



Appeal Decision

Site visit made on 10 June 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 October 2025

Appeal Ref: APP/E3335/C/23/3331788

Hyde Egg Farm, Hyde Lane, Bathpool, Taunton, Somerset TA2 8BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Lee Hedges against an enforcement notice issued by Somerset Council.
 - The notice was issued on 15 September 2023.
 - The breach of planning control as alleged in the notice is the change of use of the land to use for the stationing of two mobile homes in the approximate positions shown edged blue on the plan.
 - The requirements of the notice are:
 1. Cease the use of the land for the siting of two mobile homes for permanent residential occupation;
 2. Remove the two mobile homes from the land;
 3. Remove all materials and components formerly comprising of the two mobile homes from the land.
 - The period for compliance with the requirements is: Nine months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), and (d) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - Substituting the plan attached to the notice with the amended plan annexed to this decision.
 - In section 3 the deletion of the matters to which appear to constitute the breach of planning control in their entirety, and replacement with the words “The material change of use of the land to the stationing of two mobile homes for residential use”.
2. Subject to the above corrections, the appeal is allowed and the enforcement notice is quashed.

Application for costs

3. An application for costs was made by Mr Lee Hedges against Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

4. Although referred to by the Council as “mobile homes” it is evident that they are referring to “caravans” within the meaning of the Caravan Sites and Control of Development Act 1960 (CSCDA). S29(1) of the CSCDA defines a caravan as “*any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) ...*”.

5. Although an appeal under ground (b) was not originally made, part of the appellant's case is that the mobile homes have since become buildings. This is due to their wheels being removed and the carrying out of operational development, including the erection of a porch, decking, and sheds. The Council dispute this and maintain that both structures remain within the definition of a caravan.
6. For the appellant's case to be successful, it would need to be demonstrated that the porch, decking, and any other additions were attached to the caravan(s) in a manner that made them integral to the overall structure. During my site visit I saw there was a narrow gap between the brick wall around the base of the mobile home, and the mobile home itself. Similarly, the porch and patio area on the most northerly mobile home, and the decking on the second mobile home did not appear to be physically attached to the caravans so to compromise either their structural integrity or their ability to be moved or transported from the site. I acknowledge that the mobile homes will be connected to services such as water and electricity, however these are easily disconnected and there is no evidence before me to suggest that the mobile homes are otherwise permanently fixed to the ground.
7. Indeed, it appeared that it would be a relatively straightforward task to remove the porch and decking areas, so that they would not impede the movement of the mobile homes. For the avoidance of doubt, I therefore find that both mobile homes still fall within the definition of a caravan as set out in S29(1) of the CSCDA. I have determined the appeal on that basis.

The Notice

8. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act"), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
9. The notice alleges the "change of use of the land to use for the stationing of two mobile homes". The "change of use" of land is not, in itself, development requiring planning permission. I shall therefore correct the notice to refer to a "material change of use" of the land as defined in section 55(1) of the 1990 Act.
10. Secondly, I must note that the stationing or siting of mobile homes on land is not development in itself, and the notice must therefore specify the purpose of stationing the mobile homes on the land. The alleged breach of planning control fails to identify the use of the mobile homes and therefore lacks the precision necessary for an enforcement notice. Nevertheless, it is clear from the four corners of the notice that the alleged breach relates to the residential use of the two mobile homes. It is equally clear from the appellant's submissions that he too understood that to be the case.
11. Consequently, the parties have agreed that the notice can be corrected so that the alleged breach refers to "The material change of use of the land to the stationing of two mobile homes for residential use" without causing injustice.
12. Based on my observations at the site visit, and considering the site history, it is apparent that the plan attached to the enforcement notice does not accurately

reflect the area targeted by the notice. The alleged breach of planning control is clearly directed at the stationing and use of two mobile homes, and there is no reference to any other operational development such as any decking, fencing, extensions or outbuildings. Furthermore, the alleged breach is not directed at the use of the wider site or land, including the former agricultural buildings of which some now appear to be in a form of industrial or commercial use.

13. The plan attached to the notice encompasses the entirety of the wider site, including the aforementioned buildings, vehicular access, shared parking areas, and grassed land. Given that the alleged breach focuses entirely on the stationing of the two mobile homes, and their use, the plan should be corrected so that it relates only to the mobile homes. As this correction would reduce the area affected by the notice it would not cause any injustice to either main party. I will therefore substitute the plan attached to the notice with the amended plan annexed to this decision.

Ground (c)

14. An appeal on ground (c) is that the matters alleged in the notice, as corrected, do not constitute a breach of planning control. This ground of appeal is strictly concerned with matters of fact and law. It is for the appellant to demonstrate why the appeal should succeed on ground (c), with the relevant test of the evidence being on the balance of probability.

Background

15. There is no dispute between the parties that the two mobile homes have been stationed on the appeal site since at least the early 1990's. Planning permission¹ was first granted on 14 July 1992 ("the 1992 permission") for the "*Retention of mobile home for agricultural worker*" for a temporary period. A second time limited permission² was subsequently granted on 30 March 1995 ("the 1995 permission") for the "*Retention of mobile home, ancillary to existing mobile home*", which also included a Section 106 agreement.
16. Two further planning applications³ seeking temporary permission for the "*Retention of mobile home and annexe*" were also submitted to the Council in 1998 and 2003 respectively. Following the expiry of the temporary planning permissions, a fresh planning application⁴ was approved on 12 December 2004 ("the 2004 permission") for the "*Continued use of land for the siting of residential mobile home (and ancillary mobile home) for occupation by Mr and Mrs Hedges only at Hyde Lane Egg Farm, Bathpool*".
17. The 2004 permission was granted subject to one planning condition which stated, "*This permission shall enure for the benefit of Mr & Mrs Hedges only and not for the benefit of the land*". The submitted location plan identified the application site as being restricted to just the two mobile homes themselves, and not the wider site.

¹ Council Ref: 48/92/0035

² Council Ref: 48/93/0041

³ Council Ref: 48/98/0007 and 48/03/0062

⁴ Council Ref: 48/04/0001

Reasons

18. An enforcement notice is required to specify whether, in the opinion of the local planning authority, the breach of planning control is within s171A(1)(a) or s171A(1)(b) of the 1990 Act. That is whether the allegation is one of development without planning permission, or a breach of condition or limitation on a planning permission. In this case, the Council has confirmed that it is seeking to enforce against the residential use of the land due to the stationing of two mobile homes for such purposes and has described this as a material change of use under s171A(1)(a).
19. The appellant's primary case on this ground is that the material change of use of the land to the stationing of two mobile homes for residential use originally took place in the 1990's and benefits from planning permission. The Council contend that the original approved use was for the stationing of mobile homes with various restrictions, and that the current use goes beyond what is allowed by the 2004 permission. It is not disputed that the temporary permissions granted in the 1990's have now lapsed. Consequently, the Section 106 agreement attached to the 1995 permission does not bite. The 2004 permission is therefore of principal relevance to this case.
20. From the evidence before me it is apparent that the 2004 permission was implemented, and the use of the land for the siting of two mobile homes for residential use is permitted. The key question is whether the 2004 permission imposes any restrictions on that use. The appellant has referred to case law in *I'm Your Man Ltd*⁵ in that regard.
21. In *I'm Your Man Ltd*, it was held that the manner in which a permitted use is exercised (in that case a purported temporary time period) cannot be limited by the description of development, but rather it must be imposed by condition. This was further supported in the case of *Cotswold Grange Park LLP*⁶ where it was held that only a condition can impose a limitation as a matter of law. Put simply, the Courts have held that the grant of planning permission is permissive, while the imposition of a planning condition is restrictive.
22. The description of development in the 2004 permission refers to the development being "*for occupation by Mr and Mrs Hedges only*". Notwithstanding the inclusion of that wording in the description, in line with the judgements in *I'm Your Man Ltd* and *Cotswold Grange Park LLP*, a single planning condition was attached seeking to limit the permission to Mr & Mrs Hedges.
23. The effect of a personal planning condition is that it effectively grants permission for a temporary period, limiting the duration of the planning permission. However, the continuation of a use after the expiry of a temporary planning permission granted for a limited period does not constitute development. An enforcement notice directed against a continuing use should therefore allege a breach of condition that required the use to cease at a specified time or event.
24. Noting the legal advice received by the Council, I too observe that the condition does not require the residential use to cease, or the mobile homes be removed from the land, at any stage upon Mr & Mrs Hedges ceasing to have interest in the

⁵ *I'm Your Man Ltd v SSE & North Somerset DC* [1999]

⁶ *Cotswold Grange Country Park LLP v SSCLG & Tewkesbury DC* [2014] EWHC 1138 (Admin); [2014] JPL 981

land. Consequently, I find that following its implementation the 2004 permission is extant and the stationing of two mobile homes for residential use benefits from planning permission.

25. I have also been referred to the Section 106 agreement, which required the mobile home subject of the 1995 permission to be used as residential accommodation ancillary to the mobile home subject of the 1992 permission. As already set out above, both the 1992 and 1995 permissions have since lapsed, and therefore the Section 106 agreement does not bite. The 2004 permission also does not include a condition requiring either mobile home to be used as ancillary residential accommodation. The description of development though does include “*and ancillary mobile home*”.
26. The appellant again seeks to rely on *I’m Your Man Ltd* in that for any limitation on the grant of permission to be effective, it needs to be done by condition and cannot be implied by the description of development. However, in the cases of *Winchester*⁷ and *Norfolk Caravan Park*⁸ it was established that the extent of the use for which a planning permission is granted must be ascertained by interpreting the words in the planning permission itself.
27. In *Norfolk Caravan Park*, referring to a planning permission for a development described as a “holiday caravan park”, the Court held that the word “holiday” clearly qualified the term “caravan park” and was as much a component of the use permitted as was the word “caravan”. As such, the permitted “holiday” use could not be widened to include a broader general residential use.
28. In this case, I find that the use of the word “ancillary” in the 2004 permission qualifies the residential use of the second mobile home permitted on the site. Indeed, it is easy to infer from the planning permission and accompanying location plan that both residential mobile homes formed part of a single planning unit. There is no evidence before me to suggest that, upon the implementation of the 2004 permission, the residential use of the two mobile homes was anything other than as part of the same single planning unit.
29. The residential occupation of the “ancillary” mobile home independently from the other residential mobile home could amount to the creation of a new planning unit and a material change of use. The leading case relating to planning units is *Burdle*⁹. It was held in *Burdle* that the planning unit is normally the unit of occupation unless a smaller area can be identified, which as a matter of fact and degree, is physically separate and distinct and occupied for different and unrelated purposes.
30. However, it is not the Council’s case that a separate second residential planning unit has been formed. On the contrary, the Council confirmed that it considers there to be a single “residential planning unit” which consists of the stationing of the two mobile homes. Indeed, I have no substantive evidence before me to indicate that the “ancillary” mobile home was occupied independently at the date the enforcement notice was issued, nor that it was functionally and physically separate from the other mobile home. This position is further supported by the fact

⁷ Winchester CC v SSCLG & Others [2013] EWHC 101 (Admin), [2015] EWCA Civ 563; [2015] JPL 1184

⁸ Norfolk Caravan Park Ltd v SSHCLG & Broadland DC [2021] EWHC 2114 (Admin)

⁹ Burdle & Williams v SSE & New Forest DC [1972] 1 WLR 1207

that the notice was only served on the appellant, and not on any other persons or occupiers of the mobile homes.

31. Even if I were to take the opposing view and consider that the “ancillary” mobile home was being used in a manner that led to the formation of a new planning unit, I do not consider that it would be open to me to correct the notice using the powers available in section 176(1)(a) of the 1990 Act. Firstly, I cannot be certain that the appellant would not have approached their grounds of appeal differently or not have appealed on different grounds. Additionally, given the open and shared nature of parts of the site, identifying the planning unit and correcting the red line plan accordingly would be largely guess work on my part. Consequently, I cannot be certain that injustice would not be caused to one party or another.
32. For the reasons set out above, I have found that the stationing of two mobile homes for residential use (as part of a single planning unit) benefits from the necessary planning permission. Accordingly, matters alleged in the notice, as corrected, do not constitute a breach of planning control and the ground (c) appeal succeeds.

Conclusion

33. For the reasons given above, I conclude that the appeal succeeds on ground (c). The enforcement notice is therefore corrected and quashed. In these circumstances, the appeal on ground (d) does not fall to be considered.

David Jones

INSPECTOR

Plan

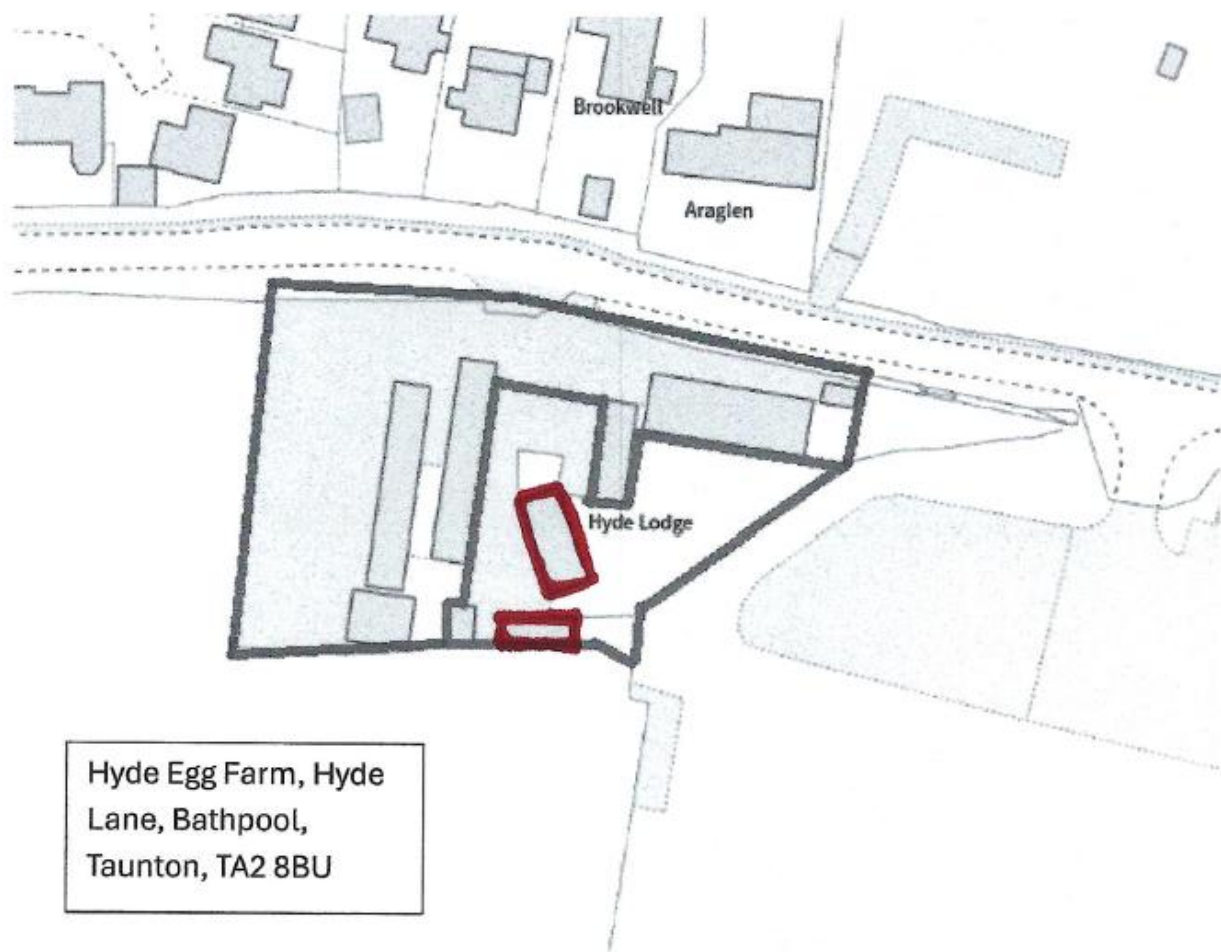
This is the plan referred to in this decision dated: 27 October 2025

by David Jones BSc (Hons) MPlan MRTPI

Land at: Hyde Egg Farm, Hyde Lane, Bathpool, Taunton, Somerset TA2 8BU

Reference: APP/E3335/C/23/3331788

Scale: Not to Scale



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