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## Appeal Decision

Hearing held on 5 December 2023

Site visit made on 5 December 2023

**by H Davies MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 December 2023**

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**Appeal Ref: APP/D0840/C/23/3317693**

**Little Acorn Farm, St. Keyne, Liskeard PL14 4QS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Mr A Price against an enforcement notice issued by Cornwall Council.
- The notice was issued on 31 January 2023.
- The breach of planning control as alleged in the notice is described as "without planning permission, the change of use of the land from agricultural to residential use through the stationing of a caravan for residential purposes along with associated operational development including the creation of a new access track and wooden outbuilding. The land has been outlined in red on the attached plan 'The Plan'. The approximate position of the residential caravan is marked with a blue 'X' on the attached plan and the approximate location of the wooden outbuilding is marked with a blue 'A'".
- The requirements of the notice are to:
  1. Cease the residential use of the caravan shown in the approximate location by a blue 'X' on the attached plan and remove caravan from the land;
  2. Remove all services connected to the caravan indicated by a blue 'X' on the attached plan, including electric cabling, water pipes, sewage pipes etc;
  3. Dig up and remove the wooden supports around the caravan from the land.
  4. Demolish and remove from the land the outbuilding shown in the approximate locations by a blue 'A' on the attached plan;
  5. Remove from the land all materials and debris associated with the residential use of the land;
  6. Cease the use of the land for the storage of non-agricultural materials/items, not limited to motor vehicles, trailer and building materials;
  7. Remove from the land the access track running along the southern boundary;
  8. Remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
- Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision: The appeal succeeds, the enforcement notice is corrected and then quashed and planning permission is granted, with conditions, as set out below in the Formal Decision.**

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### The notice

1. I have a duty to get the notice in order and s176(1) of the Act grants powers to (a) correct any defect, error or misdescription in the enforcement notice, and/or (b) vary the terms of the notice, provided it would not result in injustice

to the appellant or the Council. The wording of the notice is reasonably clear, but there are a few corrections which would improve clarity, without fundamentally changing the notice.

2. The allegation set out in the notice states a 'change of use of the land from agricultural to residential'. There is evidently agricultural use taking place on the land, as well as the residential use, and consideration needs to be given to whether any change is material. Consequently, the allegation would more correctly be described as a 'material change of use from agriculture to a mixed use comprising of agriculture and residential'. This matter was discussed at the hearing and the correction agreed by both parties.
3. The notice refers to 'associated operational development including the creation of a new access track and wooden outbuilding'. The term 'including' is unclear and the notice does not say what other operational development might be covered. Therefore, for clarity and precision, I will replace the word 'including' with 'consisting of'. The appeal submissions, from both parties, indicate only that consideration was given to the outbuilding and track in terms of operational development.
4. On the basis of the above, I am satisfied that I can correct the allegation in the notice without causing injustice. The corrections are set out in the formal decision.

### **Preliminary matters**

5. The breach of planning control alleged in the notice refers to a 'change of use', and 'associated operational development'. The reasons for issuing the notice refer to the period of immunity for a change of use as well as operational development, stating that the breach has occurred within the 'last ten years and four years'. There are separate requirements relating to the change of use and the outbuilding and track. This indicates that the change of use and the operational development, while linked, are considered as two distinct breaches and I have considered them as such.
6. The notice refers to a 'caravan for residential purposes'. It is evident from the notice, and other appeal submissions, that at the time the notice was issued, there was a caravan, with service connections and wooden upright/supports around the caravan. During the site visit, following the close of the hearing, it became evident that timber cladding had been affixed to the exterior of three sides of the caravan, and a timber extension added along the length of the fourth side, with a metal sheet roof over the caravan and extension. These additions had not been raised by either party in their written submissions (which consistently refer to a caravan) or during the course of the hearing.
7. This appeal relates to the development subject to the notice, not any development which has taken place subsequently. Any planning permission which may be granted under an appeal on ground (a) relates to the development subject to the notice. Consequently, my consideration of this appeal and hence any planning permission which may be granted is on the basis of a change of use through the stationing of a caravan for residential purposes, and operational development consisting of a new access track and wooden outbuilding. The timber cladding, extension and roof to the caravan are not covered by the notice and hence are not subject to this appeal and cannot benefit from any planning permission granted.

8. Similarly, during the site visit, I noted a number of small and modest sized structures on the site, including a shed, a number of animal shelters and a section of solid fencing near the entrance. Some of these are shown in photographs within the Council appeal statement, but as they are not covered by the notice, I have not considered them under this appeal.
9. Since preparation of the Council's appeal statement, the former Landscape Character Areas of 2007 have been reviewed and replaced them with the Cornwall Character Areas. LCA22 South East Cornwall Plateau and LCA23 Looe River Valleys, have been replaced by CCA35 Looe Valley Catchment. Copies of CCA35 were provided and discussed at the hearing. Both parties agreed that this revision did not significantly change the way in which the impact of the development on landscape character needed to be considered. Both parties agree that the Council can demonstrate a 5 year housing land supply.
10. The appeal is in the name of Mr Price. However, the majority of the work on the business is undertaken by Mrs Price and it was Mrs Price who provided the majority of appellant verbal input during the hearing. Notwithstanding this, throughout this decision I refer to the 'appellant'.

### **The appeal site and relevant planning history**

11. The land consists of approximately 6.5 hectares of grassland. It is in the countryside and accessed via an existing access from a quiet, narrow unclassified road. It lies on sloping ground and is bounded by mature vegetation.
12. The appellant has resided in a caravan on the land since October 2021. An application for the siting of a temporary rural workers dwelling (reference PA21/10389 - subsequently referred to as the 2021 planning application) was submitted in November 2021 and refused in July 2022. No appeal against the refusal was submitted leading to the enforcement notice being served in January 2023.

### **The appeal on ground (a) and the deemed planning application**

13. The appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation, as corrected. Hence, planning permission is sought for the material change of use of the land from agriculture to a mixed use comprising of agriculture and residential use, facilitated by the stationing of a caravan for residential purposes, along with associated operational development, consisting of creation of an access track and construction of a wooden outbuilding.

### *Main Issues*

14. With reference to the reasons for issuing the notice, the main issues are:
  - Whether the stationing of a caravan for residential purposes satisfies planning policies for residential development in the open countryside; and
  - The effect of the development on the character and appearance of the land and the surrounding area.

*Reasons – Planning policies for residential development in the open countryside*

15. Both parties agree that the land lies within the open countryside and is in an isolated location. Paragraph 80 of The National Planning Policy Framework (the Framework) states that planning policies and decisions should avoid the development of isolated homes in the countryside, unless specified circumstances apply. The circumstance relevant to this case is where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy 7 of the Cornwall Local Plan 2010-2030 (LP - adopted 2016) specifies that the development of new homes in the open countryside will only be permitted where there are special circumstances. One of those circumstances is for temporary accommodation to support established and viable rural business. This appeal relates to a new business, so this circumstance does not apply. The circumstance relevant in this case, which might allow for a dwelling in the countryside, is for full time agricultural, 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. This local policy approach is compatible with the approach in the Framework.
16. Both parties agree that there is no other suitable or available accommodation in the immediate area. Consequently, it is necessary to establish if there is an 'essential need' of the business, for a worker to live at the land.
17. Neither national nor local planning policy specifically defines 'essential need' or makes express mention of temporary rural worker dwellings for new businesses. Notwithstanding this, the Planning Practice Guidance<sup>1</sup> (PPG) sets out what may be relevant to take into account when considering the need for an isolated home in the countryside for essential rural workers. It suggests this could include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural business, for instance, where farm animals or agricultural processes require on-site attention 24-hours a day, and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of products. The PPG also suggest consideration is needed of the degree to which there is confidence that the business will remain viable for the foreseeable future and in the case of new business, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

Whether there is an essential need

18. The business is centred around the breeding, rearing and selling of animals and animal product, primarily alpacas, but also emus, other poultry and sheep. With the 2021 planning application, the appellant provided an agricultural appraisal (AA - dated September 2012) produced by Reading Agricultural Consultants (RAC) which gave details of the proposed business. A RAC appeal statement (RACAS - dated March 2023) provided an update to the AA regarding the development of the business. It sets out some variations from the original plan for the business (including the addition of emus and selling of most of the sheep), but states that essentially the business proposal remains the same.

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<sup>1</sup> Paragraph: 010 Reference ID: 67-010-20190722, Revision date: 22 07 2019

19. According to the AA and the RACAS, at the time of the 2021 planning application, the appellant had 20 alpacas on the site, with a mix of breeding females, cria and males. By March 2023, this had risen to 48 alpacas, 6 emus, plus chickens and rare breed poultry. The Council have not provided evidence to dispute these numbers. At the time of the appeal, the stated numbers were 64 alpacas (36 breeding females, 4 stud males, 14 cria, 10 young males) 9 emus, 100 chickens, 27 geese, and 3 sheep. On the evidence of my site visit, I have no reason to dispute these numbers. There have been some births, but the appellant acknowledges that the alpaca numbers have primarily been increased through purchases rather than breeding, as they seek to establish the business.
20. The parties disagree on whether the business requires a full time worker. It is a broadly accepted benchmark that full time hours for a rural worker equates to 275 SMDs (Standard 'Man' Days) a year. There is no definitive guide to labour demands for alpacas and the parties reached different conclusions on the basis for the calculations.
21. In reaching estimates of SMDs per animal, the AA cites an Australian report<sup>2</sup>, along with other more establish farm management publications, and incorporates an allowance for economies of scale. At the time of the 2021 planning application, for 25 breeding alpacas and 25 other alpacas, plus other animals, and an allowance for management and maintenance, the AA reached a total SMD of 296, so in excess of full time. As part of the 2021 planning application, the County Land Assessor (CLA) provided an assessment of the proposal. The CLA raised questions about the Australian report and used a different approach in reaching their estimates of SMDs per animal, including reference to figures used for cattle. In the Council appeal statement of May 2023, they use the updated animal numbers and the CLAs SMDs per animal to reach a figure of 0.7 of a full time worker. While this is less than full time, it is not significantly so, and is based on fewer alpacas than the final stocking numbers given in the AA.
22. Whether the business could and would generate enough work for a full time worker was discussed in detail at the hearing. Rough assessments were made of the total SMDs, based on the stated number and type of animals on site at the time of the hearing (which for the alpacas is almost at the final stocking numbers given in the AA for onwards from year 3). Using the SMDs per animal indicated by the CLA resulted in a total just under a full time worker. Using the different SMDs per animal indicated by the AA resulted in a total which was modestly in excess of a full time worker.
23. Consequently, despite the differences in how each party calculated the labour requirements, I conclude that the stocking numbers of the business, at their current and proposed levels, warrant a full time worker. However, the need for a full time worker to service the business is not, in itself, determinative of an essential need for a worker to live on site.
24. The Council and the CLA say there is not a need for a worker to live on site to meet the needs of the business. They suggest scheduling alpaca matings in batches with the aim of grouping births together. They also point to a British

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<sup>2</sup> Rural Industries Research and Development Corporation (RIRDC) - Benchmarks for Animal, Buffalo and Rabbit Production and Duck Processing – 2001.

Alpaca Society (BAS) fact sheet<sup>3</sup> which indicates that alpaca birthing generally occurs during daylight hours when a worker would be likely to be on site anyway, without having to live there.

25. Submissions from the appellant, both in the AA, the RACAS and verbally at the hearing, set out the challenges in ensuring effective and safe keeping and breeding of alpacas on a commercial basis, which forms the core of the business. In particular, they emphasise the significant variation in the gestation period, leading to the unpredictable timing of births, along with an extended birthing season. They also point to the issues in achieving successful mating and the difficulty in grouping matings together.
26. At the hearing the appellant set out the number of cria birthed on site in the last 2 years and the number of those births where some immediate intervention was needed<sup>4</sup>. The appellant also stated that births have happened outside of the hours when a worker would generally be on site, if they did not live there, and detailed the input required for one cria who was premature, including regular feeds through the night. In addition, I am informed that alpacas do not show obvious signs of illness, either during pregnancy or in general, so require regular monitoring.
27. The appellant claims have been supported by a letter from the vet who works with the business<sup>5</sup>. The BAS fact sheet acknowledges that signs of an approaching birth are often imperceptible and that while the rate of difficult births might be low, in such cases, immediate assistance is generally required. The CLA acknowledges that alpacas require greater observation than traditional livestock.
28. On the available evidence, I am persuaded that grouping births into a set period of the year would not be easily achieved. Births can happen at unpredictable times with little if any warning, and pregnant females need to be carefully monitored as the need for quick intervention is not uncommon.
29. To date, the number of alpaca births within the business and the number which needed assistance is modest but is likely to go up as the number of pregnant females is increased. Birth incidents and other illness may not be frequent, but if someone was not on-site to respond quickly when an issue occurred, the likelihood of an animal being lost would be greatly increased. The numbers may be small, but the loss of an individual alpaca would be significant as a proportion of the overall business.
30. In addition to the alpacas, given the number of free range poultry on the land, there may be occasions where action might be needed at very short notice, including at night, due to incidents including predators, intruders and adverse weather.
31. Animal welfare is my primary consideration, but the need to ensure animals and equipment are not stolen also weighs in favour of an on-site presence. Particularly given the isolated location, and the length of time to travel to the site if not resident there, this would be difficult to achieve via other means, such as CCTV.

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<sup>3</sup> Fact Sheet #3, 2018, Alpaca Birthing

<sup>4</sup> 2022 – 7 births, 2 needed assistance; 2023 – 14 births, 5 needed assistance

<sup>5</sup> Calweton Veterinary Group, letter of November 2023

32. On balance, I accept that at the current stocking numbers, the effective operation of the business, including breeding, birthing and care for the alpacas, combined with the management and care of the other animals, requires on-site attention, 24-hours a day, all year round, to ensure animal health, prevent crime, and to deal quickly with emergencies. To enable this, there is an essential need for a worker to live at the site.

Whether the business is viable for the foreseeable future

33. On balance, it has been demonstrated that the agricultural business activities on the land are sufficient to require a full-time rural worker and that there is an essential need for that worker to live at or near the site to ensure the functioning of the business. Despite this, the business is new and not yet fully established, so I need to consider the likelihood of it being viable for the foreseeable future. The parties disagree on whether the land is of a sufficient size to support the proposed stocking levels, and whether the business has been planned on a sound financial basis.
34. The AA projects that by year 3 the business would have 69 alpacas, increasing to a final number of 76. The AA also states that the recommended stocking rate for alpacas is 10 to 14 per hectare. While they do not challenge the stocking rate, the Council raised concerns that the land is insufficient to accommodate the numbers, taking into account its size, gradient and quality, the needs of the other animals, and the areas not available to animals. This was discussed at the hearing. The Council agreed that using the higher alpaca stocking rate of 14 per hectare, the land is sufficient to accommodate the numbers, along with the other animals and land uses. On the evidence before me, I conclude that whilst the stock density may be near the limits, the numbers can be achieved without detriment to the animals or the land.
35. A business plan and estimated finances is set out in the AA from the 2021 planning application. Estimated on average sales prices derived from the AlpacaSeller website, the AA estimates that by year 3, the business could generate around £39,000 just from the sale of alpacas. Additional income would come from stud services and the sale of wool and eggs. The business plan in the AA predicts an income of approximately £9,700<sup>6</sup> in year 1, £42,100 in year 2, £68,100 in year 3 and £74,000 onwards. With variable and fixed costs deducted, the AA gives the predicted net farm profit for the business at around a loss of £11,300 in year 1, and a profit of £11,400 in year 2, £32,600 in year 3, and rising to around £36,600 onward.
36. An updated financial assessment from RAC<sup>7</sup>, dated March 2023, claims that the sale of alpaca alone could generate £44,000 a year by year 3. It updates the income projections to around £45,200 in year 1, £68,400 in year 2, £88,200 in year 3 and £89,200 onwards. The net farm profit is updated to £9,800 for year 1, £32,500 for year 2, £48,900 for year 3 and £49,000 onwards.
37. The appellant has provided business accounts for the past 2 financial year. They show the income from sales of livestock and eggs as £6,600 in 2022 and £18,600 in 2023, with an overall loss of £3,400 for the year ending March 2022 and an overall profit before tax of £3,000 for the year ending March 2023.

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<sup>6</sup> Estimated figures from the AA and actual figures from the accounts have been rounded to the nearest 100.

<sup>7</sup> Appellant consultant statement Appendix 7

38. The appellants have been on site and operating the business since late 2021, but in their written submissions and at the hearing, they say they held back on aspects of business development until planning matters had been decided. This may well be the case, but it is evident that the business has been started with significant investment made in livestock. In addition, the AA and the updated financial assessment relate to calendar years whereas the accounts relate to financial years. Consequently, I cannot conclude with any certainty which year in the business plan the 2023 finances should realistically be considered against. Notwithstanding this, the alpaca numbers on site at present equate to the numbers given in the updated financial assessment for years 1 and 2. Despite the alpaca numbers, and the poultry numbers, the actual income from the sale of livestock and eggs, as well as the overall profit shown in the accounts, falls well short of the predicted numbers even for year 1.
39. The Council have questioned the appellant's estimate of the price at which alpacas sell, claiming it is ambitious and may not be achieved. They point to several alpaca for sale at lower prices. The appellant acknowledges that the alpacas they have sold recently have been at a lower rate (2 non stud males sold as pets for £750 each) but claim that as the business and its genetic reputation becomes more established, they can secure higher sale and stud prices. Both parties rely on the AlpacaSeller website for prices and I note the variation in those prices for different animals. However, on the basis of the average prices stated on the website<sup>8</sup> while the appellant sale prices may be optimistic, they do not seem entirely unrealistic, particularly if the business establishes a good reputation which then allows for sale prices in the higher end of the range to be secured.
40. I note the Council's concerns regarding the changing numbers and types of stock from the AA, to the updated assessment, to the current situation and the challenges this creates in making an accurate assessment against the business plans. However, I do not consider it unreasonable or uncommon for a business to evolve as it begins to develop or for there to be financial challenges in the early stages.
41. At present, the accounts do not show sufficient profit to provide for a living wage for a full time worker, or a reasonable return on the significant capital investment made so far. The business plan and future financial calculations seem optimistic and are based on uncertain, if possible, sale prices. At this stage, I have not been presented with evidence which would give me sufficient confidence to conclude that the business will remain viable for the foreseeable future. Consequently, it would not be appropriate for me to grant planning permission for residential use of the site on a permanent basis.

Whether temporary permission is appropriate

42. The business is relatively new, and it does not seem beyond the realm of possibility that it may be able to develop as shown in the business plan. The investment in stock, site development and training which has already taken place indicates an intention to develop the business. I therefore consider it reasonable to grant temporary permission for a trial period. This will give the appellant the opportunity to demonstrate that the business can be profitable and hence viable for the foreseeable future, including the possibility of it financing a permanent dwelling.

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<sup>8</sup> Presented in Appellant Consultant Appendix 4 – RAC rebuttal response to CLA, dated 15 June 2022

43. The appellant indicated they were seeking a temporary permission for 3 years. At the hearing, the Council suggested that as the appellant had been on site for 2 years, if a temporary permission was to be granted, 2 years would be sufficient. I accept the appellants contention that they have held back on progressing the business until planning matters had been decided. Consequently, I consider it reasonable to grant a 3 year period to allow the appellant a fair chance to demonstrate the viability of the business. This can be secured by condition.

Conclusion on planning policies for residential development in the countryside

44. For the above reasons, I find that subject to a condition to secure temporary permission, the development satisfies planning policies for residential development in the open countryside, as set out in Policy 7 of the LP and paragraph 80 of the Framework.
45. I have reached this conclusion based on an assessment of essential need, so despite the location not being sustainable in terms of access to services and facilities, I find no specific conflict with Policies 1, 2, 3 and 27 of the LP, which relate to the presumption in favour of sustainable development, the spatial strategy, the role and function of places, and transport and accessibility. Both parties agree that for a temporary dwelling, Policy AL1 of the Climate Emergency Development Plan Document is not applicable and the information required to assess the development against the policy criteria has not been provided.

*Reasons – Character and appearance*

46. The land is located within an area that the local plan assigns as being an Area of Great Landscape Value, so consideration must be given to maintaining the character and distinctive qualities of the surroundings. The description of key characteristics of Cornwall Character Area CCA35 notes the sparsely settled agricultural landscape, with predominantly small fields bounded by hedges and trees and wooded valley slopes. The land and the area around it reflects these characteristics.
47. The change of use is facilitated by the stationing of a caravan for residential purposes. The caravan (notwithstanding its cladding and extension which is not subject to this notice) has an appearance which does not resemble other rural dwellings in the area which tend to be traditional in their design and materials. The presence of a caravan has a domesticating impact on the land, but residential paraphernalia has been kept to a minimum and is located within a limited area. The caravan is at a level which is lower than the road and set away from the access point. There are mature trees and hedging along the boundary and this have been retained. Together, this means that the caravan is not readily visible from public vantage points. It would be visible from parts of surrounding fields, but not at close range and the scale of the caravan is modest. Consequently, while the caravan does have a negative impact on the character and appearance of the land, that impact is limited.
48. The track consists of compacted earth with some gravel covering and provides access to the caravan as well as the wider site. The outbuilding is constructed in wood panels and metal sheeting and is of a scale and design common in small agricultural developments. It was evident from my site visit that the outbuilding is primarily used for storage related to the business.

49. While both track and outbuilding also support the residential use, they are principally required for the functioning of the business. They do not look out of place in a rural setting and do not have a detrimental impact on the character and appearance of the land or its surroundings.
50. I have found there to be an essential need for a worker to be on site and hence for a dwelling, albeit on a temporary basis. The track and the outbuilding are also necessary for the business to operate. Therefore, the limited harm caused by the development to the character and appearance of the area will be temporary and is outweighed by the need. In the SCG and at the hearing, the Council confirmed that if an essential need for someone to live on site was established, and particularly if a temporary permission was to be granted, then the need for the development would outweigh any modest landscape harm.
51. I conclude that the development, subject to a temporary permission, does not conflict with the requirements of Policies 2, 12 and 23 of the LP. Together, these seek to ensure that development proposals are of an appropriate scale, mass and design which considers the existing context, sustains local distinctiveness and character, and protects the landscape and natural environment.

#### *Other matters*

52. The Council and the appellant have referred to other appeal and application decisions<sup>9</sup> relating to alpacas, and to residential use of sites for an agricultural worker. Full details of these are not before me but I have considered the information provided and taken on board any material matters. However, there are key differences in the developments and the site context between the examples and the current appeal. In addition, some of the decisions relate to other areas, with different local policies and some predate the current local and national policy context. I have therefore determined this appeal on its own merits taking into account the specific evidence, circumstances and policies.
53. I am aware of the Planning Policy Statement on Green Belt protection and intentional unauthorised development, issued on 31 August 2015. I have weighed this in my balance as a material consideration. I am also aware that the appellant has teenage children and their personal circumstances have been considered. However, my decision to grant a temporary permission in this case is based purely on the needs of the agricultural business.

#### *Conditions*

54. I have had regard to the conditions suggested by the Council, the response made to them by the appellant, and discussion at the Hearing. I have also had regard to advice in the Planning Practice Guidance on the use of conditions. I have amended some conditions in the interests of precision and clarity.
55. As set out above, any residential use of the land is only acceptable to support the agricultural business. I have therefore imposed condition no.1 to restrict the occupation of the caravan to someone employed or last employed in agriculture in the area. As the long term viability of the business is not yet demonstrated, I am granting temporary permission. Therefore, it is necessary

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<sup>9</sup> Appeals reference APP/Y0815/A/08/2075800; APP/P1133/A/12/2188539; APP/C3430/C/13/2209280; APP/W1145/A/14/2218039; APP/D0840/W/15/3140564; APP/D0840/W/20/3253885; APP/Y3940/W/21/3270044; APP/E2205/W/22/3297749; Cornwall council reference PA07/01382; PA12/03778; PA16/06319; PA19/09487.

to impose condition no.2 which limits the permission to a period of 3 years. Condition no.2 also secures the cessation of the use, removal of the caravan and associated operational development, and restoration of the land, at the end of the permission period.

56. Although the caravan has been on site and in residential use for 2 years, no details of foul and surface water drainage have been provided. I consider it reasonable and necessary to secure such details, even for a temporary permission, and have imposed a condition accordingly. However, as no specific issues regarding drainage have been raised, I do not consider it to go to the heart of the temporary permission. Consequently, condition no.3 is a standard condition, rather than the more complex retrospective condition suggested by the Council. Should condition no.3 not be complied with, the Council could choose to serve a breach of condition notice.
57. A condition was suggested to require that if the agricultural use permanently ceases at the end of the 3 years, and if an alternative use is not granted within a further 3 years, associated structures are removed from the land. At the end of the 3 year temporary permission period, if subsequent permission is not secured, the land would revert to agricultural use. The removal of any unauthorised structures on the land at the end of the 3 year temporary period can be achieved by the restoration scheme required under condition no.2. I do not consider it necessary to impose a separate condition.
58. The council also suggested that a site development scheme should be secured by condition, along with a landscaping scheme. I do not consider either of these to be necessary or reasonable, given that I am granting a temporary permission.

*Conclusion on ground (a) and the deemed planning application*

59. The appeal on ground (a) succeeds and planning permission is granted, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

**Formal Decision**

60. As I will be granting planning permission, and that permission is on the basis of the allegation set out in the notice, it is necessary for me to correct the wording of the allegation, as discussed above. However, as I will be quashing the corrected notice, it is not necessary for me to consider any corrections or variations to the requirements.
61. It is directed that the enforcement notice is corrected as follows:
- In section 3, the matters which appear to constitute the breach of planning control, delete the wording in its entirety. Replace with the words 'Without planning permission, the material change of use of the land from agriculture to a mixed use comprising of agriculture and residential use, facilitated by the stationing of a caravan for residential purposes, along with associated operational development, consisting of construction of an access track and wooden outbuilding. On the Plan attached to the notice, the land has been outlined in red, the approximate position of the caravan is marked with a blue 'X' and the approximate location of the wooden outbuilding is marked with a blue 'A'.

62. Subject to the correction, the appeal is allowed, the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely, the material change of use of the land from agriculture to a mixed use comprising of agriculture and residential use, facilitated by the stationing of a caravan for residential purposes, along with associated operational development, consisting of construction of an access track and wooden outbuilding, at Land at Little Acorn Farm, St. Keyne, Liskeard PL14 4QS, as shown on the Plan attached to the notice, and subject to the following conditions:

- 1) The occupation of the caravan for residential purposes shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined in the Act) or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 2) The use hereby permitted shall be for a temporary period, being the period of 3 years from the date of this decision. By no later than 3 years from the date of this permission:
  - i) The use hereby permitted shall cease;
  - ii) The caravan sited for residential purposes, which has facilitated the use, shall be removed from the land, along with the associated operational development, consisting of the access track and wooden outbuilding; and,
  - iii) The land shall be 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) Within 3 months of the date of this decision a scheme for the installation of a system to serve the development for the disposal of foul and surface water drainage shall be submitted to and improved in writing by the local planning authority. The scheme shall include a timetable for implementation and a programme for maintaining the system. The system shall be implemented in accordance with the timetable and retained and maintained thereafter in accordance with the approved details.

*H Davies*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Alex Price (Appellant)

Hannah Price (Wife of Appellant)

Tony Kernon (Kernon Countryside Consultants Ltd)

Peter Williams (Reading Agricultural)

### **FOR THE LOCAL PLANNING AUTHORITY:**

James Holman (Cornwall Council)

Ben Bassett (Cornwall Council)

Jennie Mason (Cornwall Council – Observing only)