



Appeal Decision

Hearing held on 15 July 2025

Site visit made on 15 July 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/K0940/C/25/3362463

Land at Barn at Woodgate Crossing, Lowick, Ulverston LA12 8ES

- 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 Jeff Elwood against an enforcement notice issued by Westmorland and Furness Council.
 - The notice was issued on 13 February 2025.
 - The breach of planning control as alleged in the notice is without planning permission:
 - i. Siting of a static caravan for the purposes of residential habitation, shown in the approximate position marked in yellow on the attached plan, and the erection of a partially constructed steel framed structure, shown in the approximate position marked in blue on the attached plan.
 - The requirements of the notice are to:
 - (A) Cease the residential use of the caravan marked in yellow and remove it from the site
 - (B) Permanently remove from the land the structure in the approximate position marked in blue on the attached plan
 - (C) Remove all stored construction materials from the land
 - (D) Restore the ground levels in the location of the structure marked in blue
 - (E) Remove the materials resulting from Steps (A) (B) and (C) from the land
 - The period for compliance with the requirements is 13 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) of the Act. 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.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In paragraph 5 (A), the deletion of the words "marked in yellow and remove it from the site" and its substitution with the words "and the land marked in yellow and remove the caravan from the site"
2. Subject to the correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

The Enforcement Notice

3. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of a notice provided that it would not result in injustice to the parties.
4. The stationing of caravans is normally taken as constituting a use of land. Section 5 of the notice does not require the cessation of the residential use of the caravan on which the caravan resides. I have therefore corrected the notice to ensure the

residential use of the land is ceased. This matter was discussed at the Hearing and the parties agreed there would be no injustice with me correcting the notice in this regard.

Appeal on ground (b)

5. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact. The onus of proof in a ground (b) appeal is on the appellant and the test of evidence is on the balance of probability.
6. Photographs provided within the Council's statement of case shows that the alleged development was at the appeal site in January 2025. I heard from the appellant at the Hearing that the static caravan and the partially constructed steel framed structure were present on site when the notice was issued.
7. I am satisfied, on the balance of probability, that the allegation stated in the notice had occurred as a matter of fact. The appeal on ground (b) therefore fails.

Appeal on ground (c)

8. An appeal on ground (c) is that matters alleged in the notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (c) appeal is on the appellants and the test of the evidence is on the balance of probability.
9. The appellant argues that the partially constructed steel framed structure is a structure which has planning permission¹ (the 2019 permission) for development described as conversion of agricultural barn into a dwelling. It is further argued that the static caravan for residential is permitted development for a temporary basis as the appellant is residing in the caravan whilst undertaking works to complete the development under the 2019 permission. The Council argue that the 2019 permission is no longer extant as the agricultural barn including the steel framed structure of the barn had been removed from the site and therefore does not constitute a conversion, as detailed in the 2019 permission. Therefore, if the 2019 permission is not extant then the caravan cannot be permitted development.
10. It is claimed by the appellant that the use of the word "conversion" on the 2019 permission decision notice is inaccurate, and the appellant had applied to ensure works that were beyond the jurisdiction of a "conversion". The appellant further states that in dealing with the 2019 planning application, the Council had powers to alter the description of development for the 2019 planning application and the 2019 permission failed to adequately describe the application.
11. From the evidence before me, it is clear that the 2019 planning application was submitted to obtain planning permission for development described as "proposed conversion of agricultural barn into a dwelling". This is the description of the proposal in section 5 of the application form, and the proposal is described a number of times as a conversion in the accompanying Design and Access Statement for the 2019 planning application. The Structural Survey dated June 2018, whilst acknowledging this was originally submitted with a previous application², was submitted with the 2019 application and referred to the

¹ LPA reference: SL/2019/0515

² LPA reference: CU/2018/0009

conversion of the building, concluding that the building was suitable for conversion to residential.

12. It was described to me at the Hearing that the steel framed structure was dismantled and took away from the site in order to be repurposed which included attaching additional 8 foot of steel work to the bottom of the structure. An engineering letter from MSB Engineering Ltd confirms that it's the original steel frame structure that returned to the site. The appellant further argues that reference to "conversion" could not be considered in a traditional sense given that the agricultural barn was to be striped back to the steel frame, as well as the excavation requirements detailed in the 2019 planning application.
13. Regardless of the interpretation of the term "conversion", planning permission was granted in 2019 for conversion from agricultural barn to a dwelling. The dismantling of the agricultural barn including the steel framed structure, and subsequently its removal from the site, for whatever reasoning, means that the agricultural barn detailed in the 2019 permission cannot be "converted" to a residential dwelling.
14. My attention has been drawn to condition 3 of the 2019 permission which states that no superstructure shall be erected until samples and details of materials to be used in the development have been approved by the local planning authority. This condition is contradictory set against the development as a conversion of the building. Nevertheless, the 2019 permission decision notice has to be read as a whole, and it is clear from page 1 of the decision notice that the development granted permission is "conversion of agricultural barn into a dwelling".
15. I have had regard to planning permission SL/2023/0721 which relates to demolition of existing barns and erection of dwellings. I do not consider this permission to be directly comparable to the 2019 permission, given the descriptions of development on the permissions fundamentally differ.
16. On the balance of probability, I conclude that the 2019 permission is not extant and can no longer be implemented. Therefore, the siting of a static caravan for the purposes of residential habitation does not benefit from being permitted development. There is no evidence before me indicating the matters alleged in the enforcement notice, including the partially constructed steel framed structure, has planning permission and thereby, the alleged matters do constitute a breach of planning control.
17. The appeal on ground (c) therefore fails.

Appeal on ground (a)

18. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issues

19. The main issues are whether planning permission SL/2019/0515 remains extant and can be implemented and whether the alleged development is suitably located with regards to access to key services.

Reasons

Planning Permission SL/2019/0515

20. As detailed above I have found that the 2019 permission is no longer extant and cannot be implemented. On this basis, there is no fall back position with regards to permission for a residential unit at the appeal site.

Location

21. The appeal site is detached from any nearby settlements and is not in close proximity to any public facilities or services. Occupants of the residential unit at this site would be reliant on the use of private motor vehicles to access services for every day needs.
22. Accordingly, the development alleged in the notice is not suitably located and does not accord with Policies CS1.1 and CS1.2 of the South Lakeland Local Development Framework Core Strategy and Policies DM1 and DM16 of the Local Plan Development Management Policies which seeks development to protect the countryside, ensure sustainability and ensure a building is capable of conversion.
23. I therefore conclude that the appeal on ground (a) fails.

Appeal on ground (f)

24. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. In this case the requirements are to remove the alleged development and cease the use, which the purpose is to remedy the breach of planning control.
25. The appellants argument on this ground relate to the matter of 2019 permission being extant and subsequent permitted development rights for the caravan, which I have dealt with above. The requirements go no further than remedying the breach of planning control.
26. For these reasons, the appeal on ground (f) fail.

Conclusion

27. For the reasons given above, I conclude that the appeal should fail on grounds (a), (b), (c) and (f), and therefore the appeal is dismissed, and the enforcement notice should be upheld, subject to the correction identified above.

Chris Baxter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

J Salisbury Planning Consultant

J Ellwood Appellant

FOR THE LOCAL PLANNING AUTHORITY:

C Pinch Council

B Dowker Council