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## Appeal Decision

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2026

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**Appeal Ref: APP/D0840/C/24/3345207**

**Land known as The Cabin, Lower Goongumpas Lane, Goongumpas, St Day, Cornwall TR16 5JL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Robert Drew against an enforcement notice issued by Cornwall Council.
- The notice was issued on 1 May 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of agricultural land to a mixed use comprising of agricultural and residential use through the stationing of a static caravan used for residential purposes and associated operational development, including the creation of a concrete plinth, hardstanding area and timber fencing. The approximate position of the caravan is indicated by a blue 'X' on the attached plan<sup>1</sup>.
- The requirements of the notice are to:
  - (1) Cease the residential use of the land outlined in red on the attached plan.
  - (2) Cease the residential use of the caravan shown in the approximate location by a blue 'X' on the attached plan and remove the caravan from the land outlined in red on the attached plan.
  - (3) Remove from the land all services connected to the caravan for the purposes of independent human habitation, including but not limited to electric cabling, water pipes, sewage pipes, septic tank, gas bottles etc.
  - (4) Demolish and remove the concrete plinth and hardstanding area from the land and restore the land to its former condition before the engineering operations took place.
  - (5) Remove the timber fencing surrounding the caravan shown in the approximate location by a blue 'X' on the attached plan.
  - (6) Remove from the land all materials, paraphernalia and debris resulting from the residential use of the land.
  - (7) Remove from the land all materials and debris resulting from compliance with the requirements of (2) – (6) above and restore the land to its former condition before the breach took place.
- The period for compliance with the requirements is: 12 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary Decision: The appeal is allowed and the enforcement notice is quashed.**

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### Procedural matter

1. As explained below, the appeal succeeds on ground (d). The nature of this ground of appeal is such that it can be determined entirely on the basis of the written evidence regarding past events. My understanding of this evidence would not be enhanced by a site visit and, therefore, it has not been necessary to undertake one.

### Ground (d)

2. Ground (d) is that, at the date when the enforcement notice ("the Notice") was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters alleged. In this case, to succeed,

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<sup>1</sup> Reference in this heading to an attached plan is reference to a plan attached to the enforcement notice.

the use alleged must have persisted for 10 years prior to the service of the Notice. The onus is on the appellant to prove their case, on the balance of probabilities.

3. A statutory declaration by Mr Challis, a previous owner of the land to which the Notice relates ("the Land"), states that at some point in July 2013, a caravan was positioned inside a building on the Land and used for residential purposes. The Council suggests that this would have put the building into a mixed use for residential and agricultural purposes. However, there is no evidence to suggest that the building became functionally separate to, or that there was any change in the use of, the remainder of the Land.
4. While the residential use would have been taking place within the building, the agricultural uses would have been both inside and outside. Thus, on the basis of the evidence before me, it is more likely than not that some functional relationship to the rest of the Land remained, and a new planning unit comprising only the building would not have been created. Instead, the planning unit would have remained as the entirety of the Land, and a material change of use to a mixed use of agricultural and residential use would have taken place.
5. Subsequently, a mobile home was sited outside the building and the residential activity moved there. The evidence of Mr Challis is that this continued from then until the date of his statutory declaration in January 2024. While the residential use has not always been in precisely the same location, that is a period of over 10 years of the alleged mixed use on the Land.
6. The Council casts doubt over the occupation of the caravan within the building on the basis that it was not mentioned in responses to a Planning Contravention Notice ("PCN"), and the dates do not tally with a 'personal circumstances questionnaire' completed in 2016. I am unaware of the status of the questionnaire, or what it was trying to establish. Nevertheless, the questions and answers provided to me appear to relate to the current accommodation, i.e. the mobile home outside the building.
7. Similarly, the questions within the PCN appear to target the (then) current use of the building, not any former uses. As such, they would not, necessarily, have exposed the mixed use that included residential. I, therefore, find that the PCN and personal circumstances questionnaire do not cast sufficient doubt on Mr Challis' statutory declaration to make it less than probable. Council Tax liability was not assumed until October 2014, but that does not necessarily mean that the site was unoccupied before that.
8. There is conflicting evidence around the period after March 2023. Land Registry records confirm that the land was sold to the appellant at that time, whereas Mr Challis claimed still to have been the owner in January 2024. This discrepancy has not been explained, but the appellant, who is the current owner, does confirm the March 2023 date of purchase and says that Mr Challis continued to live there until February 2024. After that, the appellant himself has resided at the site.
9. Thus, while Mr Challis' evidence might not be correct in respect of his ownership, the appellant's own evidence corroborates his version of events in respect of occupation. Occupation is the important factor in this case and, while the clear error about ownership could cast doubt on the veracity of Mr Challis' entire declaration, there is no particular evidence that contradicts the remainder of its content that clearly and unambiguously sets out where he resided and when.

10. Detailed representations from a nearby resident challenge the lawfulness of various other matters, including the water supply, land transactions, and actions of those providing services. However, there is no substantive evidence to cast doubt over the occupation of the land and picture painted by the appellant and his predecessor.
11. Therefore, on the basis of the evidence provided, I find that it is more likely than not that the matters alleged in the Notice occurred continuously for more than 10 years prior to the service of the Notice. Accordingly, at the time the Notice was served, it was not possible to take any enforcement action in respect of them.
12. For the reasons given, the appeal on ground (d) succeeds. The appeal on ground (a) and the deemed planning application do not fall to be considered.

### **Formal Decision**

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

*M Bale*

INSPECTOR