

Appeal Decisions

Site Visit made on 18 February 2026

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2026

Appeal A Ref: APP/D0840/C/24/3336710

Appeal B Ref: APP/D0840/C/24/3336711

Land at Higher Pennance Farm, Grampound Road, Truro, Cornwall, TR2 4EY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeals are made by Mr Keith Taylor (Appeal A) and Mrs Patricia Taylor (Appeal B) against an enforcement notice issued by Cornwall Council (the LPA).
 - The notice was issued on 4 December 2023.
 - 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 through the stationing of caravans used for residential purposes and associated operational development, including the creation of a porches, pergolas, timber outbuildings, domestic sheds, domestic picket fencing, hardstanding area/access track within the area shaded in green on the attached plan.
 - The requirements of the notice are to:
 1. Cease the residential use of the land shaded in green on the attached plan.
 2. Demolish and remove the porches and pergolas constructed along the western elevations of the caravans within the land shaded green on the attached plan.
 3. Cease the residential use of the caravans within the land shaded green on the attached plan and remove the caravans from the land outlined in red on the attached plan.
 4. Remove all services connected to the caravans for the purposes of independent human habitation, including but not limited to electric cabling, water pipes, sewage pipes, gas bottles etc.
 5. Demolish and remove all outbuildings within the land shaded in green on the attached plan.
 6. Remove from the land shaded green on the attached plan all materials, paraphernalia and debris resulting from the residential use of the land, including but not limited to washing lines, outdoor furniture, plant pots, trampoline, domestic sheds, picket fencing and non-agricultural motor vehicles etc.
 7. Demolish and remove the hardstanding/access track from the land shaded in green on the attached plan and restore the land to its former condition before the breach took place i.e. turfed.
 8. Remove from the land all materials and debris resulting from the above works.
 - The period for compliance with the requirements is: 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b) and (d) of the Town and Country Planning Act 1990 (as amended).
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Decisions

Appeal A

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

Appeal B

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

Appeals A and B on ground (b)

3. An appeal on ground (b) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters have not occurred.

4. The notice relates to the land identified edged red on the plan attached to it. It alleges the material change of use of the land to a mixed use comprising agricultural and residential through the stationing of caravans for residential purposes, along with associated operational development, within the area shaded green on the attached plan.
5. The concept of a mixed use is two or more primary uses existing within the same planning unit. One is not incidental to the other. The planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change. In *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, the Court confirmed that an Inspector may correct or vary a notice under S176 of the Act to ensure it was directed to the correct planning unit. In *Burdle*, it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. *Burdle* identified three broad categories of distinction. They are:
 - a) A single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary to the primary use.
 - b) A single planning unit where the unit of occupation is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another.
 - c) The unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. Each such area ought to be considered as a separate planning unit.
6. The Land subject of the notice (that edged red on the plan) comprises the area shaded in green on which caravans are sited for residential purposes. In addition, the Land includes two dwellings and their gardens, including a variety of outbuildings. There is also a parking area, driveway and a grassed field which also contains some buildings.
7. The appellants argue that the notice should be corrected to omit the two lawful dwellings together with their gardens which are within the red line. The LPA accepts the two dwellings and their gardens are lawful. In my view, they are physically separate areas from both each other and the remainder of the Land that are occupied for different and unrelated purposes. Each such area ought to be considered as a separate planning unit. The LPA points towards the fact the notice only requires the cessation of the use of the land shaded green and the *Mansi*¹ principle means a notice cannot purport to something they are entitled to do given their existing lawful use rights. However, it is clear to me that, physically and functionally, the two dwellings along with their garden areas, comprise separate planning units and thus not part of a single planning unit put to a mixed use.
8. As such, they cannot form part of the breach, that being a mixed use of residential and agriculture within a single planning unit, and in circumstances where the alleged breach has not taken place on that part of the Land, it should be omitted from the notice. Since the LPA accepts that the two dwellings and their gardens

¹ *Mansi v Elstree RDC* [1964] 16 P&CR 153371.

are lawful, then no injustice would arise to the LPA if they were omitted from the notice. Likewise, it is the appellants' case that they are separate planning units and thus no injustice would arise to the appellants. The notice could therefore be corrected accordingly.

9. In respect of the remainder of the Land, at the time the notice was issued, the Land was in single ownership of the appellants. However, the area owned or occupied by the landowner or tenant for freehold, leasehold or rental purposes is not necessarily the unit of occupation in *Burdle* terms. The area to be looked at is the whole of that used for a particular purpose, including any part of that area which is put to incidental use.
10. In this instance, the LPA's position is clear that it is only that part of the Land shaded in green on the plan that has been used for the purpose of siting caravans for residential use. Indeed, that is what the notice says on its face. Moreover, the evidence before me indicates that the residential use of the land shaded green has no functional link to either of the two dwellings on the Land or indeed any agricultural use of the Land. They are occupied by separate individuals on tenancy agreements.
11. I was able to see from my site visit that the area shaded green is physically separated from the remainder of the Land, delineated by fencing and planting. Furthermore, whilst the occupiers utilise a shared driveway outside of the area shaded green for vehicular and pedestrian access, that is not determinative of the existence of a single planning unit. In this instance, despite utilising a shared access, occupiers of the caravans can access the land independently of the dwellings on the Land or indeed the grassed areas. Within the area shaded green, the caravans share a gravel driveway with individual parking areas and small garden areas adjacent.
12. Furthermore, the notice, whilst targeted against the mixed use of the Land edged in red, only seeks the cessation of residential use on the land shaded green. If a mixed use had occurred, then one would expect the notice to require cessation of the mixed use, including residential, on the entirety of the Land. Otherwise, the notice would in effect underenforce and planning permission treated as having been granted for residential use on the remainder of the Land under S173(11) of the Act.
13. The appellants' position changed on ground (d) following submission of an aerial photograph dated 30 June 2015 by the LPA. They stated that, *having considered the matter further, the appellant accepts that the EN Plan red line should include the area where the caravans were sited at the beginning.* I wrote to the appellants and asked whether that meant they now accepted on the ground (b) that the material change of use of the land outside of the two dwellings and their gardens to a mixed use comprising of agricultural and residential through the stationing of caravans for residential purposes has occurred. No response to that point was received.
14. As it is, I find overall that the land shaded in green on the plan attached to the notice comprises a physically separate area that is occupied for a different and unrelated purpose to the remainder of the Land. Consequently, I determine that the Land subject of the notice comprises two or more physically separate areas

that are occupied for different and unrelated purposes. In accordance with *Burdle*, each such area ought to be considered as a separate planning unit.

15. The consequence of that, is that I find the alleged breach of planning control stated in the notice, that being a material change of use to a mixed use of agriculture and residential on the Land edged in red on the plan as a whole, has not occurred.
16. I have considered whether I am able to correct the notice such that is directed solely against the material change of use of the land shaded green to residential use through the stationing of caravans.
17. However, were I to do so, injustice would arise to the appellants, as it would change how they have framed their ground (d) appeal. Moreover, I cannot be sure that the appellants may not have sought to pursue other grounds of appeal, including ground (a), had the notice been directed solely at the residential use of the green shaded area.
18. On that basis, having regard to S176(1) of the Act, I find I am unable to correct the notice without resulting in injustice to the appellants or the local planning authority.
19. The appeal on ground (b) therefore succeeds.

Conclusions

20. For the reasons given above, I conclude that the appeals should succeed on ground (b). The enforcement notice will be quashed. In these circumstances, Appeals A and B on ground (d) do not fall to be considered.

J Whitfield

INSPECTOR