



Appeal Decision

Site visit made on 25 June 2024

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Appeal Ref: APP/D0840/C/23/3330946

North Treviddo Farm, Horningtops, Liskeard, Cornwall PL14 3PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Calum Campbell against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 26 September 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of agricultural land to a mixed use comprising of agricultural and residential through the stationing of residential caravans with associated operational development including the creation of a residential chalet, hard standing area, shower/toilet unit and raised wooden decking. Also, the agricultural building approved under PA19/05798 is being used for the storage of non-agricultural paraphernalia. The land has been outlined in red on the attached plan.
 - The requirements of the notice are to:
 - 1) cease the residential use of the land shaded in green on the attached plan
 - 2) cease the non-agricultural use of the agricultural building shown in the approximate location by a blue 'D' on the attached plan, including but not limited to the storage of non-agricultural items
 - 3) cease the use and remove the shower/toilet unit from the land, shown in the approximate location by a blue 'A' on the attached plan
 - 4) cease the residential use of the static caravan shown in the approximate location by a blue 'B' on the attached plan and remove caravan from land
 - 5) remove all services connected to the caravan for the purposes of independent human habitation, i.e. electric cabling, water pipes, gas bottles etc
 - 6) dig up and remove the sewage treatment plant connected to the static caravan shown in the approximate location by a blue 'B' on the attached plan
 - 7) demolish and remove the residential chalet shown in the approximate location by a blue 'C' on the attached plan
 - 8) remove all caravans from the land outlined in red on the attached plan
 - 9) remove from the land shaded in green all non-agricultural vehicles, materials, paraphernalia and debris resulting from the non-agricultural use of the land, including but not limited to: motor vehicles, lorry, domestic sheds, wooden decking, washing lines, gas bottles etc
 - 10) 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 grounds set out in section 174(2)(d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The Appeal is dismissed and the enforcement notice is upheld.

Procedural matter

2. The Planning Inspectorate initially registered the Appeal as proceeding by way of a Hearing. However, upon my appointment as the Inspector charged with deciding the Appeal, I reviewed the papers and concluded that the Written Representations procedure would be more appropriate. This is because in the absence of an appeal on ground (a) – that is, that planning permission should be granted for the matters described in the notice – the planning merits of the alleged development are not before me, so there would be no purpose in holding a public discussion of them. The matters at issue are clearly and carefully set out in the written submissions made on behalf of the Appellant and the Council, and in the representations of other interested parties.

The appeal on ground (d)

3. The ground of appeal is that, by the date when the enforcement notice was issued, the time limit for taking enforcement action had expired. The Appellant's case on this ground is limited to the residential unit shown at 'B' and 'C' on the plan attached to the notice. The Council contends that this consists of a static caravan ('B') and a residential chalet ('C'). The Appellant contends that the addition of the structure at 'C' to the original caravan, and other building works, resulted in the caravan becoming a building; and that by the time the Notice was issued on 26 September 2023, the four-year time limit for taking enforcement action against this building had expired.
4. The evidence of the Appellant is that he first brought a caravan on to the site in February 2016, for his family to live in while building works were carried out at their nearby dwelling. He replaced that caravan with the unit now in place in or around September 2017, and added further structures to the caravan in 2018/2019. In September 2020 the Appellant and his family relocated from the residence at 'B' and 'C' to the nearby dwelling; the Appellant's brother and his family then moved in to the residential unit at 'B' and 'C', and have lived there ever since.
5. I saw at my site visit that while extensive wooden decking has been placed around the original caravan sited at 'B', it retains the dimensions and appearance of a mobile home, and has not undergone any significant structural alterations. It has been connected to the mains water and electric supplies, and to a sewage treatment plant, but has not been fixed permanently to the ground (by setting in to a concrete base, for example, or attachment to a brickwork plinth). Photographs taken by the Council at site visits in 2023 show that the only physical connection between the caravan at 'B' and the neighbouring structure at 'C' were the timber decking covering the ground of the gap between them, and a lean-to roof over part of the gap.
6. I appreciate that the mobile home at 'B' and the structure at 'C' have been occupied together, as a single place of residence. But in my judgment, by the date the notice was issued they had not been structurally joined, or amalgamated, so as to create one single building. Rather, the structure at 'C' remained a separate building and the mobile home at 'B' remained a caravan; as the Council points out, only a modest amount of work would be needed to remove the decking, and the roof above the gap, and the mobile home at 'B' would then once again be capable of being moved from one place to another.

7. The evidence of the Appellant is that the residential use of the caravan at 'B' began in February 2016. Since the statutory time limit for taking enforcement action against an unauthorised material change of use is ten years from the date of the breach, this had not expired by the time the notice was issued in September 2023. As to the structure at 'C', the time limit for taking enforcement action against unauthorised building operations is shorter, at four years from the date on which the operations were substantially completed.
8. The Council has provided a number of Google Earth aerial images of the Appeal Site. The earliest such image in which the structure at 'C' appears is dated March 2022: it is not visible in any of the earlier images, including one dated September 2021. The Appellant has subsequently accepted that his recollection of the date by which the structure at 'C' was completed may be incorrect. I consider that in the light of this evidence, the erection of the structure at 'C' must, on the balance of probabilities, date from the period between September 2021 and March 2022. It follows that the four-year period for taking enforcement action had not expired by the time the Notice was issued in September 2023.
9. In summary, I conclude that the notice is correct in identifying a caravan at 'B' and a residential structure at 'C', rather than a single amalgamated building. The relevant time limits for taking enforcement action against the breaches of planning control involved had not expired by the date of the notice. The appeal on ground (d) must therefore fail.

The appeal on ground (f)

10. The ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control.
11. This ground is not separately addressed in the Appeal Statement submitted on behalf of the Appellant, but as I understand it, is connected to the argument that the caravan at 'B' and the structure at 'C' should be regarded as a single building immune from enforcement. Had I found that this was the case, I would then have gone on to consider varying the notice by deleting requirements for its removal. However, for the reasons set out above, I have concluded that there is not a single amalgamated building, and the notice correctly identifies the breach of planning control as the siting of a caravan at 'B' and a residential chalet at 'C'. In order to remedy this breach, it is necessary to require the removal of them both, and the cessation of the residential use.
12. The Appeal Statement refers to the allegation that an agricultural building was being used for the storage of non-agricultural items, and advises that the Appellant voluntarily rectified the breach by removing the relevant materials. It is not clear whether this amounts to a contention that requirement (2) of the notice is unnecessary. In any event, a photograph taken by the Council at a site visit in November 2023 – that is, some two months after the notice was issued – shows non-agricultural items stored in the building. Since the evidence indicates that the breach was, on the balance of probabilities, taking place at the time the notice was issued, it is reasonable for the notice to require the unauthorised use to cease.

13. I am satisfied that the requirements set out in the notice do not exceed what is necessary to remedy the breach of planning control. The appeal on ground (f) therefore fails.

The appeal on ground (g)

14. The ground of appeal is that the compliance period specified in the notice falls short of what should reasonably be allowed. The Appellant has advised that around half of the occupiers of caravans on the Appeal Site meet the Government's definition of "Gypsies and Travellers"¹, and his intention is to submit a planning application for the use of the Appeal Site as a caravan site for Gypsies and Travellers. His case on ground (g) is that the compliance period should be set to accord with the determination of this proposed application, so that if it is approved, a large proportion of the existing occupiers would be able to retain their homes.
15. I have been provided with copies of the "Personal Circumstance Questionnaires" which were completed by occupiers of the caravans and submitted to the Council in July 2023, together with copies of further such Questionnaires completed by occupiers who have moved to the Appeal Site more recently. In total, completed Questionnaires have been provided by the occupiers of 24 caravans. The information provided is that eight of these caravans have occupiers who are Gypsies or Travellers, and three caravans are the permanent home of school age and/or pre-school age children. Children also reside, on a part-time basis (due to shared parental and caring responsibilities) at two further caravans. The Questionnaires also show that a considerable number of occupiers have serious and long-term medical conditions; and nearly all of the occupiers have stated that they would have nowhere else to go if they had to leave the Appeal Site. Their responses indicate that they have struggled to find affordable accommodation in the area.
16. In circumstances where anyone stands to lose their home as the result of an Appeal Decision, as is the case here, there is likely to be a serious interference with their rights under Article 8 of the European Convention on Human Rights as enacted through the Human Rights Act 1998 ("the HRA"), which secures the right to respect for private and family life and home. The decision to uphold the enforcement notice will have an adverse impact on the children currently residing at the Appeal Site – including those who live there on a part-time basis – and their best interests must be a primary consideration.
17. I am also mindful of the Public Sector Equality Duty (PSED) set out in s.149 of the Equality Act 2010. Some of the occupiers of caravans on the Appeal Site have relevant protected characteristics² for the purposes of the PSED. I need to have due regard to the aims of eliminating unlawful discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations between people who share a protected characteristic and people who do not share it.
18. The Appellant contends that some of the residents at the Appeal Site were referred directly by the Council's Housing team who, in the absence of any other available housing, have asked him to provide emergency accommodation

¹ Set out at Annex 1 of *Planning Policy for Traveller Sites*

² S.149(7) of the Equality Act 2010 sets out the protected characteristics for the purposes of the PSED. They include – but are not limited to – age, disability and race.

for people who would otherwise be homeless. The Council disputes this, stating that its Housing Team “can find no trace of using this provider or address for homelessness accommodation.” Whatever the truth of the matter, it is common ground that there is currently a housing crisis in Cornwall, with not enough affordable homes available to meet local people’s needs. There is evidence that many of the occupiers are local people who have already tried, unsuccessfully, to find other accommodation that is affordable to them. The Council has not disputed the Appellant’s contention that it is unable to meet the existing need for Gypsy and Traveller sites in the county. There is also evidence that the personal circumstances of a significant number of the occupiers are such that they are likely to find it difficult to source and secure accommodation that is appropriate for their specific needs.

19. I agree with the Council that in general terms, six months would usually be a sufficient period of time for occupiers of a residential caravan site to search for alternative accommodation. However, in this particular case there are considerations which indicate that a considerably longer period is justified. In my judgment, the period of twelve months specified in the notice is reasonable in the circumstances. Allowing a full year for compliance with the requirements of the notice will help address the additional difficulties faced by those occupiers who need accommodation of a particular type, in the context of the ongoing housing crisis. It will also mean that children currently living in caravans at the Appeal Site and attending local schools will be able to continue their schooling until the end of the 2025 summer term, avoiding the disruption of having to move school part way through the academic year.
20. The Appellant states that the Council’s Housing Team advised that it was unable to assist with finding alternative accommodation until such time as the occupiers were evicted from the site, but the Council has subsequently clarified that it will be able to assist if the appeal is dismissed and the Notice upheld. The Council has also pointed out that if the period of twelve months proves insufficient, it has powers under s.173A(1)(b) of the 1990 Act to further extend the compliance period.
21. I note the Appellant’s request that the compliance period be set in accordance with the determination of the planning application he intends to submit. But the problem with that approach is that, even if a timetable were imposed for the date of submission and other relevant stages, it lacks clarity and certainty. A period of twelve months should provide ample time for the Appellant to prepare and submit the intended application, and for the Council to determine it.
22. In terms of the HRA I conclude that a twelve-month period for compliance with the requirements of the Notice is proportionate: it strikes an appropriate balance between protecting the rights and interests of the Appellant and the occupiers, and the need to uphold the operation of the planning system in the public interest, which includes the requirement for development to accord with the planning policies of the Council’s adopted Local Plan.
23. With regard to the PSED, the evidence indicates that finding alternative accommodation that is both suitable and available will be difficult both for occupiers who are ethnic Gypsies or Travellers, and occupiers who are not. I am satisfied that providing a twelve month compliance period for all ethnicities would not unduly disadvantage any of them; rather, it would help to maintain good relations between people who share a protected characteristic and people

who do not share it. I appreciate that while the requirement to vacate the Appeal Site will cause stress and anxiety for all of the occupiers, the impact is likely to be greater for those whose disability, medical condition or personal circumstances mean that they derive considerable benefit from living in a quiet rural environment. I have considered possible steps to address that inequality, but have found no alternatives that would be both appropriate to the circumstances and less harmful in impact. Weighing all of the relevant considerations in the balance, I consider that upholding the notice is proportionate.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Jessica Graham

INSPECTOR