



Appeal Decision

Site visit made on 29 November 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Appeal Ref: APP/D0840/C/23/3328888

Land known as Carn Meor Coppice, The Carn, Black Rock, Camborne TR14 9NG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- The appeal is made by Miss Laura Rhodes against an enforcement notice issued by Cornwall Council.
- The enforcement notice was issued on 21 August 2023.
- The breach of planning control as alleged is the erection of a residential dwelling and associated material change of use of the land from agricultural to residential. Including associated operational development of wooden outbuildings and associated paraphernalia. The land has been outlined in red on the notice plan.
- The requirements of the enforcement notice are to:
 - (1) Cease the residential use of the land.
 - (2) Demolish and remove the dwelling outlined in green on the attached plan.
 - (3) Remove all services connected to the dwelling for the purposes of independent human habitation, i.e. electric cabling, water pipes, sewage pipes, gas bottles etc.
 - (4) Demolish and remove the wooden buildings shown in the approximate location by a blue ‘X’ on the attached plan.
 - (5) Demolish and remove the wooden buildings shown in the approximate locations by a blue ‘A’ and a blue ‘B’ on the attached plan.
 - (6) Remove from the land all materials and debris resulting from the residential use of the land; including but not limited to: solar panels, washing line, batteries and plant pots, etc.
 - (7) Cease the use of the land for the storage of non-agricultural materials/items; including but not limited to: motor vehicles, building materials, ladders, scrap metal, wood, motorhome and trailer, and
 - (8) remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) of the Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

1. The appeal is allowed, and the enforcement notice is quashed.

Ground (d)

2. The onus of proof is upon the appellant. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant’s version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant’s evidence alone is, on the balance of probability, sufficiently precise and unambiguous. Effectively, the claim is that the alleged development is immune from enforcement action due to the passage of time because the development alleged occurred on or before 21 August 2013 and has continued thereafter without significant interruption. I pause here because, for reasons that will become clearer later, a previous appeal decision at this site is relevant.

3. On 31 July 2023, an appeal made under section 195 of the Act against the Council's decision to refuse a s191(1)(b) application for a lawful development certificate (LDC) was dismissed. The LDC application, dated 12 February 2021, was for the erection of a dwellinghouse. Essentially, applying the Supreme Court's judgment in *Welwyn*¹, the Inspector, correctly, in my assessment, concluded that the construction of the dwellinghouse and the alleged material change of use of the land should be considered together, as part and parcel of the same breach of planning control. The time limit for taking enforcement action is the period of 10-years beginning with the date of the breach. On that basis, an LDC could not have been granted on the appellant's own evidence. This is because the claimed existing residential use occurred less than 10 years before the LDC application was made. Although things have moved on since the appeal in that the land may have changed hands, nevertheless, I am grateful for the inclusion of submissions made at the time when the previous appeal was determined.
4. Now then, there is no dispute between the appeal parties that a residential use of the land is materially different in character to its previous agricultural or horticultural use: the identity of the user is irrelevant. The sworn evidence is that the residential use was instituted back in March 2013. That is consistent with the previous Inspector's observations.
5. That said, the Council argue there is an apparent contradiction in the submissions because the occupiers moved onto the land in a touring caravan and that was temporary accommodation. They then went about building a dwellinghouse which afforded them the necessary facilities for day-to-day living and was substantially completed in December 2013 or thereabouts. The Council believe the alleged breach is not time barred because the residential use began late 2013. For the following reasons, I disagree.
6. It should come as no surprise, but it is not uncommon for breaches of this kind to be facilitated by the stationing of a caravan and its use for residential purposes. It is not possible to know whether the stationing of a caravan amounts to a material change in use of land without knowing the purpose for which the caravan was used, and whether that purpose fitted in with the existing use of the land.² I am alive to the Court of Appeal's judgment in *Caldwell*³ which came after the previous Inspector's decision. However, the Council places too much emphasis on the erection of a dwellinghouse as marking the beginning of the residential use.
7. To me, the alleged residential use of the land was initially facilitated by the stationing of a caravan as far back as March 2013. This is because the touring caravan was solely used for human habitation and afforded the occupiers somewhere to live, due to them being homeless. There is nothing before me to suggest they had alternative accommodation and were coming and going from the site while building operations were done. For instance, there is nothing before me to indicate occupiers were registered for council tax, utilities, or electoral roll at any other address. The residential activity might have been low key, but the quantum of evidence reinforces that the extent, and scale of the residential activity was permanent and not temporary, seasonal or occasional in nature. To my mind, the definable character of the land's use changed from agriculture to residential in March 2013.
8. The testimony is that by late December 2013 the dwellinghouse had been substantially completed and the residential use, in part, shifted from the caravan. Although a snapshot

¹ *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15.

² Applied – *Restormel BC v SSE & Rabey* [1982] JPL 785 and *Wealden DC v SSE & Day* [1988] JPL 268.

³ Applied – *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467

in time, the Council's aerial image of the site also seems to show significant development on the land between 2009 and 2016. The documentary evidence has significant gaps because the images for 2010 and 2015 are missing. In any event, there is nothing to cast doubt over the appellant's assertion that during the relevant period both the caravan and dwelling had been simultaneously utilised for residential purposes until the latter replaced the former. In my assessment, the land's residential use continued without break and the aerial photographs do not disprove that claim.

9. Contrary to the Council's submissions, a new and fresh breach of planning control had not occurred as soon as the building was substantially completed in December 2013. This is because the character of the land's residential use did not materially change in any way shape or form – the residential use transitioned from caravan to a building. In addition, several individuals support the appellant's claims that the residential use of the land began in 2013 and remained active throughout the 10-year period.
10. The Council suggest a different breach might have occurred because the aerial image from 2016 onwards appear to show building operations had been carried out. The appellant maintains the dwelling's roof was replaced because the original structure had been affected by storm Imogen and has provided details from the meteorological service.⁴ To my mind, that is a plausible explanation and alleging a materially different breach occurred in 2016 seems far-fetched.
11. There is nothing before me to indicate deliberate concealment. Indeed, the Council does not make such a case. Moreover, it appears to me the authority became aware of the unauthorised residential use as soon as the LDC application was submitted in 2021: therein lies the lesson – formal enforcement action should have been taken at that point in time. Additionally, had officers visited the site at any point in time from March 2013 onwards, they should or would have observed a primary residential use of the land initially facilitated by a touring caravan then replaced by a purpose-built dwelling.⁵
12. My analysis and assessment of the evidence presented reveals no glaring contradictions and I find that the quantum of documentary information adequately meets with the balance of probabilities test. Indeed, I do not find any inaccuracies in the documentary information provided nor has it required the evidence to be subjected to cross-examination. In my judgment, the sworn testimony is not overly consistent between the appellant's version of the events and witnesses to cast doubt over the veracity of the claims. The statements do not appear to be engineered to suit the appellant's claims. There is no internal inconsistency between the appellant and their witnesses.

Conclusions

13. Drawing all the above threads together, I find that the available evidence is satisfactory and it sufficiently, precisely and unambiguously shows, on the balance of probabilities, the alleged erection of a residential dwelling and associated material change of use of the land from agricultural to residential, including associated operational development of wooden outbuildings and associated paraphernalia, is immune from enforcement action. Frankly, I must conclude that the onus has been adequately and convincingly discharged and so this ground (d) appeal must succeed.

⁴ Taken from the appellant's final comments.

⁵ Applied (insofar as relevant) - *Thurrock BC v SSETR & Holding* [2002] EWCA Civ 226; [2002] JPL 1278, *Swale BC v FSS & Lee* [2005] EWCA Civ 1568; [2006] JPL 886 and *Islington LBC v SSHCLG & Maxwell Estates* [2019] EWHC 2691 (Admin); [2020] JPL 532.

A U Ghafoor

INSPECTOR