



Appeal Decisions

Site visit made on 26 February 2026

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2026

Appeal A Ref: APP/D1265/C/25/3361923

Old Dairy Farm, 10-11 West End, Spetisbury, Dorset, DT11 9DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Karen Moylan against an enforcement notice issued by Dorset Council.
 - The notice was issued on 12 February 2025.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the building edged in blue on the plan attached to the notice (and identified as the Old Dairy Cottage 10-11 West End, Spetisbury, Blandford Forum DT11 9DG) from use as a residential annexe to the main dwelling house known as the Old Dairy Farmhouse to use as a single dwelling house (separate from the main dwelling house) at the Old Dairy Farmhouse 10-11 West End, Spetisbury, Blandford Forum DT11 9DG.
 - The requirements of the notice are to permanently stop using the building on the land and shown on the plan outlined in blue as Old Dairy Cottage as a single independent dwelling house.
 - The period for compliance with the requirement is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2) (d) of the Town and Country Planning Act 1990 (as amended).
-

Appeal B Ref: APP/D1265/W/25/3360809

Old Dairy Farm Cottage, 10-11 West End, Spetisbury, DT11 9DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Moylan against the decision of Dorset Council.
 - The application is P/FUL/2024/05702.
 - The development proposed is the change of use of Old Dairy Farm Cottage from restricted occupancy holiday let use to unrestricted C3 dwelling house.
-

Decisions

Appeal A Ref: APP/D1265/C/25/3361923

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

Appeal B Ref: APP/D1265/W/25/3360809

2. The appeal is allowed and planning permission is granted for change of use of Old Dairy Farm Cottage from restricted occupancy holiday let use to unrestricted C3 dwelling house at Old Dairy Farm Cottage, 10-11 West End, Blandford Forum, DT11 9DG in accordance with the terms of the application, Ref P/FUL/2024/05702, and the plans submitted with it.

Preliminary matters

3. An application for costs against both appeals has been submitted by the appellant. This is the subject of a separate decision.

The appeal site and relevant planning history

4. The appeal site is outside a defined settlement boundary but in a small cluster of buildings in West End, part of the settlement of Spetisbury. The building the subject of the notice is a bungalow that was formerly a domestic garage. Permission was granted in 1995 (ref. 2/1995/0210) to convert and extend the garage to form an annexe linked to the main house, The Old Dairy Farm Cottage. This was subject to an occupancy condition which was varied in 2007 (ref. 2/2007/1217) to allow the annexe to be used for bed and breakfast, holiday let and house hunting. The condition was imposed as permanent residential use would be contrary to current development policies. However the Council's legal advice suggests that 2007 variation was incorrect as the wrong procedure was followed.
5. In addition to the main house and the bungalow there is also another property within the appeal site and referred to as The Annexe. This has an LDC issued in 2022 for use as a separate dwelling.
6. In 2022 and 2023, two applications for Lawful Development Certificates (LDCs) were refused on the appeal property for use as a separate dwelling due to lack of evidence to demonstrate continuous residential use. No appeals were made as the appellant decided to submit a planning application.
7. An enforcement notice was served initially on 19 September 2024 together with a Breach of Condition Notice with a compliance date of 19 March 2025. Due to an error in the original enforcement notice a second was served dated 24 September 2024. The Council state that the second notice was issued under the 'second bite' provisions of s171B(4)(b) but subsequently withdrawn. The third notice was served on 12 February 2025.

Reasons

Appeal A – the appeal on ground (d)

8. An appeal on ground (d) is that it is too late to take enforcement action.
9. The appellant has raised issues regarding the expediency of taking enforcement action and matters of planning policy but these are not relevant to a ground (d) appeal.
10. Section 171B(2) states that where a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of a period of four years beginning with the date of the breach. As this is a legal ground of appeal the onus rests with the appellant to demonstrate their case and the level of proof is on the balance of probabilities.
11. I note however that the Council has previously argued that the 10 year rule applies but their commentary on this does more to confuse than assist their case.
12. It has been held that that the use of a building must be continuous throughout the four year period and once this has occurred, periods of discontinuity of use will be inconsequential to the lawfulness of the occupation of the building as a

dwellinghouse provided that the use has not been abandoned or replaced by another use¹.

13. The appellant states that the property has been occupied as a C3 dwelling by the existing tenant since September 2020 and was previously occupied by others as their primary residence since 2014 and not used as a holiday let since 2014. Substantial evidence including statutory declarations, invoices, bank statements, tenancy agreement and other records were submitted with the LDC applications.
14. The Council appears to accept that the holiday use of the property ceased in August 2014 but states that the appellant was unable to provide evidence of unbroken occupation of the appeal property for four years as part of the two LDC applications. Furthermore there has not been uninterrupted use as a dwellinghouse for four years at the time the notice was served on 19 September 2024. This is supported by Council Tax information which lists occupancy of Old Dairy Farm Cottage from 26 September 2020. The appellant's occupancy record shows Mr N Arnold from March 2016 to November 2019; Mr L Moylan from March 2020 to September 2020; and Mr and Mrs Beattie from September 2020 to the present. The Council stress that the appeal property had been occupied for less than 4 years by Mr and Mrs Beattie when the first notice was served on 19 September 2024.
15. In responding to the break in occupancy between November 2019 to March 2020, the appellant states that work was carried out to the subject building including repainting, window replacement and other minor work.
16. In March 2020 Mr Moylan occupied the property upon his return from Singapore. The appellant refers to the Covid-19 isolation of Mr Moylan but the Council contests the need for self-isolation based on COVID-19 advice at the time. However, the national lockdown was a very significant and unprecedented event for the country and I attach some weight to this in considering the issue of continuity of occupation. Whilst the Council have concluded that if Mr Moylan was using the cottage, they say that it was as an annexe to the main dwelling and that occupation was not supported by a tenancy agreement or registered for Council Tax. This view is challenged by the appellant as it is asserted that Mr Moylan used the cottage as a self-contained dwelling during the lockdown period as his elderly parents were in the vulnerable category and continued to do so until September 2020.
17. It is a matter of fact and degree whether the break in occupancy is a significant period beyond what could reasonably be regarded as de minimis when no breach was occurring. The appellant refers to Thurrock² in which a break in occupancy due to changing tenants would not be a cessation of use but the current appeal rests on whether Mr Moylan's occupation of the property from March 2020 was as an annexe to the main house or as an independent dwelling. I am satisfied that the property was occupied as a self-contained residential property and Mr Moylan lived independently within the dwelling. Other than reference to non-registration for Council Tax, which is not evidence that the property was not in use as an independent dwelling, the Council has not provided substantial reasons to indicate that the appellant's version of events should not be accepted.
18. The evidence indicates on the balance of probabilities that the appeal property has been continuously occupied as an independent dwelling since March 2020 by Mr

¹ Swale BC v FFS[2005] EWCA Civ 1568 and Panton and Farmer v SSETR [1999] JPL46

² SSETR v Thurrock BC [2002] EWCA Civ226

Moylan and later by Mr and Mrs Beattie. Consequently the appeal property is immune from enforcement action through the passage of time as no enforcement action may be taken after the end of a period of four years beginning with the date of the breach.

19. For the reasons given above, I conclude that the appeal should succeed on ground (d). The enforcement notice will be quashed.

Appeal B

20. The application is retrospective and the main issue is whether the change of use is acceptable within this location.
21. The Council is concerned that the proposals would result in an unfettered open-market dwelling, with poor connectivity to local facilities and services, where occupants would be reliant on the private car, thereby being contrary to North Dorset Local Plan Policies 2,20 and 29 which aim to distribute open market housing towards larger settlements and restrict open market housing outside defined settlement boundaries.
22. Policy 29 provides for the re-use of buildings in the countryside but the Council states that the proposal does not meet the criteria of that policy in respect of access to local facilities, that it does not meet any of the exceptional circumstances, the building is not redundant and there is no justification to indicate that a holiday let is unviable in this location.
23. Whilst proposals are required to be determined in accordance with the development plan as a whole, there are often varying professional assessments and balanced judgements necessary by the decision maker in reaching such a determination. On the basis of the evidence submitted, and from my own observations, it is challenging to consider the appeal site to be unsustainably located when it is relatively close to a main road with a regular bus service and a primary school. Whilst it may be in open countryside for planning policy purposes, it is located in a cluster of dwellings on both sides of the highway and the appeal property lies between the main dwelling and the neighbouring house. It is also an existing building with adequate access and parking, and there are no adverse impacts on the living conditions of neighbouring occupants. No practical planning harm arises from the proposal.
24. I have had regard to the cases drawn to my attention by the parties.
25. Having regard to Local Plan policies, the National Planning Policy Framework and my conclusion on Appeal A that the unauthorised use is immune from enforcement action, I conclude that on balance, planning permission should be granted, particularly as no planning purpose would be achieved by not allowing Appeal B. No planning conditions have been suggested by the parties and none would be appropriate.
26. For the reasons given above Appeal B should be allowed.

P N Jarratt

INSPECTOR