

Appeal Decision

Site Visit made on 17 February 2026

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2026

Appeal Ref: APP/D0840/X/24/3355630

Land at Crossroads, Creegbrowse TR4 8NE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs G E & Mr R Lampier against the decision of Cornwall Council (the LPA).
- The application ref PA23/05459, dated 4 July 2023, was refused by notice dated 9 October 2024.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which a certificate of lawful use or development is sought is described as demolition of building to trigger commencement of works for PA18/09272.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs G E and Mr R Lampier against Cornwall Council. The application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the LPA's decision to refuse the LDC application was well-founded.

Reasons

4. S192(1) of the Act sets out that if any person wishes to ascertain whether (b) any operations proposed to be carried out in, on, over or under land would be lawful, they may make an application to the local planning authority.
5. S191(2) of the Act states that operations are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
6. The LPA granted planning permission on 20 December 2018 for the construction of a new dwelling, with integral annex and garage, landscaping and associated works at the appeal site (the 2018 permission)¹. The permission is subject to nine conditions. Condition 1 states that the development permitted shall be begun before the expiration of 3 years from the date of the permission. The LPA's officer report for that application indicates that the application was considered on the

¹ LPA Ref: PA18/09272

basis that it was a replacement dwelling on the footprint of a chalet (partially demolished) which existed on the site at that time.

7. The appellants' case is largely made on the basis that the chalet was a building for the purposes of S336 of the Act, that its demolition constituted a material operation comprised in the development approved by the 2018 permission and that the approved development was lawfully commenced within the 3-year period, such that continuation of the operations comprised in that development would be lawful.
8. The first point to establish is whether any material operation comprised in the development was carried out and when. S56(4) of the Act defines a material operation as including: (aa) any work of demolition of a building. The courts have held that, where the prior demolition of buildings was part of the total works necessary to undertake the development, was carried out by a builder or a type of operation normally carried out by a builder, and was specifically authorised by the planning permission, the beginning of those works of demolition should be taken as when the development was begun in accordance with the permission.
9. S55(1A) of the Act defines building operations as including (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. S336 of the Act states that "building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.
10. It was held in *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385 and endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102, that regard should be had to three primary factors, none of which are necessarily decisive, when considering whether a structure is a building. They are size, permanence and physical attachment.
11. The appellants argue that that the chalet was a building. In terms of physical attachment, it is said that the chalet was fixed to the ground in a manner that would have rendered moving it off site impossible without dismantling or demolishing on site first. In terms of size, the appellants state that it could not be transported off-site as a single entity. In terms of permanence, the appellants state that the chalet comprised of more than two parts.
12. However, the photographs contained in an estate agent brochure for the site do little to assist in that regard nor indeed do the site photographs contained in the Contaminated Land Survey of the site from July 2018. There is no evidence from the images as to how the chalet was fixed to the ground as the base of it is hidden by skirting. Moreover, there is little evidence from which one can ascertain whether the structure was removed from the site in sections or as a whole. Whilst the particulars do note that mains electricity and mains water are connected to the "mobile home", there is little substantive evidence before me to indicate either way how easily those connections could be removed.
13. Furthermore, one can clearly see from the photographs that there was a main body of the chalet with two porch additions. This is apparent from the LPA's photograph of 23 October 2018 which shows the main structure completely removed, with only a hardstanding, part of the skirting or a wall and two freestanding porch additions remaining in situ. The fact that two porch additions

have been added, and thereafter retained, independently of the main structure, does not indicate either way whether the chalet itself comprised of more than two parts. Additionally, it is noted that the estate agent particulars describe the structure as a mobile home and former mobile home. They do not describe it as a building.

14. The appellants say the building was demolished in early June 2020, (which they later changed to June 2019). However, it is apparent from the LPA's photograph of 23 October 2018 that the chalet had been removed at that point and thus prior to the permission being granted on 20 December 2018. It is evident nonetheless that the two porch additions and an area of hardstanding and concrete skirting or wall remained as of 23 October 2018. The appellants argue that these were in situ at the time of the grant of permission. Aerial images are provided, albeit they are of rather poor resolution so interpreting what they show is difficult. Nonetheless, the image from 19 April 2016 shows a darker rectangle indicative of the chalet. It is no longer apparent on the image from 26 September 2018 which is consistent with the LPA's photograph of 23 October 2018. Indeed, what appears to be the outline of one of the remaining porch additions can be seen. Thereafter, the porch additions appear to have been removed on the aerial image from 15 October 2019.
15. However, again, there is little evidence before me as to whether those additions constituted buildings. The LPA appears to indicate in its officer report that the additions can be considered to be buildings. However, it seems to me that they would have been of a size where they could be removed from the site intact on the back of a lorry or through other means. There is skirting around them on the LPA's October 2018 image such that I am unable to establish how they were fixed to the ground. Moreover, they clearly had little functional purpose beyond being additions to a chalet. With the chalet removed, they had no apparent purpose, suggesting they were not permanent features. To that end, whilst the LPA appears to consider them to be buildings, I find on the evidence before me, I am unable to conclude that is the case.
16. Condition 3 of the 2018 permission does refer to "the demolition of any building or structures". However, this does not automatically mean that the permission itself interprets the chalet as a building. It is evident from the submitted images that there was a garage building on the site previously. Likewise, the use of the word structures in condition 3 could have been referring to the chalet. Moreover, other than referring to the chalet as a building, there is nothing within the body of the July 2018 contaminated land report which evidences whether or not the chalet met the three primary factors in order to constitute a building for the purposes of the Act.
17. To that end, on the evidence before me, I find it has not been demonstrated, on the balance of probabilities, that the chalet, including its additions, referred to in the 2018 permission was a building for the purposes of S336 of the Act, having regard to the three relevant factors of size, permanence and physical attachment. To that end, the removal of those structures, whether or not they occurred before 20 December 2021, and whether or not they were comprised in the permission, did not constitute a material operation under S56(4)(aa) of the Act.
18. Likewise, I am unable to determine, given the resolution of the 15 October 2019 aerial image, whether the hardstanding and concrete skirting/wall that can be seen

seen on the October 2018 photograph remained on the site at that time or whether it has simply become overgrown somewhat. To that end, even if the demolition or removal of the hardstanding and skirting/wall on which the chalet was sited was comprised in the permission, it has not been demonstrated, on the balance of probabilities, that it was demolished or removed before expiry of the permission on 20 December 2021.

19. There is no suggestion that any other material operation under S56(4) of the Act comprised in the permission commenced prior to 20 December 2021. The appellants make reference to the digging of trenches on the site, however, do not state when these occurred. Indeed, the appellants' submission that "any subsequent works, such as the digging of trenches, occurred following the lawful start to the permission" and "a review of historic aerial imagery shows that since the demolition of the dwelling and minor ground works, no further building or construction works have taken place" indicates that they do not seek to argue that there were any other material operations which lawfully commenced the development.
20. Overall, I find that the appellants' evidence is not sufficiently precise or unambiguous to demonstrate, on the balance of probabilities, that at the date of the LDC application, the carrying out of operations comprised in the 2018 permission would have been lawful on the basis that the permission had lawfully commenced through a material operation comprised in the development before the expiry of the permission on 20 December 2021. As a result, the operations would not have been lawful under S191(2) of the Act, as enforcement action may then have been taken in respect of them, as they would have constituted development without planning permission and thus a breach of planning control under S171A(1)(a) of the Act.

Conclusion

21. For the reasons given above, I conclude that the LPA's refusal to grant a certificate of lawful use or development for the demolition of building to trigger commencement of works for PA18/09272 is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

J Whitfield

INSPECTOR