



## Appeal Decisions

Site visit made on 6 December 2025

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

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

### **Appeal A and B Refs: APP/D0840/C/24/3343346 and 3343347**

#### **Land west of Kitts Farm, Stratton, Bude EX23 9NR.**

- The appeals are 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 Mr Shane Harris (Appeal A) and Miss Yavanna Harris (Appeal B) against an enforcement notice issued by Cornwall Council.
- The enforcement notice was issued on 17 April 2024.
- The breach of planning control as alleged is the material change of use of agricultural land to a mixed use comprising of agriculture, recreational leisure and occasional residential use, through the siting of a shepherd's hut and horse lorry and their occasional residential use and associated paraphernalia. The shepherd's hut and horse lorry are shown in the approximate locations by a blue 'A' and a blue 'B' on the notice plan respectively.
- The requirements of the enforcement notice are to:
  - (1) Cease the residential and recreational leisure use of the land outlined in red on the notice plan.
  - (2) Remove from the land the shepherd's hut shown in the approximate location by a blue 'A'.
  - (3) Remove from the land the horse lorry shown in the approximate location by a blue 'B'.
  - (4) Remove from the land all materials, paraphernalia and debris resulting from the residential and recreational leisure use of the land, including but not limited to yurt, tents, timber pallets, ladder, log burner/chiminea etc.
  - (5) Remove from the land all materials and debris resulting from the above works and reinstate the land to its former condition.
- The period for compliance with the requirements is 6 months.
- The appeals are proceeding on the grounds set out in section 174(2) (b) of the Act. Since ground (a) has not been pleaded in Appeal A and B, the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

### **Decisions**

1. The appeals are dismissed, and the enforcement notice is upheld.

### **Ground (b)**

2. The onus of proof is firmly on the appellants to show, on the balance of probability, the alleged matters have not in fact occurred. The period leading up to the issuing of the notice and the date of issue is relevant. Essentially, the Council allege a material change in use of the land to a single mixed-use comprising agriculture, recreational leisure and occasional residential use, through the siting of a Shepherd's Hut and horse lorry and their occasional residential use. The appellants claim there has not been a change in the use of the land let alone a material one. That the Shepard's Hut and horse lorry are used in connection with agriculture for example, storage of equipment,
3. The substantive point is whether the breach alleged has in fact occurred. In that context the photographic evidence and replies to searching questions found in the Planning Contravention Notice (PCN) are particularly instructive.

4. The photographic images of the land prior to the issuing of the notice show the existence of a horse box vehicle stationed on the land and tented accommodation nearby. The yurt or tent could reasonably be described as a temporary use for recreational purposes. The evidence presented does not show the tented accommodation had in fact existed for a significant period and, in any event, it had been removed. However, replies to searching questions in the PCN suggest that the horse box vehicle had in fact been used as living quarters while working on restoring a building.
5. The evidence is that the Shepherd's Hut was constructed on the land. The documentary information shows that the hut contains necessary facilities for day-to-day living. For example, it has facilities to prepare meals, make a hot drink, or a place to rest or sleep. There is an outdoor compost toilet facility. The existence or otherwise of duvets or personal items and belongings is not critical because these could easily be removed and returned at will. Nonetheless, the quantum of evidence clearly shows to me that during the period leading to the issuing of the notice, the Shepherd's Hut had been used for several overnight stays even if the number of stays was limited in extent. The pattern of residential activity was sporadic, infrequent or intermittent nevertheless the hut provides facilities for day-to-day living.
6. The appellants argue that the Council has not witnessed any residential living on the site like accumulation of refuse and that they live elsewhere, but that is not determinative. To my mind, the quantum of the evidence shows that the Shepherd's Hut had been occupied and used for occasional or temporary residential purposes during the period leading to the issuing of the notice and at the date of issue. I too concur with the Council that the actual use of the Shepherd's Hut to provide overnight accommodation as well as space for rest, storage of tools or shelter did involve a change of use that was separate from the claimed agricultural activity resulting in a materially different use when compared to the lawful agricultural use of the land.

### **Other matters and conclusions**

7. The appellants make much of the need for a safe place and temporary secure accommodation to be available when they are working on the land, which is in connection with establishing a new farming enterprise based around providing a flourishing organic food haven. There is extensive reference to specific health conditions requiring sheltered accommodation and a place for rest at short notice. The site is isolated and some distance from the gated access or parking space, which makes transporting goods or tools very difficult and strenuous. I have carefully considered all these points. However, the nature and scale of the land's residential use, or the justification for the lorry box and/or Shepherd's Hut, are not matters for my determination in these appeals. Perhaps these are matters the appeal parties can explore and consider.
8. Pulling all the above points together, I conclude that the alleged matters have in fact occurred and the appeals on ground (b) must fail.

*A U Ghafoor*

INSPECTOR