



Appeal Decisions

Site visit made on 11 August 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Appeal A Ref: APP/D0840/C/24/3349733

Hillcrest Cottage Trenerth Road, Leedstown, Hayle TR27 5ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Ms Julie Wooliston against an enforcement notice issued by Cornwall Council.
- The notice was issued on 10 July 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the conversion and extension of a garage/store building (approved under PA17/02410) for use as an independent residential dwellinghouse. The approximate position of the dwellinghouse is outlined in blue on the attached plan and the approximate location of timber extension has been shaded in orange.*
- The requirements of the notice are:
 - (1) Cease the residential use of the building outlined in blue on the attached plan.
 - (2) Remove all services connected to the building for the purposes of independent human habitation, i.e. electric cabling, water pipes, sewage pipes etc.
 - (3) Demolish and remove the timber extension shaded in orange on the attached plan.
 - (4) Alter the remaining building to comply with the terms of the planning permission reference PA17/02410 dated 26/04/2017 including the conditions subject to which that permission was granted.
 - (5) Remove from the land all materials and debris resulting from compliance with the requirements of (2), (3) and (4) above, and restore the land to its former condition before the breach took place.
- The period for compliance with the requirements is: *Six months after this notice takes effect*
- The appeal is proceeding on the grounds set out in section 174(2) (b) of the 1990 Act (as amended).

Summary of Decision: The appeal is dismissed, and the corrected enforcement notice is upheld in the terms set out below in the Formal Decision.

Appeal B Ref: APP/D0840/W/24/3349753

Hillcrest Cottage Trenerth Road, Leedstown, Hayle TR27 5ER

- 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 Julie Wooliston against the decision of Cornwall Council.
- The application Ref is PA24/04075.
- The development proposed is retrospective application for the conversion and extension of garage to create ancillary residential accommodation.

Summary of Decision: The appeal is allowed, and planning permission is granted in the terms set out below in the Formal Decision.

Formal Decisions

Appeal A

1. It is directed that the enforcement notice (EN) is corrected and varied by:
 - The deletion of the wording "...conversion and..." and the deletion of the wording "...for use as an independent residential dwellinghouse." in section 3, so that it reads:

Without planning permission, the extension of a garage/store building (approved under PA17/02410). The approximate position of the building is outlined in blue on the attached plan and the approximate location of the timber extension has been shaded in orange.

- The deletion of requirements (1) and (2) within section 5 of the EN which requires the cessation of the use for independent human habitation.

2. Subject to the corrections and variations, the EN is upheld.

Appeal B

3. The appeal is allowed, and planning permission is granted for the conversion and extension of the garage to create ancillary residential accommodation at Hillcrest Cottage Trenherth Road, Leedstown, Hayle TR27 5ER in accordance with the application Ref PA24/04075, subject to the following conditions:

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 2) The development hereby permitted shall only be occupied by members of the family or non-paying guests of the occupiers of the dwelling known as Hillcrest Cottage and shall not be used at any time as a separate residential unit of accommodation.

Applications for costs

4. The application for costs made by the appellant against Cornwall Council is the subject of a separate decision.

Preliminary Matters

5. I have amended the description of development under Appeal B and removed the superfluous wording “*retrospective application for...*” as these are not necessary here. I am satisfied that no injustice would be caused to either party by doing so.
6. It would be appropriate to detail the planning history associated with the site. Planning permission¹ was granted for the conversion of an agricultural building to a dwellinghouse (Hillcrest Cottage). A further permission² was granted by the Council for the addition of a porch to the Hillcrest Cottage and erection of a detached garage and store (Hillcrest Lodge). The permission was conditional, including removing permitted development (PD) rights, and a restrictive condition ensuring the use of Hillcrest Lodge remained incidental to the residential use of Hillcrest Cottage.
7. Following an enforcement investigation, the Council identified an unauthorised extension to Hillcrest Lodge, and conversion of it to provide additional residential accommodation at the site. A Planning Contravention Notice (PCN) was issued at the property, where the appellants indicated that the conversion was initially to

¹ Cornwall Council Planning Ref: PA14/04533

² Cornwall Council Planning Ref: PA17/02410

provide ancillary accommodation for an elderly relative whilst they undertook holidays at the site together as a family.

8. The appellants were encouraged to submit a retrospective planning application³ with regard to the unauthorised extension to Hillcrest Lodge. The Council were mindful of the time limits for taking enforcement action and to protect their position an EN was served prior to the determination of the planning application, which was refused permission on the 5 August 2024. As the Council issued an EN before the retrospective planning application had been determined, this prevented the appellant from appealing the EN under ground (a) in accordance with s174 (2A) of the 1990 Act (as amended).
9. Nevertheless, the appellant has also appealed the refused planning application and this is the subject of Appeal B.

Appeal A – Appeal on ground (b)

10. An appeal on this ground is that the matters alleged in the EN, have not occurred. In order to succeed on this ground, the appellant must demonstrate that, on the balance of probability, the matters stated in the EN have not occurred as a matter of fact. The EN is directed at operational development in the form of the extension to Hillcrest Lodge, but also against an alleged material change of use to its use as an independent residential dwellinghouse. I shall deal with these matters in turn.
11. With regard to the operational development involving the timber extension to Hillcrest Lodge, from the evidence before me the development had been substantially complete in November 2020. As detailed above, the appeal site was subject to a restrictive condition that removed PD rights from the property. The appellant has sought retrospective planning permission for the development through a Section 73A application under reference PA24/04075, which was refused by the Council and is now the subject of Appeal B. Consequently, as the breach of planning control had occurred on the date of issue of the EN, the appeal against the operational development under ground (b) must fail.
12. Turning to the material change of use the appellant seeks to demonstrate that the use of Hillcrest Lodge as an independent residential accommodation has not occurred, as a matter of fact. From the information before me and following my site visit, Hillcrest Lodge has been redeveloped internally and includes a kitchen/dining/lounge and utility areas, three bedrooms and bathroom facilities. Thus, the unit is capable of independent accommodation.
13. However, a PCN response received from the appellant explains that Hillcrest Lodge is generally vacant and not resided in on a permanent basis other than infrequent use by the appellants as a holiday home. Further evidence⁴ highlights that the appellant also operates the main residence at Hillcrest Cottage as a holiday home, and this is rented out 17 weeks per year for short term lets on AirBnB.
14. From the evidence before me, there is a functional linkage between the properties of Hillcrest Cottage and Lodge. Both sites share common facilities, such as electricity and water utilities, parking and garden areas and are both accessed via the same gate from Trenherth Road. The properties are under the same ownership,

³ Cornwall Council Planning Ref: PA24/04075

⁴ Appendix 3 of the Councils Statement of Case

and appear to function as one planning unit which, whilst physically separate and distinct, are occupied for similar and related purposes, as holiday accommodation. Furthermore, bills, correspondence and council tax are only apportioned to the main house at Hillcrest Cottage. This suggests that Hillcrest Lodge, whilst capable of providing self-contained accommodation and facilities could be considered ancillary to Hillcrest Cottage.

15. The Council has provided little evidence to counter the information supplied in the appellants PCN, other than reference to the AirBnB use of Hillcrest Cottage. Based on the evidence before me, and having regard to the evidence already made available, the use of Hillcrest Lodge as an independent residential dwellinghouse has not been established. Based on the submitted information and lack of evidence to the contrary, I must therefore conclude that on the balance of probabilities, Hillcrest Lodge has not been occupied as an independent residential unit, and therefore the alleged breach of planning control has not occurred, as a matter of fact.
16. Consequently, under ground (b) this part of the appeal succeeds. I shall therefore correct the EN to remove all references to the cessation of the material change of use as an independent residential dwellinghouse.

Appeal B

Main issues

17. The main issues are i) whether the development would constitute ancillary accommodation or a new residential development; and ii) impact on the character and appearance of the area.

Reasons

Whether ancillary accommodation

18. The Council has concerns that a new independent residential dwellinghouse has been created at the site, which would be contrary to the relevant sections of policies 1, 2, 3 and 7 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP), adopted November 2016, which collectively require new residential development to be sustainably located. The question, therefore, is whether Hillcrest Lodge is an independent residential dwellinghouse or is it ancillary to the main house at Hillcrest Cottage.
19. An ancillary use is one which is functionally related to the primary use. The approved primary use of the planning unit is the use of Hillcrest Cottage as a dwellinghouse. Caselaw⁵ highlights that the use of an outbuilding in the curtilage of an existing dwellinghouse for residential purposes does not involve a material change of use where it is used in conjunction with the host dwelling. Given this, and whilst both properties remain vacant and unoccupied for large periods of time, it is necessary to consider the planning unit and whether an additional planning unit has been created by the current use of Hillcrest Lodge.
20. I have found in Appeal A that the properties appear to be a single planning unit, given there is a functional linkage between them. Whilst I accept that Hillcrest Lodge is separate from Hillcrest Cottage, and capable of independent use, they

⁵ Uttlesford DC v SSE & White [1992] JPL 171

are within the same plot and under common ownership for the specific purpose of holiday accommodation. Whilst land ownership does not necessarily correlate with the use of land, where it relates to a self-contained unit within the same planning unit, it would not be unusual for the land owned to be used for ancillary residential purposes.

21. The description of development contained in the planning application form explicitly identifies that the proposal is for the conversion and extension of the garage building (Hillcrest Lodge) to create ancillary accommodation, and so any future plans to use it as an independent dwelling would require separate consent. Furthermore, a suitable condition can be attached to any permission to specifically retain the unit for ancillary accommodation associated with the main property at Hillcrest Cottage. Consequently, I am satisfied that there could be sufficient controls in place, that such a change of use would require a separate application for planning permission.
22. Overall, Hillcrest Lodge would be ancillary to Hillcrest Cottage and thus would not provide a new standalone dwelling outside of development boundaries. The proposal would therefore not conflict with the relevant provisions of CLP Policies 1, 2, 3 and 7 and the National Planning Policy Framework (the Framework) which amongst other things, support sustainable development and where they are appropriate to the rural setting and character of the area, and do not conflict with the Local Plan as a whole.

Character and appearance

23. The appeal site consists of a converted agricultural building located to the north of the settlement of Leedstown. The surrounding area is predominately rural with development becoming more sporadic as one moves away from Leedstown. The appeal site is bordered by open agricultural fields, established trees, hedges and other vegetation which screens views from public vantage points, albeit there are glimpse views of the buildings along the roadside.
24. The extension is located amongst the existing development, adjoining Hillcrest Lodge and behind Hillcrest Cottage. The design has a contemporary single storey domestic appearance, which would be relatively subservient in appearance within its immediate vicinity. The use of natural timber cladding also visually recedes within the verdant setting, thus respecting the open area.
25. The positioning of the extension in and amongst the existing built development minimises any negative effects of the structure, as it is viewed against this more developed backdrop. Given this location and the screening provided by the existing buildings and boundary treatments, the extension does not adversely impact on the verdant locality within which it is sited or the Cornwall and West Devon Mining Landscape World Heritage Site (WHS).
26. Overall, the extension is seen within the context of the existing buildings and development that the appeal site forms part. At the very least, it conserves the WHS and landscape character, and responds effectively to its surroundings in accordance with the relevant CLP policies, sections of the Framework; and the Cornwall Design Guide adopted 2021 which collectively seek to protect landscapes and ensure that new development is visually attractive and sympathetic to local character.

Conditions

27. Given that the permission is being granted retrospectively, in this instance it is not necessary to attach the standard time limit condition or approved plans.
28. I find that any harm caused can be mitigated by the imposition of suitably worded conditions that restrict the occupation of Hillcrest Lodge, and the withdrawal of permitted development rights. These conditions are necessary to make the development acceptable, directly related to the development and are fairly and reasonably related in scale and kind to the development.

Conclusion

29. The Appeal B scheme accords with the development plan, when read as a whole and the Framework. Having considered all material considerations and other relevant matters raised, I therefore conclude that Appeal B is allowed subject to conditions.
30. For the reasons given above, I conclude that Appeal A should fail insofar as it relates to the corrected EN, and as a result I shall uphold the corrected notice. However, s180(1) of the 1990 Act states that where after the service of an EN planning permission is granted for any development carried out before the grant of that permission, the EN shall cease to have effect so far as it is inconsistent with that permission. Consequently, the notice will cease to have effect with regard to the extension at Hillcrest Lodge as it will benefit from planning permission granted under Appeal B and will therefore be lawful for planning purposes.
31. By means of clarification, the EN therefore ceases to have effect so long as the planning permission is extant and the conditions are complied with. However, it would be incumbent on the Council as Local Planning Authority, to consider the expediency of any future enforcement action, in the form of a breach of condition notice, should Hillcrest Lodge be used as a separate and independent residential dwellinghouse, other than by members of the family or non-paying guests of the occupiers of the dwelling known as Hillcrest Cottage.

Robert Naylor

INSPECTOR