



Appeal Decision

Hearing Held on 6 September 2023

Site visit made on 6 September 2023

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/D0840/W/23/3319175

Triview, St. Erth Hill, St. Erth, Hayle, Cornwall TR27 6HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Bagnall against the decision of Cornwall Council.
 - The application Ref PA22/04682, dated 16 May 2022, was refused by notice dated 20 February 2023.
 - The development proposed is: Change of use of land - Residential use of two mobile homes with linking structure and associated development.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a residential use including occupation of two mobile homes with a linking structure and associated timber decking and hardstanding at Triview, St. Erth Hill, St Erth, Hayle, Cornwall TR27 6HX in accordance with the terms of the application, Ref PA22/04682, dated 16 May 2022, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Preliminary Matters and Main Issues

2. The application was submitted retrospectively and the land was in use for residential purposes at the time of the Hearing and the caravans and associated linking structure were in place, as depicted on the drawings submitted with the application. The description of development given on the application form and decision notice refer to "associated development". That phrase is vague and, after discussing the matter at the Hearing, I have varied the description to make clear what is being referred to which was the associated timber decking and hardstanding, as shown on the submitted plans.
3. On the day of the Hearing a completed Statement of Common Ground was submitted by the Council and the appellant. It is worth summarising its content because the document helps to frame the main matters in dispute between the parties.
4. It is agreed that the appeal site is located within the countryside for planning purposes, outside any defined settlement boundary, and that the proposal is in conflict with Policy 7 of the Cornwall Local Plan (2016) (the Local Plan) because none of the permitted exceptions relating to housing within the countryside set out in that policy would be met.

5. Whilst outside of the settlement boundary of St. Erth the Council accept that the site is located reasonably close to the village which contains some every-day services and facilities.
6. The parties also agree that Cornwall has a housing crisis¹ and that the matter is a material consideration in the determination of the appeal. On account of the personal circumstances of the appellant and his family it is also agreed that rights under Article 8 of the European Convention on Human Rights (the Convention) as set out in Schedule 1 of the Human Rights Act 1998 (the HRA) are engaged, as is the Public Sector Equality Duty (PSED), contained in Section 149 of the Equality Act 2010. In line with established caselaw with respect to Article 8 rights, the best interests of the children must be a primary consideration in the determination of the appeal.
7. The parties also agree that a refusal to grant planning permission and subsequent serving of an enforcement notice would likely render the family homeless, albeit that the Council have stated that they would endeavour to work with the family to reduce the likelihood of that scenario occurring.
8. In view of those agreed matters it is fair to say that the appellant accepts that there is some conflict with the relevant policies of the development plan and that the Council accepts that weight should be given to the very specific personal circumstances that are in play. The nub of the dispute is where the balance should lie.
9. In view of the above, the main issues in the determination of the appeal are:
 - i) The effect of the development on the character and appearance of the landscape and surrounding area and the extent to which that could be mitigated;
 - ii) The degree of harm arising from the location of the site, having regard to its position within the countryside and proximity to shops and services and likely resulting travel patterns;
 - iii) The extent to which the declared housing crisis should weigh in favour of the development;
 - iv) The weight that should be afforded to the personal circumstances of the appellant and his family, having regard to their Human Rights, the PSED and the best interests of the children; and
 - v) Whether the refusal to grant planning permission was proportionate and justified having regard to the balance of material considerations identified above and any other relevant matters.

Reasons

Effect on the Character and Appearance of the Area

10. The appeal site is located towards the top of St. Erth Hill, a typical Cornish lane, enclosed by hedges on both sides, which rises steeply from the village of St. Erth to a farmstead/ loose collection of properties clustered around the junction with Porthcullum Lane. It falls within the inland section of Landscape Character Area CA06, as identified in the Cornwall and Isles of Scilly Landscape

¹ As identified in the document supplied at Appendix 1 of the Council's Statement of Case

Character Study (LCS). That study covers a wide and quite varied area but the intimate scale of the landscape surrounding the site with small to medium sized fields, predominantly enclosed by hedgerows, is consistent with that described in the LCS.

11. Notwithstanding that intimacy, far reaching views are available as one looks back across the valley to the hills beyond. Similarly, the site can be seen in long range views from the slopes of the opposite valley to the south-west. As described in the LCA, outside of the established settlements there are generally few buildings within the undulating countryside other than farms or associated structures. However, immediately to the rear of the appeal site are the gardens and external spaces associated with the cluster of dwellings at the junction with Porthcullum Lane.
12. Within those gardens are various outbuildings and structures and I noted other caravans within the immediate vicinity. The Council indicated that it was investigating one of those caravans but, notwithstanding that, the immediately surrounding area is not characterised by an absence of built form or development. That said, the box-like form of the caravans, the combined bulk of the conjoined units and the light coloured exterior do contrast unsympathetically against the rolling landform and verdant character of the fields and hedgerows.
13. In mitigation, the caravans are situated towards the top end of the site, close to adjacent development and largely tucked away from view behind established vegetation when approaching along St. Erth Hill. Views into the site are also fleeting as one passes along the top of Porthcullum Lane and along the lane to the south of the site before entering the public footpath which runs from that lane back to St. Erth Hill.
14. Views from the public footpath have effectively been prevented as a result of the erection of the timber panel fencing which has been erected. That fencing is extremely harsh and unsympathetic in contrast to the established character of the area where hedgerows predominantly run along field boundaries. Although it may have been erected to screen the caravans from view and provide a secure boundary it does more harm than good in terms of visual impact whilst also creating an undue sense of enclosure along the route of the right of way.
15. The fencing is outside of the red line boundary and does not form part of the development for which permission is sought. However, it has clearly been erected in association with the residential use of the land and is on land under the control of the appellant. At the Hearing, the appellant recognised that a more sensitive solution could be achieved and accepted that a condition that required more appropriate screening would not be unreasonable.
16. That could be achieved in numerous ways. For example, a planting scheme could be secured along the boundary with the public right of way in place of the current fencing, perhaps supplemented by a less intrusive, agricultural style, post and mesh fence to secure the space. Or the timber fencing could be removed and a planting scheme could be secured around the western and southern boundaries of the application site, as depicted by the red line boundary. Subject to a suitably worded condition, an appropriate scheme could be provided in accordance with details that would first be submitted to and approved by the Council.

17. Subject to such a scheme the impact of the development when viewed from the public footpath could be mitigated to a degree. Clearly, planting would not ameliorate all of the visual impact, particularly in the winter months when deciduous plants would offer reduced screening. Any planting would also take time to establish and that would be a limiting factor in the success of any scheme.
18. Some visual harm relating to the unsympathetic character of the caravans and the associated domestic paraphernalia would remain. As requested by interested parties I took the opportunity to view the site at mid and long range, from the public footpath which runs along the river from the village and from the opposite valley side. From the footpath, views are fleeting and any impact is minimal. Clear views of the site are available from the opposing valley side where the bright caravans do stand out as a result of their position high up on the valley side. However, the field of view is wide from those long range views and the appeal site represents a small part of the vista and the caravans are seen against the backdrop of the residential development to the rear which lessens the harmful landscape impact to a degree.
19. Similarly, the extended area of hardstanding adjacent to the entrance to the site has brought an added air of urbanisation which contrasts with the character of the countryside, notwithstanding that there is evidence of longstanding hard surfacing over part of that area.
20. Overall, the development has caused harm to the character and appearance of the area, albeit that the harm is modest and to some extent mitigated by the position of the caravans close to adjacent development and the screening afforded by established planting. With mitigatory planting the impact could be further reduced but a degree of residual harm would remain.
21. Consequently, the proposal fails to conserve or preserve the local landscape, contrary to the aims of policy 1 (c & d) and policy 23(2) of the Local Plan and would fail to reflect the distinctive character of the rural location, contrary to policy 12 (a & b). There is also conflict with Policy HT2 (xi) of the St. Erth Neighbourhood Plan (2018) (the SENP) on account of the harm to the character of the countryside and paragraph 130(c) of the National Planning Policy Framework (the Framework) which requires development to be sympathetic to its landscape setting.

Location of the Site in Relation to Shops and Services and Likely Modes of Travel

22. The Spatial Strategy in the Local Plan, as identified in policies 2 and 2a, sets a clear aim that the majority of new growth will be located within established settlements where it will support local services and facilities. Allied to that strategy Policy H7 seeks to limit residential development within the countryside and identifies that such development will only be permitted where special circumstances are met. The policy seeks to limit new housing to 5 specified exceptions and it is common ground that the proposal does not meet any of those.
23. Similarly, the site does not meet any of the exceptions for housing within the countryside set out within policy HT2 of the SENP. Thus, there is conflict with the aims of the development plan and the spatial strategy in terms of the location of the site which is outside of any defined settlement and not best placed to support local services or facilities.

24. The Council also contends that there is conflict with the aims of Policy 27 of the Local Plan which requires development to provide safe and suitable access to the site. As noted above, the site is reached via a typically narrow Cornish lane which does not have segregated pavements and is lacking in street lighting once one leaves the confines of the village. That said, the absence of features one would expect within an urban area is not unusual within the countryside and it does not follow that the use of the lane is inherently dangerous.
25. I walked along the lane from the village when visiting the site to familiarise myself with the surroundings and again when visiting on the day of the Hearing. It was not unduly busy with traffic and the narrowness and gradient are such that most drivers will take due care and not drive at excessive speed. Even in the short duration of my time visiting I witnessed other people using the lane, walking, cycling and on horse back.
26. A local resident at the Hearing did make reference to an accident on the lane a number of years ago but without further detail of the circumstances that alone does not lead me to conclude that the lane is unsuitable for use by different modes of travel. In fact, the same resident did acknowledge that he regularly walks along the lane when attending social engagements in the village. In my view the access arrangements are not particularly dangerous or unusual in a rural context to an extent that would deter those living at the site from accessing facilities by means other than the car. That is not to say every journey is likely to be made in that manner but it is a realistic option for accessing the shop, school or other local services.
27. In the absence of regular public transport visits further afield for shopping or higher order services are likely to be by car but that is not unusual in a rural area and the same would be the case for residents situated within the village boundary. Hayle is a short drive away as is St. Erth train station and its park and ride facility. Consequently, whilst outside the village and not consistent with the aims of the spatial strategy the site is not particularly badly located in terms of travel patterns and choices in the context of a rural area such as Cornwall, having regard to paragraph 105 of the Framework which recognises that opportunities to maximise sustainable travel choices will be different between rural and urban areas.
28. Having regard to all of the above I find no undue conflict with the aims of policy 27 of the Local Plan with regard to the available travel choices and the accessibility of the site to local services and facilities. Moreover, given the small scale of the development and likely trip generation the use is not likely to have a notable impact on the level of traffic using the lane or road safety, in compliance with policy GT4 of the SENP.

Housing Need/ Supply

29. The Council maintains that it can demonstrate a 6.5 year supply of housing land to meet the defined need in the local area and the appellant has not provided any evidence to dispute that position. Consequently, in planning policy terms, the Council appears to be meeting the requirements of the Framework in terms of identifying the housing needs of its area, including of different types and tenures, and identifying sufficient land to meet those needs.
30. However, at the same time, the Council has declared that there is a housing crisis within Cornwall and have published an action plan "Securing Homes for

All: A Plan to Address Cornwall's Housing Crisis"². That plan identifies that the lack of affordability of homes to buy is acute and that the lack of available (and affordable) private rented homes has created significant difficulties for residents who need to quickly access accommodation and for those unable to afford homeownership and who do not have sufficient priority to secure affordable housing. Moreover, the demand for affordable housing has long exceeded availability. The document highlights that the crisis appears to have intensified as a result of the pandemic.

31. On the face of the matter there would appear to be a paradox between the planning policy position, which indicates that the local plan is providing sufficient housing to meet the needs of the population including different tenures, and the declaration of a housing crisis of affordability and availability. It is difficult on the limited evidence available to square those two seemingly opposing positions.
32. However, whilst the declared housing crisis is clearly a material consideration the appellant does not dispute that the Council can deliver a five-year supply of housing in planning policy terms. Thus, in respect of paragraph 11(d) of the Framework, there is no reason to consider that the policies of the development plan that are most relevant for determining the appeal should be considered out of date.
33. That said, the appellant and his family are at the sharp end of the local housing crisis and clearly have a defined need for accommodation that has not been met by the market or affordable provision. The Council accepts that a refusal of permission, allied to the service of an enforcement notice would likely render them homeless, albeit that they would work with the family to try and avoid that situation.
34. Whilst I have no reason to doubt that would be the case, there is an acknowledged shortfall between the demand for affordable housing and supply. The experience of the family over a number of years has been one of unsuitable accommodation in bed and breakfasts, holiday parks and cramped housing unsuited to a family with four children, even without consideration of the very specific personal needs of two of the children which I shall address in more detail below.
35. At the Hearing it did become clear that the family appear to have given up in their attempt to secure alternative housing through the Council's 'Homechoice' initiative³ as a result of losing hope that anything suitable would be found. Whilst, to some extent, that may be an understandable reaction given the long history of unsuccessful attempts to find accommodation it is not something that counts in favour of the appellant when seeking to justify the proposed development which is acknowledged to be in a location that is not fully policy compliant.
36. Nonetheless, whilst new housing is being planned and constructed in the area⁴ the Council could not directly point to alternative accommodation that would be suitable for the family if they were to leave the appeal site. At least in the

² Appendix 1 of the Council's Statement of Case.

³ As explained by the appellant in oral evidence

⁴ As highlighted in the Council's Delegated Officer Report

short term the likely effects of a refusal of planning permission would be significant in terms of the family's stable home life.

37. When viewed in the round the effect of the declared housing crisis is a material consideration and the experience of the family in trying unsuccessfully to secure suitable housing is effectively the embodiment of that crisis in action. In the face of the likely difficulty of securing alternative suitable housing the benefit of the accommodation provided at the appeal site attracts significant weight in favour, particularly in light of the personal circumstances of the family which I shall address below.

Personal Circumstances

38. The appellant lives at the site with his partner and their four children. The two younger children attend primary school within the village and have done since being enrolled in pre-school. I have been provided with information relating to the medical and schooling needs of the two older children, including letters from a care professional, assistant headteacher and a representative of a registered society which supports children and families with particular needs. I also heard from the family at the Hearing in respect of how those needs impact upon their daily lives.
39. In the interests of protecting sensitive personal information, particularly in relation to the children concerned, I shall not set out the full details of the information provided. However, the submitted letters highlight improvements in emotional and physical development since the older children have been living at the site. It is unrefuted that having a settled base with sufficient internal and external space has brought benefits in terms of their respective conditions and overall wellbeing. That is particularly the case compared to the cramped conditions within which the family had previously been living.
40. The evidence indicates that the site was chosen by the appellant on the basis that it was available and affordable as opposed to the family having a direct link to the village. However, the site is well suited to enable the family to access schooling for all of the children and other appointments and specialist care. The family clearly have a need for housing within the wider local area and lack of evidence of direct links to St. Erth before moving to the site is not a matter that weighs heavily against the development.
41. In the absence of any obvious alternative and suitable accommodation I have no doubt that continuing to reside at the appeal site is in the best interests of all four children for the reasons set out above; the younger children would continue to have access to education within the village and the location and space available has clearly been beneficial to the older children with their specific needs.
42. Having regard to established caselaw the best interests of the children must be a primary consideration in the determination of the appeal and no other consideration should be treated as being inherently more significant. That is not to say that the best interests of a child will necessarily prevail over other matters in the decision making process but in reaching my judgement I must give the issue primacy and it will require countervailing reasons of significant weight to justify an outcome that goes against those interests.

43. Furthermore, in respect of the PSED I must have regard to the need to advance equality of opportunity between persons who share a protected characteristic and those who do not, as set out within Section 149 of the Equality Act. For the reasons set out above, the existence of a settled base facilitates access to education, medical services and has given the two older children space to develop in a physical and emotional sense, all of which are important in minimising disadvantages that arise as a result of their recognised disabilities which amount to a protected characteristic.
44. Aside from the specific interests of the children it is common ground that the Article 8 rights of all of the residents of the site are engaged. Whilst no enforcement notice has been served a refusal to grant planning permission would have clear implications for the home and family life of the appellant and his family, particularly given the likely difficulty in finding alternative accommodation.
45. Having regard to the above, the personal circumstances of the family and particularly the best interests of the children are matters that attract substantial weight.

Other Matters

46. Interested parties, including the Parish Council have raised the question or precedent if I were to allow the appeal which, in their view, could lead to further pressure for development in non-policy compliant locations outside defined settlement boundaries. Reference has also been made to a 2018 appeal which was made against the service of an enforcement notice alleging a material change of use of land and the siting and use of a caravan for residential purposes, including the erection of a timber building for domestic purposes and the laying of a hard surface. On the face of the description that development would appear to be similar to that before me.
47. The Inspector dismissed the appeal and upheld the notice. In his reasoning the Inspector noted that the development was prominent, harmful to the character of the area and contrary to policy 7 of the Local Plan and HT2 of the SENP in terms of its countryside location. He also noted that the personal circumstances in that case did not outweigh the harm that he identified.
48. Any appeal or planning application must be considered on its individual merits based on the specific circumstances. In instances where personal circumstances are involved it is unlikely that two cases will be exactly the same and the level of any harm to the character of an area is also likely to be dependent on the precise location and prominence of a development. Consequently, just as the 2018 appeal decision does not set a precedent for the determination of the present case, my decision will not set a precedent for any future development due to the need to consider any scheme on its merits. Accordingly, concerns relating to precedent do not have a significant bearing on my decision.
49. Anecdotal concerns were also raised regarding flooding on the lane to the rear of the site but there is little evidence that arose as a result of the development before me. A local resident identified that the Council had recently cleared out the drainage ditch to the side of the lane and it may well be that will alleviate any issues. In any event in the absence of anything to substantiate claims that

the development itself has caused flooding it is not a matter that weighs against the appeal.

The Planning Balance

50. The location of the site within the countryside is contrary to policies 2, 2a and H7 of the Local Plan and policy HT2 of the SENP. The development has also caused harm to the character and appearance of the area that could not be fully mitigated by conditions and is contrary to policies 1 (c & d), 23(2) and policy 12 (a & b) of the Local Plan and policy HT2 (xi) of the SENP. There is clear conflict with the relevant policies of the development plan taken as a whole.
51. It has not been put to me that the aims of the development plan are inconsistent with the Framework and, despite the recognition of a housing crisis, no evidence has been presented to indicate that the Council cannot demonstrate a five-year supply of housing land.
52. However, for the reasons given, the extent of harm is limited and localised. Travel choices for those living at the site are not markedly different to anyone living within the village itself and the visual harm is apparent in fleeting views and partially mitigated by existing planting and could be further mitigated by an appropriate landscaping scheme. That said, the purpose of having a development plan is to guide development to appropriate locations as part of a wider strategy. Whilst harm in individual proposals may not be substantial of themselves, the purpose of the plan is to guide collective decision making. Bearing in mind the presumption in favour of the development plan and the need to maintain public confidence in the plan making process, the conflict is not a matter that should be overlooked lightly and I afford it weight accordingly.
53. On the opposite side the personal circumstances of the appellant and his family are matters that attract significant weight. The consequences of dismissing the appeal are likely to be extreme, resulting in homelessness, due to the absence of any identified alternative, affordable, local accommodation that would be suitable for the family, an issue that is symptomatic of the declared housing crisis. Those consequences would be disruptive to all of the children in terms of access to education and would make continued access to specialist medical care and education more difficult for the older children. Thus, having particular regard to the best interests of the children and my duty under the PSED, the matters in favour of the scheme are of substantial weight.
54. In my view, the weight that should be afforded to those matters clearly outweighs the harm that I have identified which is relatively modest. Whilst any conflict with the development plan should not be lightly overlooked, the balance of considerations in this instance indicates that a decision other than in accordance with the plan is justified. To put that another way, dismissing the appeal would represent a disproportionate response when the significant impact in respect of the specific personal circumstances is balanced against the comparatively limited impact in respect of the harm arising.
55. The appellant accepts that an unfettered permission would not be justified because without the specific personal circumstances there would be no convincing rationale for permitting the scheme which is contrary to the

development plan⁵. Given that the specific personal circumstances are a key factor in determining that a refusal to grant permission would be disproportionate it is clear that any permission should be limited to occupation of the site to the appellant, his partner and their dependents.

56. However, the other key factor in the equation is the absence of suitable alternative accommodation. There is no specific reason why the family need to reside in caravans in the exact location of the site. If alternative and suitable local housing accommodation was available/ affordable their needs could be met and there would be no justification in planning terms for a continued use of the land contrary to the policies of the development plan. Such accommodation is seemingly unavailable at the time of my decision but that may not be the case in future. The Council has indicated a willingness to work with the appellant and planned local housing developments, including affordable provision do appear to be coming forward in the local area.
57. In that regard the appellant's current position of no longer actively seeking alternative provision through the Homechoice scheme or other methods does count against him. It is legitimate for the Council to regulate land use in the wider interest and the harm I have identified and conflict with the development plan should only be permitted for as long as is necessary to avoid undue impacts in terms of the personal circumstances identified.
58. Accordingly, I am of the view that any permission should not only be restricted on a personal basis but also for a time limited period to enable alternative provision to be considered and/or brought forward and for the appellant to make reasonable endeavours to secure such accommodation. In terms of proportionality, a longer period would enable continued schooling and home life without disruption whilst a shorter period would limit the continued harm caused by the scheme. It is not an easy balance to strike.
59. A twelve month period would seem short in terms of disruption and limited in terms of allowing alternative provision to come forward. Five years would be excessively long and one may expect alternative provision to be identified in a shorter timeframe. A proportionate balance would be a three-year period. It seems realistic that alternative provision may come forward within that timeframe, particularly given the urgency that the Council appears to be treating the matter, having identified a range of measures to deal with the housing crisis⁶.
60. Accordingly, the balance indicates that planning permission should be granted, notwithstanding the conflict with the development plan, but that permission should be limited in duration and that occupation should be restricted to the appellant, his partner and their dependents. In my view that would be a proportionate response having regard to all material considerations and taking account of the interference with the human rights of the individuals concerned and the PSED.

Conditions

61. There is no need to impose the standard commencement condition or a condition requiring the development to be carried out in accordance with the

⁵ As confirmed by the appellant's agent in discussion at the Hearing.

⁶ Set out in the document at Appendix 1 of the Council's statement of case

- approved plans because the development has already taken place and there is no indication that what is on site does not comply with the submitted drawings.
62. For the reasons given conditions are necessary and reasonable to limit occupancy to the appellant, his partner and their dependents and to limit the duration of the permission. In the interests of clarity and to ensure that the use is in line with that put forward a condition to limit the number of mobile homes/ caravans on the site is also necessary.
63. A phase 1 site investigation report was submitted with the application which highlighted a potential for contamination on the site. The Council has recommended that conditions are attached to secure further investigation and any necessary remediation. I am satisfied that the condition is necessary to ensure that any adverse impacts in terms of health or the environment are appropriately mitigated. The Phase 1 report identifies that certain risks are low, for example in relation to radon, due to the fact that the caravans are situated above ground, and makes specific recommendations with regard to the scope of follow up work. I have amended the wording of the suggested condition to take account of the findings of that report.
64. The Council has not suggested that the issue is one that should preclude a grant of permission pending further information and the appellant has raised no objection to the imposition of the suggested conditions. However, given that the requirements are necessary to make the development acceptable in planning terms it is necessary to word the condition to the effect that the use shall cease and the benefit of the permission will essentially be revoked if the requirements are not complied with within a set timescale. Consequently, I have worded the condition in line with a 'development scheme' style condition that is commonly used in cases where permission is granted retrospectively and remedial action is necessary.
65. The ground investigation required by the first limb of the condition will be sufficient to identify any harm and the second limb will ensure that any necessary remediation is secured. Unlike large scale development and building sites there will be no further ground works or building permitted beyond what has already occurred. Consequently, I find that the third limb of the suggested condition relating to unexpected contamination to be unnecessary in the circumstances of the case.
66. A condition is also necessary to secure the removal of the existing close boarded fence and a suitable landscaping scheme to mitigate visual impact. The precise details of that scheme should be submitted to and agreed in writing by the Council before implementation. I have considered whether it is reasonable to require such a scheme when the permission is only to be granted for a temporary period. On balance, the removal of the fencing and some form of appropriate screening, either along the line of the footpath or closer to the caravans themselves would mitigate some of the impact without leading to excessive expense such that it is a reasonable requirement. As above, I have amended the suggested wording to ensure that the works are secured as part of a development scheme condition, in line with a strict timetable, with consequences for non-compliance.
67. Interested parties have requested that a condition is attached to secure a drainage scheme for the site. However, I understand that the caravans are connected to a septic tank that was in existence in connection with the former

use. There is no evidence before me to suggest that this is not functioning properly and the Council is satisfied that no condition in that respect was necessary. On the information available I see no reason to take a different view.

68. A condition was also suggested relating to archaeological investigation. However, given that the caravans are sited above ground any work is unlikely to have impacted on any archaeological remains and I find the suggested condition unnecessary. The Council's suggested condition to require the removal of engineering operations and structures within the land outlined in blue lacked clarity as discussed at the Hearing. In the absence of a clear understanding of what the condition seeks to achieve I shall not impose it and if any unspecified development outside the application site is of concern to the Council it may follow it up separately.

Conclusion

69. For the reasons given above I conclude that the appeal should be allowed subject to the conditions set out in the schedule attached to my decision.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Simon Ruston	Agent
Mr Jamie Bagnall	Appellant
Miss D Perry	Partner of Appellant
Mrs C Bagnall	Appellant's mother

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adam Carlyon	Planning Officer
Ms C McLennan	Team Leader

INTERESTED PERSONS:

Cllr Tim Greatrex	Vice Chair, St. Erth Parish Council
Cllr John Martin	Elected Member
Mr Cording	Local Resident
Dr. Claire Davis	Local Resident
Mr David Hatch	Local Resident

SCHEDULE OF CONDITIONS:

- 1) The residential use hereby permitted and the mobile homes stationed on the land shall be occupied only by Mr Jamie Bagnall, Miss Demelza Perry and their resident dependents.
- 2) The use hereby permitted shall be for a limited period being the period of three years from the date of this decision. At the end of that period the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 3) No more than two mobile homes, no static caravans and no touring caravans shall be sited on the land. The mobile homes shall be of the dimensions and in the location shown on the drawings submitted with the planning application.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any of the requirements set out below:
 - i) Within 6 months of the date of this decision a landscaping scheme shall have been submitted to the Local Planning Authority for approval and the said scheme shall include a timetable for its implementation and details of ongoing maintenance for the lifetime of the permission, as defined by condition 2. The scheme shall include details for the removal of the existing timber fence adjacent to the public footpath to the east of the site and a scheme of planting to mitigate the visual impact of the caravans and hardstanding including details of species, plant sizes and proposed numbers and densities, and location of the planting scheme.
 - ii) Within 6 months of the date of this decision Phase 2 Site Investigation identifying the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority, in line with the recommendation of the Phase 1 Desk Study, dated 16 August 2022, prepared by Yes (Your Environmental Solutions) (ref: Yes2026a).

This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

As recommended in the Yes2026a Desk Study the assessment shall include a survey of the extent, scale and nature of contamination, together with an assessment of the potential risks to human health and water supply.
 - iii) Should the Phase 2 Site Investigation required by subsection (ii) above find land affected by contamination which poses risks identified as unacceptable, a detailed remediation scheme shall be submitted to the Local Planning Authority within 9 months of the date of this decision. The scheme, which shall include a timetable

for its implementation, shall include an appraisal of remediation options, identification of the preferred options, the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken, including the requirement for a verification plan once any necessary work has been undertaken. The remediation scheme shall be sufficiently detailed and thorough to ensure that on completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990.

- iv) If within 12 months of the date of this decision the local planning authority refuse to approve the above schemes or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- v) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
- vi) The approved schemes shall be carried out, completed and maintained in accordance with the timetables and details so approved.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.