



Appeal Decision

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: 12 August 2025

Appeal Ref: APP/K1128/C/25/3360060

Underhill, Stidston Lane, South Brent, Devon, TQ10 9JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Irene Wojciechowski against an enforcement notice issued by South Hams District Council ('the Notice').
 - The notice was issued on 6 January 2025.
 - The breach of planning control as alleged in the notice is Without planning permission: (i) the change of use of the Land for the siting of a mobile home for residential purposes; and (ii) the siting of a mobile home shown edged in red and associated paraphernalia on the Land to facilitate the above unauthorised residential use.
 - The requirements of the notice are: (i) Cease the unauthorised residential use of the land referred to in paragraph 3(i) on the land; and (ii) Remove the unauthorised mobile home, which is currently facilitating the unauthorised residential use, including any associated paraphernalia.
 - 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) of the Town and Country Planning Act 1990 (as amended) ('the Act').
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Decision

1. It is directed that the enforcement notice is varied by the deletion of 12 months and the substitution of 24 months as the time for compliance. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. The Appellant has not made an appeal under Ground (a), where planning permission for the development alleged in the Notice might be granted. She has made a number of points relating to the planning merits of the case, but for these to be taken into account there would have to be a Ground (a) appeal. Those points, therefore, cannot be taken into account.

Ground (d)

3. An appeal made under Ground (d) is that when the Notice was issued, it was too late to take enforcement action. This is a legal ground where the onus lies with the Appellant to make her case on the balance of probability.
4. The siting of a caravan for residential purposes, as alleged in the Notice, is a material change of use of the land. Using the time limits set out in section 171BA of the Act, the Appellant needs to prove that the use has been carried out continuously for a period of 10 years. Her final comments, set out in a letter from Citizens Advice South Hams, refer to the "new time limit"¹. Her case is that, as the

¹ Levelling-up and Regeneration Act 2023 (c.55) s.115(2) with effect from 25 April 2024

use commenced before the date that the new limit came into effect, the period she has to prove is 4 years. This is not the case.

5. By her own evidence, provided in her answers to a human rights questionnaire ('HRQ'), her occupation of the land began on 1 July 2016. Therefore, her residential use of the caravan could only have been carried out for a maximum of 9 years at the time the Notice was issued. Prior to this, from her answer to another question in the HRQ, she lived in a flat in Heathfield. It has not been claimed that anyone else lived on the land.
6. A third party who lives close to the site, stated that there had been an occupied caravan on the land for some 25-30 years. However, no substantive evidence was submitted to support this contention. The Appellant claims that there has been a caravan on the land for the period that she has owned it, some 35 years. Again, no substantive evidence of this, nor whether it had been used for residential purposes, has been submitted
7. The Council attached a series of 'Google Earth' images to its statement of case. These show the whole of the land, save for its eastern and western extremities, including that part where the Appellant's caravan is sited. In the first of these, dating from 2010, whilst the stable building is shown there is no caravan in the position where the Appellant's was when I visited the site, nor is any other caravan visible. The caravan she lives in is present by the time of the next image, which dates from 2017. It is also present in images from 2018 and 2022. In each of those images from 2017, what appears to be a touring caravan is sited just to the south of the residential caravan.
8. Taking the evidence as a whole, it has not been demonstrated that the use alleged in the Notice has been carried out continuously for a period of ten years, as required.
9. For the above reasons, the Ground (d) case fails.

Grounds (f) and (g)

10. A Ground (f) appeal is made on the basis 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 any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. It is clear from its wording that the purpose of the Notice is to remedy the breach of planning control.
11. An appeal made under Ground (g) is that the period given for compliance with the requirements of the Notice falls short of what should reasonably be allowed. Although no Ground (g) case was formally made by the Appellant, she raised points that fall to be determined under this ground. As the Council were aware of the points she raised, and had a chance to reply to them, there is no prejudice in my dealing with them in this way. Given the manner in which the Appellant makes her case, it makes sense to deal with the two grounds at the same time.
12. Although the Appellant states that there is no public interest in this enforcement notice, that is not a matter for me. The question of expediency when issuing an enforcement notice against a breach of planning control is for the Council; that decision should be made having regard to the provisions of the development plan

and other material considerations. Where the expediency of issuing a notice is challenged, this must be pursued by way of a judicial review, as Inspectors have no jurisdiction on the matter.

13. She goes on to make reference to her age, and health issues from which she suffers. Both of these are protected characteristics, as defined in the Equality Act 2010 ('EA10'). This Act imposes a public sector equality duty ('PSED') on public authorities exerting their functions. In essence, it has three aims: to eliminate discrimination; to advance equality of opportunity between those with and without protected characteristics; and to foster good relations between those groups.
14. A result of the Notice coming into effect is that the Appellant would lose her home. This would be an interference with her human rights, set out in Article 8(1) of the Human Rights Act 1998 ('HRA'). However, this is a qualified right and, as HRA Article 8(2) states, there shall be no interference by a public authority with the exercise of the Article 8(1) right, except where certain circumstances prevail. Amongst these, is where it is necessary in a democratic society for the prevention of disorder or crime, and for the protection of the rights and freedoms of others. Non-compliance with the terms of the development plan could lead to disorder and affect the rights and freedoms of others, and the reasons for issuing the Notice clearly set out why the action was necessary. Its requirements are proportionate to the breach.
15. Amongst the arguments that have been put forward by the Appellant is that she should be allowed to live on the land for the rest of her life. As she could, and hopefully would, live for many years, this would be akin to granting a personal planning permission for the breach. As I have said, this cannot be done in the absence of a Ground (a) appeal. Furthermore, allowing the breach to continue for an unknown and possibly long period of time would undermine the Council's approach to managing development across the district.
16. I understand the point that is made that it would be difficult to find alternative accommodation in the area. The problems of obtaining rural housing, especially in sought-after areas such as the South Hams, are well known. I give this limited weight in my deliberations. However, I have little doubt that the Appellant's protected characteristics would be likely to substantially add to her difficulties in finding alternative accommodation. Taking all of these matters into account, I give significant weight to extending the period for compliance to allow the Appellant reasonable time to find alternative accommodation. In the circumstances, I will extend the period for compliance to two years.
17. The Appellant's submissions do not demonstrate how lesser steps might remedy the breach of planning control, nor can I see how this might occur. Therefore, for the above reasons, I dismiss the Ground (f) appeal. However, in the light of the evidence regarding human rights and PSED issues, I find that the 12-month period for compliance falls short of what is reasonably required. I will extend the period for compliance to 24 months, and, to this extent, the Ground (g) appeal succeeds.

Conclusion

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

R Curnow

INSPECTOR