



Appeal Decisions

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2026

Appeal A Ref: APP/U1105/C/23/3321021

Appeal B Ref: APP/U1105/C/23/3321022

**Land adjoining Harcombe Farm, Harcombe, Uplyme, Lyme Regis,
Devon DT7 3RN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Messrs Graham & Cian Willett & Dalglish against an enforcement notice issued by East Devon District Council ('the Notice').
 - Appeal B is made by Mr Graham Willett against an enforcement notice issued by East Devon District Council ('the Notice').
 - The notice was issued on 14 April 2023.
 - The breach of planning control as alleged in the notice is Without planning permission and within the last 10 years, the material change of use of Land from agricultural use to use for storage by virtue of the storage of waste materials, building materials, non-agricultural machinery and materials, trailers and non-agricultural vehicles whose approximate positions are shown edged blue on the enclosed Location Plan.
 - The requirements of the notice are: (I) Cease the unauthorised storage use of the Land; and (II) Permanently remove the waste materials, building materials, non-agricultural machinery and materials, trailers and non-agricultural vehicles associated with compliance with step (I) above from the Land.
 - The period for compliance with the requirements is: 1 month.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f), (g) 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(c), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal C Ref: APP/U1105/C/24/3354198

Appeal D Ref: APP/U1105/C/23/3354199

**Land adjoining Harcombe Farm, Harcombe, Uplyme, Lyme Regis,
Devon DT7 3RN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mx Cian Willett-Dalglish against an enforcement notice issued by East Devon District Council ('the Notice').
 - Appeal B is made by Mx Graham Willett-Dalglish against an enforcement notice issued by East Devon District Council ('the Notice').
 - The notice was issued on 9 October 2024.
 - The breach of planning control as alleged in the notice is Without planning permission and within the last 10 years, the material change of use of the Land for the siting and residential occupation of a touring caravan known as 'The Tiny Home' whose approximate position on the Land is shown edged in blue on the enclosed Location Plan.
 - The requirements of the notice are: (I) Permanently cease the residential use of the Land; and (II) Permanently remove the touring caravan known as 'The Tiny Home' from the Land.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. In respect of Appeals A and B:

It is directed that the enforcement notice is corrected by:

The deletion of the text in section 3 of the Notice 'The matters which appear to constitute the breach of planning control' and its substitution with
"Without planning permission and within the last 10 years, the material change of use of Land from agricultural use to a mixed use of agricultural and storage by virtue of the storage of waste materials, building materials, non-agricultural machinery and materials, trailers and non-agricultural vehicles whose approximate positions are shown edged blue on the enclosed Location Plan and agriculture."

and varied by:

The deletion of one month and the substitution of 3 months as the time for compliance.

Subject to the correction and variation, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

2. In respect of Appeals C and D:

It is directed that the enforcement notice is corrected and varied by:

The deletion of the text in section 3 of the Notice 'The matters which appear to constitute the breach of planning control' and its substitution with
"Without planning permission and within the last 10 years, the material change of use of Land from agricultural use to a mixed use of agriculture, storage by virtue of the storage of waste materials, building materials, non-agricultural machinery and materials, trailers and non-agricultural vehicles whose approximate positions are shown edged blue on the enclosed Location Plan, and the siting of a caravan for residential purposes in the approximate position marked with an 'X' on the enclosed Location Plan."

and varied by:

The deletion of 6 months and the substitution of 9 months as the time for compliance.

Subject to the correction and variation, the appeals are dismissed and the enforcement notice is upheld.

Applications for costs

3. An application for costs was made by East Devon District Council against the Appellants in Appeals C and D. This is the subject of a separate decision.

Procedural Matters – All Appeals

4. As set out above the appeals on this site relate to two Notices issued by the Council. Whilst they relate to different matters, they relate to the same land and involve the same parties. Therefore, it makes sense to determine both appeals by way of a single decision letter and, thus, avoid unnecessary repetition. However, each is determined on its own merits, based on the evidence before me.
5. The Appellants had said that they would not allow representatives of the Council onto the land. An accompanied site visit was arranged for 9 December 2025, and an Officer of the Council attended. However, neither the Appellants, nor anyone representing them, attended, so that visit was abandoned. I did, however, observe those parts of the land that were visible from public land adjoining the A35(T) and a public footpath that crosses it. Following correspondence with the parties on the matter of visiting the site, they agreed that there would be no objection to my determining the appeals on the basis of the written representations and what I saw on 9 December. As neither party would be prejudiced, I have determined the appeals on this basis.
6. I wrote to the parties, in respect of both appeals, identifying the need to correct the alleged breach of planning control in each Notice. There were no objections to my making those changes and, as they would not be prejudicial, I have done so. My assessment of the Notices and my reasoning on them are based on these corrected allegations.

All Appeals – The Site

7. The land, which is fairly extensive, lies in the open countryside to the southwest of the A35(T) Exeter to Dorchester road, some 4kms to the north of Lyme Regis. It falls steeply away from the road into a valley formed by a small stream. It consists of grazing land, scrubby vegetation and woodland. It is reflective of much of the rolling landscape of the area, which is designated as a National Landscape.

Background

8. In their submissions for Appeals A and B, the Appellants have given a detailed account of the timeline of correspondence and actions since May 2021, when they completed purchase of the land.
9. Much of this relates to their making an application to the Council, in 2021, for a determination as to whether it would require prior approval of the siting, design and external appearance of a goat shelter they intended to erect ('prior notification application'). That application, made under the terms of Schedule 2, Part 6, Class A of the Town and country Planning (General Permitted Development) (England) (Order) 2015, as amended ('GPDO'), was made on 7 November 2021. In its decision dated 12 January 2022, the Council determined that planning permission would be required for the development.
10. The Appellants made a full planning application for the building to the Council, dated 21 April 2022¹. The application was refused by the Council on 27 October 2022 for reasons relating to: effect on the character and appearance of the area;

¹ East Devon DC Reference 22/0883/FUL

and a lack of information regarding the effect on trees, biodiversity and a waste management plan.

11. The Council's decision was not appealed against, nor was a further application made to attempt to overcome the Council's reasoning.

Appeals A and B - Ground (c)

12. An appeal made under Ground (c) is that the matters alleged in the Notice do not constitute a breach of planning control. This is a legal ground of appeal where the onus lies with the Appellants to make their case on the balance of probability. Where a local planning authority has no evidence of its own to counter what is claimed in a legal ground, the Appellant's evidence has to be sufficiently precise and unambiguous.
13. The Appellants' case is that this is an agricultural farm and they give a list of materials and equipment for which planning permission is not required for their storage. These include: timber in panel, A-frame and floorboard forms; rubber mats; containers for water capture; a flat-packed shed; and poultry panels. In addition, they list a number of vehicles.
14. The Council says that the claim that planning permission is not required is unsubstantiated. It goes on to say that most of the listed items were "required in relation to the building that was refused permission" and associated operations. In the circumstances, it says, their retention on the land amounts to a storage use.
15. The Appellants say, in their rebuttal, that it is simply supposition to state that the items are stored in relation to the refused building. This runs contrary to comments they have made regarding the 'Ecoguard', rubber mats and water containers on the site. In their Statement of Case ('SoC') they say these are for the "area around the building", "for additional flooring inside the building" and "for rainwater capture from above building". Given what is said in the SoC, including its front page that cites "Proposed agricultural building on Land at Harcombe...", I have little doubt that those items do relate to the building. I saw materials that would accord with those described in the submissions at my site visit.
16. Much of the material has simply been lying on the ground in the open. There was not even a tarpaulin over the piles that I saw. It has not, to my mind, been carefully stored for future use on a building project. From the evidence before me and from what I saw at my site visit, on the balance of probability much of the material has been there for some years. The quality and strength of timber items stored in this manner would deteriorate, often quite quickly.
17. From the evidence, I find that the Appellants probably did intend to build a shed. However, no real effort has been made to pursue that intention; whether by appealing the Council's refusal, making the application that the Council required or even making a further application under Class A to provide a counter-argument to the Council's earlier decision.
18. The Appellants have not made their case, on the balance of probability. The alleged mixed use of the land, as corrected, has occurred.
19. This is not to say that the keeping of materials and vehicles that are used for agricultural purposes on the land is a breach of planning control. The Notice

acknowledges this, as it attacks “waste materials” and items that are “non-agricultural”. Whilst I have identified items that are not being used for agriculture, but are simply being stored on the land, others would have to be assessed on a ‘fact and degree’ basis.

20. The Appellants have not made their case, and the Ground (c) case fails.

Ground (d)

21. An appeal under this ground is that, at the date the Notice was issued, no enforcement action could be taken in respect of the alleged breach of planning control, as corrected. Again, this is a legal ground, where the onus lies with the Appellants to make their case.
22. The periods after which a breach of planning control cannot be enforced against are set out in s171B of the Act. In this instance, it is ten years. Therefore, given the date that the Notice was issued, the Appellants need to demonstrate that the use commenced on or before 14 April 2013 and was undertaken continuously for a period of ten years and not lost for any reason. As the Appellants only took possession of the land in June 2021, they would need to show that the use commenced prior to their ownership.
23. The Appellants’ case, in their SoC, is based on their position that, as the land is in agricultural use, the alleged material change of use (‘mcu’) has not occurred. I have found that it has. No information has been given in respect of the commencement of the use, its longevity nor its continuous nature.
24. Therefore, the case has not been made that the mixed use of the land has been undertaken continuously for a period of 10 years. The appeal under Ground (d) fails.

Appeal A - Ground (a) and the Deemed Application

25. An appeal made under Ground (a) is that planning permission ought to be granted for the breach of planning control alleged in the Notice. This ground of appeal, and the associated deemed application, relate to the corrected allegation.
26. The main issue in this appeal, identified in the Notice, is the effect of the mixed use on the character and appearance of the area.
27. The Appellants’ case relates solely to the Council’s decision to refuse their Prior Notification application, and require them to make an application for planning permission. The points made therein are immaterial to this Ground (a) appeal. In this, planning permission is being sought for the matters alleged in the Notice; that is to say, the mcu of the land. Therefore, I have based my assessment of the Ground (a) appeal on the other documents I have and what I saw at my site visit.
28. The Council clearly has no objection to the agricultural element of this use. Its objection is to the storage element of the mixed use.
29. At the time that the Notice was issued, the land was included within what was then known as the East Devon Area of Outstanding Natural Beauty (‘AONB’). Since that time, changes made by Government have resulted in what were AONBs now being referred to as National Landscapes (‘NL’). Although the policies referred to by the Council in its submissions refer to AONBs, this change does not reduce

their statutory weight. All one need do when using those policies is substitute NL for AONB.

30. Government policy, in its National Planning Policy Framework December 2024 ('the Framework'), sets out that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues". The Government is consulting on whether the word 'great' should be replaced with 'substantial', to accord with its approach in other policies. In this case, I find there is no need to go back to the parties for their views on this.
31. Strategy 46 of the East Devon Local Plan 2013-2031, adopted 28 January 2016, ('EDLP') is the principal development plan policy for development proposals in the NL. Its terms reflect those of the NPPF.
32. The storage of non-agricultural materials, equipment and vehicles around the land, as I saw on-site and are shown in photographs in the Council's submissions, is harmful to the area's landscape quality. It fails to conserve or enhance the landscape and scenic beauty of the area, to which great weight should be given in my assessment. No substantive material considerations have been provided that might outweigh the terms of the policies I refer to.

Conclusion on Ground (a) and the Deemed Application

33. Rather than conserving or enhancing the NL, the mixed use of the land causes harm to its character and appearance. It is, therefore, contrary to the terms of Strategy 46 of the EDLP and those of chapter 15 of the NPPF relating to development in the NLs. It is also contrary to the terms of EDLP Strategy 7 that has similar aims in respect of landscape protection.
34. The Council refers to EDLP Policy D1 in its reasons for issuing the Notice. However, I consider both this, and Policy UEN2 of the Uplyme Neighbourhood Plan, 2017-2031, July 2017, to be policies that are relevant to proposals for building developments, rather than those for a mcu. The relevance of EDLP Policy D2, which relates to the provision of landscaping schemes, has not been explained. As such, it has not been demonstrated that the development is contrary to the terms of these policies, and I do not use them in my decision.

Other Matters

35. A number of third-party representations were received. The points they raise relating to the effect on the character and appearance of the area have been taken into account in my assessment, above.
36. Concerns were raised in respect of the use of the access from the land onto the A35(T), which people felt was unsafe. The Council did not include this in its reasons for issuing the Notice. I do not have substantive reasoning before me to find that the access is unsafe, so I do not use this as a reason for dismissing the appeal.
37. Many of the comments relate to the Prior Notification building that was refused permission by the Council. As this appeal does not relate to that building, those comments are not relevant to my decision. Comments have been made in respect of the effect of the Appellants' activities on the ecology of the land, but give little

evidence of the harm they say will occur. As such, I do not dismiss the appeal for this reason. Those comments made in respect of what I am told are the Appellants future plans for the land are immaterial, as what is before me is an appeal against the issuing of an enforcement notice for activities that have occurred.

38. Support is given to the Appellants in letters that refer to unnecessary delay and cost to the Appellants and provide general support for their farming activities. There will have been cost and delay implications arising from the appeal; however, these have arisen from the Appellants' use of the land without planning permission. Neither the Notice nor my decision will stop agriculture on the land.

Appeals A and B - Ground (f)

39. An appeal made under this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Therefore, I firstly need to identify the purpose of the Notice. This is to remedy the breach of planning control.
40. The Appellant's case, set out in their SoC, is that the materials are stored in connection with the agricultural nature of their business. This has already been addressed.
41. The case has not been made that lesser steps would remedy the breach of planning control and I cannot identify any. Therefore, the Ground (f) appeal fails.

Appeals A and B - Ground (g)

42. An appeal under this ground is that the time given to comply with the requirements in the Notice fall short of what should reasonably be allowed.
43. The Appellants request 9 months, rather than the 1 month allowed in the Notice. Their reasoning is that they now need to submit a further Prior Notification application to prove that they meet the terms of Class A. I have not been made aware of any application having been made to the Council. Making that application was not dependent on this appeal, which relates to a mcu of the land, and could have been made at any time. As such, I do not see this as sufficient reason to extend the period for compliance.
44. However, having seen the steep nature of the land, I can appreciate that there might be difficulties in removing materials from the site, especially from lower down the slopes and during wet winter months. For this reason, I shall vary the terms of the Notice to provide 3 months to comply with the Notice. To this extent the Ground (g) is successful.

Appeals C and D

45. Much of the Appellants' submissions relate to the manner in which the Council has pursued its enforcement action and the planning merits of the case. The expediency of taking enforcement action and the manner in which this is undertaken are not matters for me. I cannot assess the planning merits of the case as the required fee for a Ground (a) appeal was not paid and that ground fell away.

Ground (b)

46. An appeal under this ground is that the breach of planning control alleged in the Notice has not occurred. This is a legal ground of appeal where the onus lies with the Appellants to make their case on the balance of probability.
47. That there is a residential unit on the land is not contested by the Appellants. In their SoC, they refer to it, variously, as a 'live-work unit' and a 'tiny home'.
48. I did not see the unit at my site visit. However, both parties have provided photographs as part of their submissions. These show that the unit sits on a metal road trailer, with two wheels and projecting towbar. Despite the Appellants' objection to its being described as a 'touring caravan', that is its appearance. In the absence of any further details of its means of construction and permanence, they have failed to demonstrate that the allegation is incorrect.
49. The Appellants describe its features, facilities, energy efficiency, thermal qualities, low water usage and how it allows them to farm the land. From the evidence before me, I have little doubt that it is being used for residential purposes.
50. No evidence has been put before me to show that the breach of planning control has not occurred. From the evidence before me, I find that the breach of planning control has occurred. Therefore, the Ground (b) case fails.

Ground (c)

51. The remit of a Ground (c) appeal and what is required of the Appellants is set out, above, in my decision on Appeals A and B. Scant evidence has been put forward by the Appellants here. An email to the Planning Inspectorate, dated 22 October 2024, might be read as providing some reasoning in support of their case. It set out that the Appellants were "using a temporary mobile structure to live in and carry out work on site while we build an agricultural building under permitted development rights".
52. For this argument to have merit under Ground (c), they would need to demonstrate that they can erect a building under permitted development rights. They have not done so. As I found in Appeals A and B, an application was made under Part 6 Class A of the GPDO for the erection of an agricultural building, but the Council found that the proposal required planning permission. No planning application was made, nor was an appeal lodged against the decision. Appeals against an enforcement notice for a different matter, the mcu of the land, cannot be used as a vehicle to challenge the Council's decision.
53. The Appellants fail to demonstrate that the siting of the residential unit is not a breach of planning control, and the Ground (c) case fails.

Ground (d)

54. Again, the terms and requirements of a Ground (d) appeal have been set out, above, in respect of Appeals A and B. Given that I find, on the balance of probability, that the residential unit is a caravan, the breach of planning control here is a material change of use of the land. Using ss 55 and 171B of the Act, the Appellants need to show that the unit has been continuously stationed on the land for ten years.

55. They give no evidence to this effect. The evidence put forward by the Council points, on the balance of probability, to the use commencing on or about 27 March 2024.
56. The use has not been carried out continuously for the required period; therefore, the Ground (d) case fails.

Ground (f)

57. The purpose of the Notice is to remedy the breach of planning control. The Appellants have not proposed any lesser measures that might achieve that aim, nor can I see any.
58. In the absence of any information to act otherwise, I dismiss the Ground (f) case.

Ground (g)

59. The Appellants' case is two-fold. In their appeal form, they ask for a period of three years to comply with the Notice. The reason given is that this would allow them to remain onsite and build an agricultural building in accordance with permitted development rights.
60. However, they do not have permitted development rights to erect a building. Furthermore, allowing three years for compliance with the Notice would be tantamount to granting planning permission, which I cannot do in the absence of a Ground (a) case, and would undermine the enforcement process.
61. Elsewhere in their submissions, they state that, were the Notice to be upheld, they would be left homeless, and their submissions make reference to an unviable housing market that does not provide housing that is affordable. They do not suggest what they would consider to be a reasonable period for compliance.
62. Although not specifically mentioned by the Appellants in relation to this matter, I have a duty to have regard to the terms of the Human Rights Act 1988. Article 1 of the First Protocol states "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law". That is to say, this is a qualified right where the rights of individuals need to be balanced against wider public rights.
63. National and local planning policy only supports the provision of residential accommodation in the open countryside in certain circumstances. It has not been demonstrated that those circumstances apply here. Therefore, the actions of the Council are in the interests of the wider public. The question then is whether the terms of its Notice are proportionate. Given planning policy set out in the development plan and the National Planning Policy Framework, I find that the principle of its enforcement action and the requirements of the Notice are proportionate.
64. However, the extreme difficulties associated with finding accommodation in rural areas, especially those near the coast, is well-known and accepted. In the circumstances, I shall extend the period for compliance to 9 months and vary the Notice accordingly.

Conclusion

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

Roy Curnow

INSPECTOR