



Appeal Decisions

Site visit made on 23 April 2025

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Appeal A Ref: APP/D0840/C/24/3357383

Southeast of Cerenety, Lynstone, BUDE, EX23 0LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Candida Brouwer against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 13 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the marital (sic) change of use of land from agricultural use and campsite use (as approved under PA15/01337) to residential use, through the siting of a static caravan for residential purposes and associated development in the form of engineering operations to level the site, construction of a concrete plinth, hardstanding areas, and the addition of a raised decked area around the caravan. The approximate location of the caravan is indicated by a blue 'X' on the plan attached to the notice.
 - The requirements of the notice are :
 - 1) Cease the residential use of the land outlined in red on the attached plan.
 - 2) Cease the residential use of the caravan shown in the approximate location by a blue 'X' on the attached plan and remove the caravan from the land outlined in red on the attached plan.
 - 3) Remove from the land all services connected to the caravan for the purposes of independent human habitation, including but not limited to electric cabling, water pipes, sewage pipes, septic tank, gas bottles etc.
 - 4) Demolish and remove the raised deck area from the land.
 - 5) Remove from the land all materials, paraphernalia, and debris resulting from the residential use of the land.
 - 6) Demolish and remove from the land, the concrete plinth underneath the caravan.
 - 7) Demolish and remove the hardstanding areas from the land outlined in red on the attached land.
 - 8) Restore the land to its former condition/contours before the engineering operations took place.
 - 9) Remove from the land all materials and debris resulting from compliance with the requirements of 2-8 above and restore the land to its former condition before the breach took place.
 - The period for compliance with the requirement is 12 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (c), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/D0840/W/24/3357004

Cerenety, Lynstone, BUDE, EX23 0LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Candida Brouwer against the decision of Cornwall Council.
 - The application Ref is PA24/03047.
 - The development proposed is retrospective change of use of land for the siting of a mobile home for residential use with decking structure and associated development.
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Decisions

Appeal A: The appeal is dismissed and the enforcement notice is upheld.

Appeal B: The appeal is dismissed.

Preliminary Matters

1. I carried out an unaccompanied site visit on 23 April.
2. The breach of planning control stated in the notice refers to the “marital change of use of land.” The appellant has pointed out that this is incorrect. I shall correct the notice by referring to the “material change of use of land” which I can do without any injustice to the parties.
3. References are made by the parties to a caravan and to a mobile home in these appeals but for the avoidance of doubt they refer to the same development and the terms are used interchangeably.

The site and relevant planning history

4. The appeal site is in open countryside accessed by a field gateway at a lower level and forms part of a larger area of land associated with a property known as Cerenety which includes a mobile home, its garden and two fields that form a small touring campsite.
5. Permission was granted in 2008 for a campsite which included an education centre, 6 pitches for seasonal camping, toilet/shower block and wind turbine. In 2015 permission was given for the retention of the campsite with 20 tent pitches.
6. In 2015 an application for a dwelling was withdrawn and in 2017 an application for the replacement of a mobile home with a dwelling was refused.
7. On the associated land to the north, a Certificate of Lawfulness (LDC) for the existing use of mobile home with garden was issued in 2017 (PA17/01383). Also in 2017, outline permission to replace the mobile home with a dwelling was approved with the permission expiry date subsequently extended to May 2021.
8. A pre-application enquiry regarding the re-siting of the mobile home subject to the LDC some 20 metres away was made in 2022. There has been a misunderstanding by the appellant over the advice received as she believed that permission was not required. Whilst this is most unfortunate, the Council indicate that there have been other communications regarding the site and that its development would not be supported under planning policy.
9. A completed Planning Contravention Notice confirmed that a caravan was brought onto the land and the concrete plinth constructed in August 2023.

Appeal A: the appeal on ground (c)

10. An appeal on this ground is that there has not been any breach of planning control. The appellant contends that no material change of use of the land has occurred as it is part of a wider planning unit, permission has been granted for the use of the campsite and the stationing of a mobile home for residential use is also lawful within the planning unit. In support of this contention, a Land Registry document identifies the appellant’s unit of occupation and the appellant states that it is an established planning principle that the unit of occupation is the planning unit. The appellant considers that the associated operational development to be de minimis.

11. The planning unit is usually the most appropriate physical area to assess the materiality of a change of use. It is usually the unit of occupation unless a smaller area can be identified which is physically separate and distinct and occupied for different purposes¹.
12. In this appeal the planning history identifies different activities on different parts of the land occupied by the appellant. The Google Earth dated 18/7/21 image clearly shows the appeal site and remainder of the field to the south being used for camping for which permission exists. It is physically separated by a hedgerow from the land to which the LDC relates and it is reasonable to conclude that it does not form part of a single planning unit.
13. With a legal ground of appeal such as on ground (c), the onus is on the appellant to prove the case and the level of proof is on the balance of probabilities, which has not been shown. The change of use of the site from campsite and agricultural use to residential is a material change of use for which planning permission is required.
14. The appeal on this ground fails.

Appeal A: the appeal on ground (f)

15. An appeal on this ground is that the requirements are excessive. The appellant contends that the requirements would lead to the mobile home being craned over a hedge to another part of the unit of occupation where a Certificate of Lawfulness exists for the stationing of a mobile home for human habitation. This would be disproportionate to any harm caused by its relocation. The appellant considers that a landscaping scheme would overcome any harm caused.
16. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged.
17. The appellant's anticipated difficulties in craning the mobile home over the hedge is not an indication that the requirements are excessive as this is not specified in the requirements of the notice. The notice requires the mobile home to be removed from the land and this does not exceed what is necessary to remedy the breach.
18. In respect of the decking and the engineering operations on the site the courts² have held that where works have been carried out integral to and for the purpose of facilitating an unauthorised use, they can be required to be removed so that the land can be restored to the condition before the change of use took place.
19. The requirements do not preclude the appellant doing what they are lawfully entitled to do in the future once the notice has been complied with.
20. The appellant's suggestion that a landscaping scheme would be sufficient to overcome any harm caused by the relocation of the mobile home to the appeal site. is a matter more relevant to Appeal B.
21. The requirements are neither disproportionate, nor excessive. The appeal on this ground fails.

¹ Burdle and Williams v SSE & New Forest District Council [1972] 1 WLR 1207

² Somak Travel v SSE [1987] JPL 630;
Kestrel Hydro v SSCLG [2016] EWHC 1654 (Admin)

Appeal A: the appeal on ground (g)

22. An appeal on this ground is that the compliance period is too short and is unreasonable.
23. The appellant considers that a period of 18 months for requirement 1 and two years for requirements 2-9 would be reasonable but fails to justify the suggestion other than the cessation of use should be followed by a later requirement for the removal of the development.
24. I am satisfied that a period of 12 months to carry out the requirements of the notice is perfectly reasonable and is consistent in terms of compliance periods for similar breaches elsewhere that the Council has highlighted.
25. The appeal on this ground fails.

Conclusion on Appeal A

26. For the reasons given above I shall dismiss the appeal and uphold the enforcement notice.

Appeal B: the s78 appeal

27. The Council refused Appeal B on two grounds. The first is that the development is contrary to development plan policies that restrict development in the countryside. The second ground related to the absence of details of Biodiversity Net Gain but the Council acknowledges that the retention of a caravan would not require any contribution to this and does not wish to defend this reason for refusal.
28. The main issue in this appeal is whether the development complies with policies that restrict development in the countryside and the effect that the development has on the character and appearance of the area.
29. The appellant implies that the retrospective application subject to the appeal was incorrectly worded and that the Planning Statement accompanying the application indicated that the proposal was to provide an alternative or replacement caravan to that granted an LDC. It is pointed out that the caravan is still in situ but no longer occupied but was vacated for health reasons and ease of dealing with visitors to the camp site. However, the caravan benefitting from the LDC is located outside the red and blue line areas of the appeal site and is referred to by the appellant as being on immediately adjoining land. No mechanism, such as a unilateral planning obligation, is in place to revoke the LDC.
30. The appellant contends that the planning unit is her unit of occupation upon which is a mix of lawful uses. I have concluded on the planning unit in Appeal A.
31. The appellant considers the appeal site to be previously developed land (PDL) in use by transient touring campers and backpackers but the evidence indicates it is part of an open agricultural field with no permanent structures. There is a shower block and hard surfaced areas but these are outside the appeal site. In any event the glossary to the Framework points out that it should not be assumed that the whole of the curtilage of a site should be developed.
32. The development does not comply with Policy 3 of the Cornwall Local Plan which sets out where housing development would be permitted. It is neither an infill nor a rounding-off site, nor is it on PDL.

33. The appellant states that the development is sustainably located and accords with Policies 2 (spatial strategy), 3 (role and function of places), 7 (housing in the countryside) and 21 (best use of land and buildings) due to its close proximity to Lynstone and being in walking distance of bus services. There are also the benefits of relocating the mobile home and to the well-being of the appellant, the keeping of animals and operation of the business.
34. Policy 7 identifies the special circumstances where new homes in the countryside may be considered which includes an essential need of the business of the occupier to live in a specific location. The occupier of the caravan manages the campsite business and states that it is necessary to be on site 24/7 from April to September. However, no evidence has been submitted to indicate there is a necessity for a rural worker to live on the site and in any event the residential caravan benefitting from the LDC is only about 45 metres away and the existing business has been able to operate for over 15 years on this basis.
35. The use of the site for camping is low key and has little permanent impact on the landscape although I acknowledge that the site is not restricted just to tents or for any season. As a structure, the mobile home has the visual impact of a bungalow and, with the addition of the decking and associated domestic activity and paraphernalia, has a harmful impact on the character and appearance of the countryside, albeit that it is not within a designated or protected landscape. The site is visible from the highway and the impact of the development has been exacerbated by the widening of the access. The appellant makes reference to a landscaping scheme mitigating the impact of the development, but whilst this may lessen the impact in the long term it would not overcome the full extent of the harm caused.
36. The use of the site is considered to represent an unsustainable and sporadic new residential development in the open countryside contrary to Policies 3 and 7 in the Cornwall Local Plan and to Policy 23 regarding landscape character, which I consider to be most important development plan policies which are not out of date in the context of the National Planning Policy Framework (the Framework). It is also conflicts with Policy 3 of the Bude Neighbourhood Plan as the site is not within or adjacent to the settlement of Bude.
37. Whilst the development results in one additional unit of accommodation, the stated intention of the appellant is that this would replace the mobile home benefitting from the LDC, albeit that there is no indication from the appellant how this could be achieved in perpetuity. I therefore attach little weight to this.
38. I note the absence of public and Town Council comments on the appeal and I have had regard to the personal circumstances of the appellant and to the misunderstanding of the planning advice received. However, on balance, these factors do not outweigh the harm caused.
39. I therefore conclude on the main issues that the development conflicts with the development plan as a whole.
40. There is a presumption in favour of sustainable development in the Framework. Paragraph 11(d) indicates that where policies which are most important for determining an application are out-of-date permission should be granted unless sub paragraphs (i) or (ii) apply. Out-of-date policies include situations where a 5-year supply of deliverable housing sites cannot be demonstrated. The Council indicates

that its housing supply is about 3.8 years. It is therefore necessary to assess whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies as a whole.

41. The Council's Cornwall Interim Policy Position Statement addresses changes arising from the December 2024 Framework and indicates that the more generic locational guidance regarding settlement extent and identifying opportunities for infill and rounding off development remain in general conformity with the Framework. As the reason for refusal makes reference to the site's unsustainable location, the revised 5-year land supply position is not over-riding.
42. Paragraph 12 of the Framework indicates that the presumption in favour of sustainable development does not change the statutory status of the development plan. Paragraph 84 sets out the special circumstances for isolated houses in the open countryside. Paragraph 135 emphasises that development should be sympathetic to local character including landscape setting and paragraph 187 recognises the intrinsic character and beauty of the countryside.
43. These Framework policies taken as a whole weigh against the development providing a strong reason for the refusal of planning permission with little in its favour arising from any public social, economic and environmental benefits other than the provision of a mobile home in the open countryside.
44. In accordance with s38(6) I conclude that the paragraph 11(d) balance should not be applied and in the absence of any other material considerations, such as the appellant's personal circumstances, I determine the appeal in accordance with the development plan which weighs strongly against the development.

Conclusion on Appeal B

45. For the reason given above the appeal is dismissed.

P N Jarratt

INSPECTOR