



Appeal Decision

Hearing held on 2 December 2025

Site visit made on 2 December 2025

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2025

Appeal Ref: APP/K1128/C/25/3370967

Tigs Field, Hoyle Lane, Stoke Gabriel, Totnes, Devon, TQ9 6TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms. Tracy Louise Ryan against an enforcement notice issued by South Hams District Council.
 - The notice was issued on 16 July 2025.
 - The breach of planning control as alleged in the notice is without planning permission the change of use of the land for the siting of a mobile home for residential purposes.
 - The requirements of the notice are to:
 - (i) Cease the unauthorised residential use of the mobile home on the land;
 - (ii) Remove the unauthorised mobile home from the land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by the deletion of 6 months and its substitution with two years as the time for compliance. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. An enforcement notice served on 8 July 2025 was withdrawn and replaced with a new notice, the subject of this appeal
3. An appeal on ground (a) was originally made but subsequently withdrawn by the appellant before the hearing. Accordingly the planning merits of the development do not fall to be considered as part of this appeal.
4. Where appeals are made on legal grounds such as grounds (e) and (b) the onus of proof rests with the appellant and the standard of proof is on the balance of probabilities. Human Rights and the Public Sector Equality Duty do not come into play in respect of the legal grounds of appeal. Similarly, Human Rights considerations do not arise in ground (f) appeals.

Background

5. The Council's statement at section 3 provides a detailed account of the actions and communications in respect of the siting of a caravan thought to be being used for residential purposes, since 2016, when it was established that the site edged blue on the plan attached to the notice was owned in part by Mr Stuckey and part by Ms Ryan. In February 2018, a Planning Contravention Notice (PCN) was issued but not returned. A revised PCN was emailed in October 2018 addressed to Mr

Stuckley/Occupier/Owner. In response, Mr Stuckey advised that he was the freehold occupier and Ms Ryan was the freehold owner.

6. In October 2023, an email advised that enforcement action was being considered and a Human Rights Questionnaire enclosed for use by the occupants of the mobile home. In December 2024, a further Human Rights Questionnaire was sent to Mr Stuckey.
7. The appellant has been in a previous relationship with Mr Stuckey but this has ceased other than through necessary contact in respect of their daughter. She had not seen the Human Rights Questionnaire sent to her former partner and it was only through contacting the Council after the service of the notice that she received a copy and responded to it.

The plan attached to the notice

8. The plan attached to the notice [ref 012055(2)] shows a small red edged area coinciding approximately with the footprint of the mobile home and to which the notice relates. This is contained within a much larger and roughly rectangular area outlined in blue.
9. The appellant has submitted a 'corrected' plan which coincides with her ownership as shown in the Land Registry Title Deed DN662878. She is concerned why the adjoining land owned by Mr Stuckey has been included, as he has no interest in the mobile home.
10. The Council states that the purpose served by the notice in identifying an enlarged area showing additional land outside the control of the appellant was to avoid the mobile home being relocated elsewhere on the site bearing in mind that the appellant's land was not sectioned off from Mr Stuckey's land. However, this is incorrect on two counts. Firstly, there is a clear boundary demarcation between the two plots represented by a post and rail fence, erected in 2018. Secondly, and of more relevance, Section 2 of the notice specifies the land to which the notice relates is "Land at Tigs Field, Hoyle Lane, Stoke Gabriel, Totnes, Devon, TQ9 6TF *shown edged red on the attached plan*", (my emphasis). The wording of the notice would not achieve what the Council is seeking to prevent due to the very limited extent of the site as identified in red. Unlike blue edged land shown on a s78 planning application to illustrate other land under an applicant's control, such a demarcation on the enforcement notice plan issued in this case serves very little purpose.
11. Paragraph 4(c) of the regulations¹ states that a notice should describe the "precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise". There is no requirement for the land to relate to land ownership.
12. Although I have the power to correct or vary the plan to include only the land in the appellant's ownership subject to no injustice being caused, there is no apparent error in the plan as the land to which the notice relates is readily identifiable from the plan and the notice and it is significantly smaller than the landholding of the

¹ SI 2002/ 2682 The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

appellant. Whilst this may not have been the intention of the Council, this is the effect of the wording of the notice. It is normal practice with plans attached to an enforcement notice to identify the totality of a field or land holding located in the countryside with a red line but the Council has chosen not to do so in this case.

The appeal on ground (e)

13. An appeal on this ground is that is that the notice was not properly served as required under s172. The appellant expressed concern that she had not been notified in advance of the serving of the notice and that all contact from the Council had been through Mr Stuckey despite the appellant and her two children being the occupants.
14. The Council indicated that the original case officer had retired and Ms Greenslade only took on the case when the enforcement notice had been served. Most of the earlier communication had been through Ms Ryan's email address which she had allowed Mr Stuckey to use (which was one of a number of email addresses that Ms Ryan had access to) but Mr Stuckey did not share the communications with her.
15. Mr Noon for the Council indicated that a serious breach of planning control had occurred. As Mr Stuckey's response to a PCN stated when the mobile home had been brought onto the site, the Council was mindful of the passage of time making the material change of use potentially lawful and therefore it was considered expedient to serve the notice.
16. It is evident that the Council should have made further enquiries prior to serving the notice as they were aware in November 2021 from the response to the PCN of Ms Ryan's ownership. Whilst I note that at the hearing, Mr Noon apologised to the appellant on behalf of the Council regarding this, he pointed out that the issuing of the notice would still have taken place even had communication been better.
17. Irrespective of the Council's approach to this case, the appellant has nevertheless received a copy of the notice and made a valid appeal. No evidence has been submitted by the appellant to indicate that the notice was not served properly. S176(5) provides that even if the notice had not been properly served, the appellant has to show that they have been substantially prejudiced. As the appellant has made an appeal which is being considered at a hearing, no substantial prejudice has occurred that would support an appeal on ground (e).
18. The appeal on this ground fails.

The appeal on ground (b)

19. An appeal on this ground is that the breach of planning control has not occurred as a matter of fact, yet the appellant indicates that she lives in the mobile home with her children and has done so since October 2022. She also indicated at the hearing that she was aware that the mobile home did not benefit from planning permission when taking up occupation as she was unable to afford the application fee although she paid the Council Tax.

20. No evidence was submitted to demonstrate that the breach of control has not occurred. I therefore conclude on this ground that the change of use of the land for the siting of a mobile home for residential purposes has occurred as a matter of fact. The appeal on this ground fails.

The appeal on ground (f)

21. An appeal on this ground is that the steps are excessive and lesser steps would overcome the objections.
22. The issue is strictly whether the requirements are excessive to remedy the breach or harm. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.
23. The appeal on this ground fails.

The appeal on ground (g)

24. An appeal on this ground is that the compliance period of six months is too short and this would result in the appellant and her children being made homeless. The appellant considers that she and her children's personal circumstances should be considered but she does not indicate what a reasonable compliance period should be. It is clear from her appeal statement that the outcome she is seeking is to remain in the mobile home and that her health issues and the circumstances of her children should be taken into account. Her first child is a student aged 22 and her younger child is aged 13 and at school.
25. The provisions of the European Convention on Human Rights, such as Article 1 of the First Protocol, Article 8 and Article 14, are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control. Additionally, there is a need to have regard to the Public Sector Equality Duty which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and fostering good relations.
26. Whilst a compliance period of 6 months would generally be adequate to meet the requirements, this does not allow for the personal circumstances of the appellant to be overcome easily, if at all. However, the absence of a ground (a) appeal precludes consideration of the planning merits of the development or the possibility of a personal or temporary planning permission.
27. Mr Noon indicated that had the Council had the Human Rights information from the appellant before drafting the notice, a compliance period of 12 months could have been considered as an appropriate period that 'buys time' for the appellant to resolve accommodation issues. He also indicated that the Council has the power (afforded under s173A(1)(b)) to extend the compliance period.

28. In general terms a compliance period exceeding 12 months is not regarded as appropriate as it is tantamount to a temporary planning permission, although it is not without precedent with some local planning authorities. However, in this case, I attach considerable weight to the personal circumstances of the appellant. There is a clear conflict with development plan policies intended to protect the countryside from unnecessary development, but the location of the mobile home adjacent to a neighbouring barn is relatively discrete and not prominent in the open countryside. I consider that the level of harm caused by the development is outweighed by the needs of the appellant and the best interests of the younger child.
29. Accordingly, I consider that a compliance period of two years would be proportionate and reasonable in the circumstances. This would provide the appellant with the opportunity for discussions with the Council regarding the submission of a planning application for the unauthorised development.
30. The appeal on this ground succeeds to the extent that I shall extend the compliance period from 6 months to two years.

Conclusion

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

P N Jarratt

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Tracy Louise Ryan represented herself with the support of Ms Rachael Mount of Marldon and Mrs Kirsty Watson of Paignton

FOR THE LOCAL PLANNING AUTHORITY:

Ms Judith Greenslade: Enforcement Officer

Mr Adrian Noon: Principal Planning Officer

INTERESTED PARTIES:

None