site. Moreover the explanation as to why one worker would need to be based on site at all times throughout the year is not clearly made out. For the reasons set out in paragraphs 22-23, the hop enterprise appears to be far from established in its practical operation. The absence of a clear business plan does not justify a temporary permission being granted in anticipation of the business being established when no essential need has been demonstrated.
31. In light of the above I find no justification to permit temporary accommodation for one or more workers to support this rural business because there is not an essential need for a residential presence on the appeal site. In reaching this view I have taken account of the arguments advanced under the ground (g) on

the appeal form which, in essence, argues that the limited finances would be better spent on finishing the project, rather than being diverted elsewhere.

Overall finding on the first main issue

32. Local and national planning policies seek to resist new dwellings, whether in the form of buildings or caravans, in the open countryside, unless there is an essential need to accommodate rural workers. For the reasons discussed above I conclude on the first main issue that an essential need for residential accommodation on the appeal site has not been demonstrated. There are no material considerations that indicate that a permanent or temporary planning permission should be granted in the face of a clear conflict with CLP Policy 7.

(ii) Character and appearance

33. The substantive reason for issue of the notice says that the use has extended the “*built form*” into the countryside but, by definition, the caravans are not buildings. However my inspection confirmed, contrary to the Appellant’s claim, that the caravans are highly visible from the A39, along the entire frontage of the site, as well as being seen from other public vantage-points. Although caravan No 1 is less exposed on approach from the north-east, by virtue of its siting behind the building, it is visible along much of the main road frontage. The 2 other caravans are not shielded by any comparable feature as the bund has no practical screening function, if indeed that is why it is there. Although there has been reference to landscaping in the grounds of appeal I am far from convinced that this would address the harmful visual impact of these caravans.
34. The Council is also concerned about the effect of the caravans on the character of the area. Although it has been suggested that every neighbouring property has at least one caravan there is no evidence to support the contention that isolated residential caravans characterise the area’s landscape. The Appellant argues that there is no such settlement as Morwenstow and that it is a Parish consisting of a number of settlements. However in my view that tends to support the Council’s claim that the development is poorly integrated with existing settlements. I acknowledge that there is a large solar farm to the east of the A39 but there is no reason to doubt that those solar panels have been permitted in accordance with relevant planning policies. It can be distinguished from the residential development, the subject of this notice, on this basis.
35. When tested against policy the development conflicts with CLP Policy 12 which, amongst other things, requires a comprehensive place-shaping approach to the creation of places with their own identity whilst promoting local distinctiveness. In contrast the appeal development fails to respond to its distinctive landscape setting and has a utilitarian form that seriously harms the character and appearance of this prominent gateway site. The development is not of a high quality design and fails to maintain and respect the special landscape character, in conflict with CLP Policies 2 and 23. Contrary to NCLP Policy ENV1 it has a significant adverse effect on the landscape character of the area.
36. On the second main issue I conclude that the development harms the character and appearance of the area. I acknowledge the Appellant’s offer to landscape all the mounds of topsoil on the site and I appreciate that the hardstanding is not conspicuous from outside the perimeter. However neither these nor any other considerations raised outweigh the conflict with relevant DP Policies.

Ground (a): Other matters

37. The Council's unchallenged evidence is that the appeal site is not a sustainable location for new residential development because it lies a "*good distance*" from settlements that contain a range of services and facilities. The occupiers of the site are likely to be heavily dependent on the private car in such an isolated rural location. As a non-essential form of residential development there would be a conflict with the spatial strategy in CLP Policy 2. On balance, taking all factors into consideration, this is not a sustainable development and so the presumption in CLP Policy 1 is not engaged. However I find no conflict with CLP Policy 27 because, whilst noting point 2 thereof, that is only engaged for major developments, which this scheme is not. The alleged conflict with CLP Policy 2a is also not explained. In reaching this view I acknowledge that the Appellant has not challenged the Council's evidence that it can show a 5-year housing land supply¹⁴. Nevertheless, there is a conflict with the DP as a whole.
38. Set against this finding I have reviewed the grounds of appeal to ascertain whether there are any other material considerations that indicate that the determination should be otherwise than in accordance with the DP. The first is the Appellant's personal circumstances and, whilst not fully set out, those of his employee. I recognise that both of these individuals are potentially facing homelessness as a result of this decision. However I am not persuaded that there are no alternative accommodation options available in Woolley, Hartland or other settlements in the area. Whilst the Appellant has said: "*Only a small village nearby (Woolley) accommodation would only be needed at certain times of year making rental agreements difficult/impossible*"¹⁵, that does not appear to relate to permanent replacement accommodation for the caravans on the appeal site. No evidence is provided to support the claim that affordable rented accommodation is not available in the area and, amongst other things, no explanation is given as to why separate households need to be maintained. For these reasons I attach these considerations only moderate weight.
39. It follows from the above that I am not persuaded that the loss of this appeal would represent an existential threat to the business. I respect the Appellant's statement that neither he nor his employee would be on benefits by choice and as there appear to be less drastic alternatives available to ceasing the business and/or making the employee unemployed I attach this factor limited weight.
40. There is reference to complaints but the fact is that no third party has made representations in relation to this appeal. Amongst other things I have no reason to doubt that the Appellant has spent a great deal of time clearing the land of circa 300 kg of dumped rubbish as well as things like bramble. However I am only able to attach these material considerations limited weight.
41. There is reference to bullying in the grounds of appeal and to a member of the Council having contacted him aggressively. However I find no evidence to support the claim. This does appear to have been a clear breach of planning control and that might account for the Council's allegedly robust approach. In any event it is open to the Appellant to seek independent advice at any stage. In the circumstances I attach this factor very limited weight in this appeal.

¹⁴ See, in particular, Table 12 of the Monitoring Report at Appendix 3 to the Council's statement.

¹⁵ Source of quote: answer to question 12 of the Agricultural Questionnaire at Appendix 7 to the Council's statement.

42. The Appellant asserts that the project will benefit the local community and Cornwall as a whole. Given my findings that there is no essential need to live on site and that automated back-up systems could be used there is no reason to think that this vision could not come to fruition. Although he says there are 2 septic tanks and other main utilities, such as water, electricity and telephone/ internet connection, this factor can only be given very limited weight.

Ground (a): Overall conclusion

43. I have taken account of all matters raised in the grounds of appeal, but there are no material considerations of sufficient weight that indicate that the determination should be made otherwise than in accordance with the DP. For the reasons given above, and having regard to all other matters raised, I conclude that the ground (a) appeal, the deemed application, should fail.

Ground (f)

44. Section 173(3) of the Act says a notice shall specify the steps required to be taken in order to achieve any of the purposes set out in, amongst others, section 173(4)(a) of the Act. Those purposes include remedying the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place. Paragraph 5.27 of the Council's statement says these were the Council's objectives in drafting the notice and the requirements of the notice are necessary and appropriate in order to achieve these aims.
45. In that context the grounds of appeal appear to be somewhat confused and/or misplaced. Reference is made to "*business use*", but the Council's precis of the planning history of the site confirms that the steel frame building has been erected pursuant to the prior approval procedure for agricultural buildings. That is reflected in the correction that I intend to make to the notice. There is no planning permission for any materially different business use. In any event it is entirely unclear why the Appellant claims that the storage of caravans "*is permitted*". The storage of caravans is not what the notice seeks to address and I have given reasons why the requirements remedy the identified breach.
46. The appeal form refers me to pages 12 and 13 of the grounds of appeal and I particularly address the latter here. On the limited information before me it is possible the foul drainage system is longstanding, but the position is unclear. It has not been demonstrated that this aspect of the requirement is excessive. However should such evidence come to light, having regard to the history of temporary planning permissions for caravans and the possibility no conditions were imposed to secure the removal of the foul drainage system, the Council has a power under section 173A of the Act to waive or relax any requirement. It might wish to consider exercising this power where evidence is provided.
47. I reject the claim that the hardcore is nothing to do with the caravans, other than it was the best place to station 2 of them. My site inspection confirmed that what the notice rightly calls the associated hardcore and concrete pads facilitates the stationing of the caravans on what the Appellant calls "*boggy*" land. The hardcore is an integral part of the breach and the requirement to remove it is consistent with the Council's objective to remedying the breach by restoring the land to its condition before the breach took place. I take the same view of the bund, which appears to arise from the excavation to form the hardstanding. However I would point out that the sixth requirement does not

require the bund to be removed from the land and it would be needed to achieve the last requirement of reinstating the land to its former condition.

48. Finally, with reference to the penultimate point on page 13, I acknowledge that the hatched areas on the plan might include areas of grass but there should be no ambiguity as to what is required on the ground. The term "*approximate position*", or positions, is used several times on the face of the notice and so I am satisfied that when viewed in this way the requirements of the notice are sufficiently precise as to not require any variation under this head.
49. I conclude that no reason is advanced as to why the requirements of the notice exceed what is necessary to remedy the breach, which is the limited scope of the ground (f). In the circumstances, this ground of appeal must fail.

Ground (g)

50. The Appellant seeks 3-years to comply with the requirements of the notice, but I have already explained why this would not be appropriate in considering the possibility of a temporary grant of planning permission. Since no lesser period is sought and I have taken account of the material considerations that have been advanced under this head I conclude that this ground of appeal must fail. In reaching this view I note that the Council has referred to the provisions of section 173A of the Act under this head and there is no reason to doubt that it will take a considered view in the light of any personal and other circumstances that might prevail at the appropriate stage, where necessary.

Conclusion

51. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed and I shall uphold the corrected notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Pete Drew
INSPECTOR