



Appeal Decisions

Site visit made on 2 July 2025

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal A Ref: APP/D0840/C/23/3329875

Appeal B Ref: APP/D0840/C/23/3329876

Land known as Llanfield Stables, Prickly Post Lane, Fowey, Cornwall, PL23 1EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mrs Allison Worth against an enforcement notice issued by Cornwall Council.
 - Appeal B is made by Jacqueline Colwill against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 17 August 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of equestrian and agricultural land to a mixed use of equestrian and the stationing of a static caravan for residential purposes. The approximate position of the static caravan is marked by a blue 'X' on the attached plan 'The Plan'.
 - The requirements of the notice are: (1) Cease the residential use of the land; (2) Cease the residential use of the caravan shown in the approximate location by the blue 'X' on the attached plan and remove caravan from land; (3) Remove all services connected to the caravan for the purposes of independent human habitation, i.e. electric cabling, water pipes etc.; (4) Remove from the land all materials, paraphernalia and debris resulting from the residential use of the land; and (5) 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[s] set out in section 174(2)(b), (c), (d), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended) ('the Act').
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Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The Appellants do not make a case under Ground (a), which is to say that planning permission ought to be granted for the development alleged in the Notice. Therefore, I cannot take into account arguments regarding the 'planning merits' of the case that have been made. These include: that there would be no increase in traffic to the site; that ponies and horses need 24-hour monitoring; and that there are no environmental effects arising from the development, including no harm to the area's character and appearance.
3. At my site visit, I was unable to enter the caravan, as there was an unwell person in it. This did not cause injustice to the parties, both of whom agreed that it was unnecessary to enter the caravan.

Appeal Site

4. The land that is the subject of the Notice lies in the open countryside, close to the western boundary of the small town of Fowey. The caravan that is the subject of the Notice lies at the southeast corner of the land, and there are two block-built stables at its northern end.

Ground (e)

5. An appeal made under Ground (e) is that copies of the Notice were not served as required by section 172 of the Act. This is a legal ground of appeal where the onus lies with the Appellant to make his case on the balance of probability.
6. S172(2) of the Act states that “A copy of an enforcement notice shall be served— (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice”. Section 329 of the Act sets out how a notice may be served.
7. The evidence shows that the Council served copies of the Notice on both Appellants at private addresses and also copies on the ‘Owner/Occupier’ and ‘Owner’ addressed to the appeal site. In addition, the Appellants’ evidence shows that a copy of the Notice was taped to the post box at the site. The latter accords with the terms of s329(2)(b)(ii), which states that where the name of a person having an interest in the land cannot be ascertained after reasonable enquiry, a copy might be “affixed conspicuously to some object on those premises”.
8. It is unclear whether the Council left a copy on the land as it was unsure whether there were other persons with an interest in the land, but, nonetheless, it undertook its statutory duty. In any event, as the two Appellants made their appeal in a timely manner and I have not been told of any person that has not been served with a copy who should have been, there has been no prejudice arising from its actions.
9. Damage to property that might have arisen from the Council’s actions when the Notice was served is not a matter for this appeal.
10. For the above reasons, the appeal under Ground (e) fails.

Ground (b)

11. An appeal made under Ground (b) is that those matters alleged in the Notice have not occurred; again, this is a legal ground of appeal where the onus lies with the Appellants to make their case on the balance of probability.
12. It is unclear what case the Appellants put forward, as the appeal form simply says “See below”. In their submissions, there is no dispute that the caravan has been sited on the land, nor is its residential use disputed.
13. A planning application was made to the Council, on 21 September 2021, for the temporary residential use of the caravan (Council reference PA21/09551). Shortly after its refusal, the Appellant in Appeal A wrote to the Council explaining why an appeal would be lodged against that decision. Amongst its contents was the comment that the occupant of the caravan had nowhere else to live.
14. An appeal was lodged against the Council’s refusal to grant planning permission by the Appellant in Appeal B. In their decision, the Inspector stated, “The caravan is already stationed at the site and occupied by the appellant as a dwelling”. This decision was dated 14 December 2022. As it pre-dated the issuing of the Notice, it is clear that the matters alleged in the Notice had occurred by that time.

15. For the above reasoning, I find that the Appellants have not made their case on the balance of probability and, therefore, the Ground (b) case fails.

Ground (c)

16. An appeal under Ground (c) is that the matters alleged in the Notice do not amount to a breach of planning control. This, too, is a legal ground of appeal where the onus lies with the Appellants to make their case on the balance of probability.
17. The residential use of the caravan has resulted in a material change of use of the land. This amounts to development, as defined in section 55(1) of the Act.
18. Whilst the Appellants have state that the land benefits from “Small Holding Number CPN07-142-0079”, they provide no evidence to show that this would preclude the need for planning permission for the residential use of the caravan. Similarly, they do not provide evidence to show that permission for the use is conferred by reason of other legislation or regulation.
19. For my part, I am not aware of any provisions that would exempt the need for planning permission or provide such permission.
20. For the reasons I give, above, the Appellants have failed to show on the balance of probability that there has not been a breach of planning control. Therefore, their Ground (c) appeal fails.

Ground (d)

21. An appeal under Ground (d) is that when the Notice was issued, it was too late to take enforcement action against the breach of planning control. Again, the onus lies with the Appellants to make their case on the balance of probability.
22. The period after which the material change of use that has been alleged in the Notice becomes immune from enforcement action is 10 years (‘the relevant period’), as set out in section 171B(3) of the Act. Therefore, that the caravan has been on site for 9 years is insufficient to achieve immunity.
23. The Appellants have failed to make the case that it was too late for the Council to take enforcement action on the balance of probability. Therefore, their Ground (d) appeal fails.

Ground (f)

24. It is clear to me that the purpose of the Notice is to remedy the breach of planning control. Therefore, the case under Ground (f) needs to demonstrate 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 this breach of planning control.
25. The Appellants’ case made in the Grounds of Appeal refers to care for ponies, the generation of vehicular traffic and the provision of water on the site. These relate to the planning merits of the case, and cannot be taken into account.
26. The remedy for the breach of planning control includes the removal of the caravan. No Ground (a) case has been made, and no lesser steps that would remedy the breach within the remit of Ground (f) that would remedy the breach have been brought forward. I am not aware of any, either.

27. In the circumstances, the Ground (f) appeal fails.

Ground (g)

28. An appeal under this ground is that the period given for compliance with its terms falls short of what should reasonably be allowed.
29. I understand the Appellants' case that there is a shortage of affordable housing in the area. This is well-documented in attractive seaside and rural areas. They do not, however, suggest an longer period for compliance. Despite the difficulties of finding alternative accommodation, I find that the 12 months allowed for compliance with the Notice is reasonable. There are powers under section 173A(1)(b) of the Act that allow Council's to amend the terms of a Notice, but they are entirely at the Council's discretion.
30. The Appellants reference to the need to monitor the horses on the land for 24 hours a day is not relevant here.
31. For the above reasons, the Appellants' Ground (g) case fails.

Conclusion

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

R Curnow

INSPECTOR