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## Appeal Decisions

Site visit made on 11 February 2026

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 March 2026**

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### **Appeal C Ref: APP/X1118/W/25/3360084**

#### **Heal Lodge, Track to West Heale Farm, Kings Nympton, Devon EX37 9TB**

- 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 R and A Petch against the decision of North Devon District Council.
  - The application Ref is 78493.
  - The development proposed is the use of land for the stationing of a mobile home and retrospective approval for formation of access.
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### **Appeal B Ref: APP/X1118/C/25/3360147 and**

#### **Appeal C Ref: APP/X1118/C/25/3360148**

#### **Heal Lodge, Kings Nympton, Umberleigh, Devon EX37 9TB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeals are made by Mr Richard Scott Petch (Appeal B) and Mrs Barbara Ann Petch (Appeal C) against an enforcement notice issued by North Devon District Council.
  - The notice was issued on 2 January 2025.
  - The breach of planning control as alleged in the notice are: Without Planning Permission, within the last 4 years, unauthorised operational development consisting of the construction of a building (gazebo); and without Planning Permission, and within the last 10 years, unauthorised material change of use of the land to a mixed use of storage (Use Class B8) and residential use (Use Class C3) including the siting of containers for storage purposes and the siting of a mobile home for residential use.
  - The requirements of the notices are to:
    1. Cease residential use of the land outlined in red on the attached plan;
    2. Remove mobile home in the approximate location marked green, from the land outlined in red;
    3. Remove building (gazebo) in the approximate location marked pink, from the land outlined in red;
    4. Remove all domestic paraphernalia from the land outlined in red;
    5. Cease storage use of the land outlined in red on the attached plan;
    6. Remove all stored items on the land including but not only the horse box/trailer, bricks/stone/tiles/crates/pallet piles from the land outlined in red;
    7. Remove storage containers in the approximate location marked blue from the land outlined in red;
    8. Remove from the land any rubbish or debris resulting from compliance with Steps 1-7 and dispose of these in a responsible manner.
    9. On completion of Steps 1-8 set out above, grade the land so that the contours of the land are restored to their former natural levels and cultivate the land leaving it in a condition suitable for agricultural use.
  - The period for compliance with the requirements: 9 months.
  - The appeal is proceeding on the ground[s] set out in section 174(2)(f) and (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.]
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### **Decision Appeal A**

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of a mobile home and retrospective approval for formation of access, Heal Lodge, Track to West Heale Farm, Kings Nympton, Devon EX37 9TB in

accordance with the terms of the application, Ref 78493 and the plans submitted with it subject to the schedule of conditions at the end of this decision.

## **Decisions Appeals B and C**

2. The appeals are dismissed and the enforcement notice is upheld.

## **Preliminary Matters**

3. In Appeal A, I have used the description of the development as set out on the planning application form as I am obliged to. The Council changed the description to refer to the “erection of a dwelling” which is not what has been applied for albeit that the plans refer to a “proposed mobile dwelling” and the Council’s officer report confirms that they did deal with the proposal as a proposal for a mobile home.

## **Appeal A**

### *Main Issues*

4. There is no dispute about the acceptability of the existing access. The first is therefore the suitability of the site for a residential development given local policies. The second is the effect of the development on the character and appearance of the site and surrounding area. The third is the extent of personal circumstances and other material considerations. I will then carry out a balancing of the overall planning issues.

### *Reasons – accessibility*

5. The appeal site is in a very rural area although there are scatterings of buildings nearby including The Roundhouse and Bias wood which are separated from the site by undeveloped fields. Narrow lanes lead past the site and down to East Heal. Kings Nympton is a substantial distance to the south-east separated by further rural fields and occasional buildings. The location is therefore remote from the amenities that settlements often provide such as shops, pubs and other community services. I have no information about bus routes to link the site to local centres such as villages or towns and cycling would be a challenge for everyday journeys given the rolling landscape. The appellant’s personal circumstances, which I deal with in more detail later, also mean that they will be reliant on private vehicles in this location as will people supporting them such as carers.
6. There is no dispute that the site is not within any of the prescribed settlements within Policy ST07 and its associated schedules, of the North Devon and Torridge Local Plan 2011-2031, adopted October 2018 (LP). LP Policy KGN allows for the provision of a minimum of 20 new dwellings to meet the range of needs in the community including for elderly residents but states that the supply of housing will be delivered through extant planning permissions, with no new sites allocated for housing as well as one non-strategic housing site. It is not argued by the appellant that this is the one non-strategic housing site that should be allowed. This location would not reduce the need to travel by car as required amongst other things by LP Policy ST10.
7. In relation to the first main issue the site is generally unsuitable for residential development given local policies. This is in the largely undeveloped part of the countryside and therefore does not comply with LP Policies ST07, KGN and ST10 for reasons set out above.

*Reasons – character and appearance*

8. The site is a large field in a high position on a hillside where an existing mobile home is located close to the road and a gravelled parking area leading off of the lane with a wooden gate at the entrance. The driveway and access lead to a loose surfaced parking and turning area. The field opens out downhill from the existing mobile home and parking area, with the rest of the field having a rough grass surface. On the eastern side there are some containers which look like the backs from lorry curtain-side trailers. These have some soil banked up against them. There is also some other paraphernalia including a garden gazebo in front of the containers. Whilst these are not included on the description of the proposal, reference is made to “steel containers” on the submitted plans indicating a similar position. The enforcement notice being considered in Appeals B and C makes reference to some of these items.
9. The proposal would involve positioning of the replacement mobile home further down the hillside than the existing one, below the parking area. This would look like a timber lodge.
10. From the road leading to the site, the well-established hedge is effective in screening views into the site although the gateway opens out with views possible of the parking area, vehicles positioned on it and the field beyond. I could see glimpses of the other buildings on adjoining sites through the roadside hedging. This would reveal some of the domestic activity within the site and from the cross-section of the proposal it seems that the roof of the new mobile-home will be seen through the gateway opening. When I left the site visit, I drove to the opposite side of the valley and could see the site clearly including the current mobile home standing up at the top of the hillside. The replacement would be in a lower position, noticeable but with the rising hillside behind it to help limit the visual impact and intrusion.
11. The rough grassed hillside is currently visible into the wider area including from a substantial distance across the opposite side of the valley. The lawn in front of the mobile home would bring about some domestication formalising the appearance of the field. The proposed wild-flower meadow and native hedge planting, which could be secured through the imposition of a planning condition, could interrupt the views from the opposite hillside and neighbouring properties. This would look different from the openness and informality of the present lower parts of the field. The overall effects whilst not causing an urbanising impact would have a limited but noticeable domesticating influence upon the overall appearance of the hillside.
12. In relation to this main issue, the development would have a harmful effect on the character and appearance of the site and surrounding area. This would not comply with LP Policies ST04, DM04 and DM08A. These, amongst other things, require high quality inclusive design responding to the characteristics of the site, the reinforcement of key characteristics and special qualities of the area as well as respecting landscape character.

*Reasons – personal circumstances*

13. The appeal site was retained when the appellant’s previous property was sold. Covid-19 lockdown restrictions limited their choices when they sold the previous property. They intended to apply for planning permission for a dwelling on the land whilst they lived with their daughter but that accommodation was not suited to their

accessibility needs. They therefore moved the existing mobile home onto the site.

14. Supporting information has been provided from a medical professional explaining that the health of the appellant would be likely to deteriorate if they were forced to move. This would also affect the appellant's wife due to their caring responsibilities as well as their own health considerations. The appellant's medical needs include ongoing mental health issues for which the rural setting is very important for their wellbeing. Physical limitations also require space and suitable accessibility that could be achieved in the proposed development. I gave the appellant an additional opportunity to provide an update on these needs given the time delays between the appeal being lodged and my site visit. The Council were also given an opportunity to comment on the appellant's final representations.
15. Without going into confidential details, the appellant's health conditions have worsened in the last year. He and his wife have become more vulnerable and that has included the distress due to the potential disruption of a possible enforced relocation. His medical conditions require a stable environment. Financial issues would mean that the appellant and his wife may not be able to ensure alternative accommodation of their own choosing. Their daughter's accommodation is unsuited and being forced to move there or to other unsuitable housing could cause a further deterioration in their health conditions.
16. It is clear that one of the appellants has significant mobility problems and other serious health concerns. The proposed development would enable them to live more comfortably, managing these health problems more effectively than if they had to move to a currently unknown location and environment. Furthermore, the current uncertainty in itself is making their overall health conditions worse. The appellant's wife cares for them and would live in the same building. The new accommodation would be on the same land which would be clearly preferable to the distress caused by further uncertainty as well as the stress of having to move.
17. In relation to this main issue, there are substantial personal circumstances which support the proposal.

### *The planning balance*

18. The Council concedes that they cannot demonstrate a 5 year housing land supply as required by the National Planning Policy Framework (the Framework). The development plan policies that I have referred to under the first and second main issues are the most important ones for determining this application and they are out of date. Paragraph 11(d) of the Framework makes it clear that in these circumstances, it is necessary to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. As such I need to have particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, recognising the intrinsic character and beauty of the countryside and minimising impacts on and providing net gains for biodiversity. The Framework also seeks to avoid the development of isolated homes in the countryside and whilst this site has some buildings including dwellings on adjoining sites, it is in a location remote from facilities and services. There is a substantial gap between the proposed location for the mobile home and those other buildings. Given my

conclusions in relation to the main issues, in these respects, the development would not comply with those policies in the Framework.

20. The Framework also says however that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. The appellant is arguing that the personal circumstances in this case should justify a temporary or personal planning permission. It is also incumbent on me to have due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that age and disability constitute relevant protected characteristic for the purposes of PSED. Given this and my findings on the third main issue the above and the under supply of housing in the area, I give considerable weight to the appellants personal circumstances.
21. I have identified in relation to the first main issue that the location is generally unsuitable for housing given local policies. This would also be contrary to some key policies within the Framework. However, the Framework also requires consideration of local circumstances. The Council's information refers to open market housing being unacceptable and I agree but the nuance here is that the proposal is different being proposed specifically as accommodation for the appellants given very specific personal considerations. The occupants may well have some reliance upon private vehicles. I do not know where potential alternative accommodation would be but it seems likely that carers and medical professionals would travel by vehicle to attend to the appellant, wherever he lived. This single unit of accommodation would cause limited harm in terms of sustainability due to the rural location.
22. In relation to the second main issue, the development would have a harmful effect on the character and appearance of the site and surrounding area. In my view the harm would be limited in extent with the landscape and visual impacts being minor. Furthermore, the impacts would be of limited timespan according to the length of time the appellants are able to remain living at the property, given the suggested condition that it is limited to the occupation by the appellant and his wife only.
23. The harms caused to LP Policies are limited. I have had regard to key policies in the Framework and its policies overall. Even though the harm would be limited, the use of the land for positioning a mobile home generally for unrestricted residential purposes would have very few benefits in terms of providing 1 additional residential unit. As such, in those circumstances the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits. However, in the specific circumstances applicable to this proposal, the adverse impacts of granting a personal planning permission for what would be a temporary use of land do not significantly and demonstrably outweigh the greater benefits of the development which would meet specific personal needs to which I attached considerable weight. I will therefore grant planning permission.

## Conditions

24. The Planning Policy Guidance (PPG) does not recommend the use of temporary planning conditions in this specific set of circumstances. The personal circumstances however necessitate controlling who can live at the site rather than setting a temporary period. The PPG refers to planning permission running with



the land but also there may be exceptional occasions where development that would not normally be permitted, may be justified on planning grounds because of who would benefit from the permission. I consider that these exceptional circumstances apply in this case. The Council suggest a condition limiting the occupation to the appellant and his wife and then the discontinuation of the use once they no longer occupy the development. I have altered the condition to allow for occupation by both or one of them.

25. I have attached the condition suggested regarding the installation of a bat box which will assist with biodiversity on the site. For similar reasons as well as landscape impacts, I have also attached a condition preventing external lighting although I have amended it to take out unnecessary terms. The necessity for a landscaping scheme is reasoned above. It is necessary to require the submission of details of the foul drainage. I have made some minor changes to the conditions that I have imposed to better reflect current guidance in the Framework and PPG.
26. I have not attached the suggested condition regarding unexpected contamination. It is not clear how this is necessary in terms of any evidence presented in the appeal or the application prior to that. I have also omitted the proposed condition limiting permitted development rights<sup>1</sup> concerning “development within the curtilage of a dwellinghouse” because a mobile home occupied residentially is not a “dwellinghouse” to which permitted development rights apply. The condition is therefore unnecessary.

## **Appeal A Conclusion**

27. Accordingly, for the above reasons, the appeal succeeds.

## **Appeal B**

### *Ground (f)*

28. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The notice requires the cessation of the residential use of the land although if the planning permission I have granted in Appeal A is implemented, the effect of s180(1) of the Act would mean that the enforcement notice ceases to have effect so far as inconsistent with the planning permission granted under Appeal A. There is no need therefore to change the requirements solely because of Appeal A being allowed.
29. The requirements collectively seek the undoing of what has been done including the removal of items that have been brought onto the site as well as ground works that have been undertaken to enable its residential use. The notice requires that the breach is remedied by discontinuing any use of land and restoring the land to its condition before the breach took place. The notice goes no further than that it needs to, in order to achieve that purpose.
30. Even if the neighbouring occupier at the Roundhouse has an option to purchase the land, that makes no difference to the breach of planning control that has occurred or to whether the land can be restored to its condition before the breach took place. No obvious alternative short of the requirements that would achieve the purpose of the notice are before me.

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1

31. The appeal under ground (f) therefore fails.

*Ground (g)*

32. The notice requires that compliance is achieved within 9 months. Notwithstanding Appeal A I have no evidence about the how long it would take to find alternative housing or undertake the removal of the items set out for both the material change of use and operational development. A period “beyond 12 months” is requested but 9 months would seem to provide a reasonable and proportionate balance between addressing the harm that the notice seeks to overcome and the appellant achieving compliance. The appellant also now has the alternative option of fully implementing the planning permission.

33. The appeal on ground (g) is dismissed.

**Appeal B Conclusion**

34. For the reasons given above, I conclude that appeal B should not succeed. I shall uphold the enforcement notice.

*Andy Harwood*

INSPECTOR

### **Appeal A Schedule of conditions:-**

1. The development hereby approved shall enure for the benefit of Mr and Mrs R & A Petch only. At such time that the mobile home is no longer occupied by Mr or Mrs R & A Petch, the residential use hereby permitted shall be discontinued, all associated development shall be removed from the site and the land shall be restored to its former condition within six months of the date of last occupation.
2. Within three months of the date of the occupation of the mobile home, a bat box shall be installed on the south-west gable end of the mobile home and a sparrow terrace shall be installed on the north-west elevation.
3. No external lighting shall be installed at the site.
4. Prior to the occupation of the mobile home, full details of soft landscape works shall have been submitted to the Local Planning Authority for their agreement in writing. These details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); as well as an implementation and management programme. The approved details shall be carried out in accordance with the approved implementation and management programme.
5. Prior to the occupation of the mobile home, the detailed design of the proposed surface water soakaway shall be submitted to and approved in writing by the Local Planning Authority. The soakaway shall be installed in accordance with the approved details prior to the mobile home being occupied, then maintained and retained.