Planning Inspectorate

Appeal Decisions

Site visit made on 6 October 2026

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 27 October 2026

Appeal A Ref: APP/D0840/C/25/3360596
Appeal B Ref: APP/D0840/C/25/3360597
Appeal C Ref: APP/D0840/C/25/3360598
Land at Candle Cottage, Tregeare, Launceston, Cornwall PL15 8RD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Ceawlin James Hickman (**Appeal A**), Mrs Zoe Linda Hickman (**Appeal B**) and Mrs Bridget Mary Hickman (**Appeal C**) against an enforcement notice issued by Cornwall Council.
- The notice was issued on 14 January 2025.
- The breach of planning control as alleged in the notice is: "Without planning permission, the material change of use of the land through the construction of timber buildings used for (C3) holiday purposes and associated ancillary operational development and engineering operations to provide incidental decked areas, parking areas and footpaths. Also, the removal of a section of hedgerow."
- The requirements of the notice are to:
    1. Cease the residential use of the land outlined in red on the attached plan.
    2. Remove from the land outlined in red on the attached plan:
        - the chalet shown in the approximate location marked with a black "A"
        - the toilet/shower block shown in the approximate location marked with a black "B"
        - the kitchen block shown in the approximate location marked with a black "C"
        - the bar area shown in the approximate location marked with a black "D".
    3. Remove from the land outlined in red on the attached plan, all services connected to the buildings including but not limited to any plant/machinery/electrical/heating systems, electric cabling/ducts, water pipes/ducts, sewage/foul water pipes, water tanks, gas bottles.
    4. Remove from the land outlined in red on the attached plan, all decked areas, hardstandings, steps, handrails and associated means of enclosures.
    5. Remove from the land outlined in red on the attached plan, all retaining walls, structures and materials used to level the land, such as, but not limited to, timber sleepers (or similar), membranes and aggregate.
    6. Remove from the land outlined in red on the attached plan, all residential paraphernalia including, but not limited to, plant and tree pots, outdoor furniture, gazebo(s)/pergola(s), bar stools, fire pit etc.
    7. Remove from the land outlined in red on the attached plan all materials and debris resulting from compliance with the requirements of (2) – (6) above.
    8. Reinstate the hedge bank in the location marked with a black "E" on the land outlined in red on the attached plan, to its former condition and in accordance with the species specification outlined in the informative below.
    9. Restore the landform and cover to its former condition before the breach of planning control took place, including re-profiling the land and planting with grass seed.
- The period for compliance with the requirements is six 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). In addition **Appeal A** is proceeding on ground (a), which means an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decisions: Appeal A, Appeal B and Appeal C are allowed and the enforcement notice is quashed.

Background

1. In November 2022 the Appellants made an application for planning permission for *retention of holiday cabin, shower and toilet facilities, bar and parking for holiday purposes*, which was refused by the Council on 2 March 2023,[1] and dismissed on appeal by a decision letter dated 15 November 2023 ("the 2023 Appeal"). [2]

2. In May 2024 the Appellants submitted an application for a Certificate of Lawfulness for *change of use of land from agriculture to residential garden with ancillary buildings* ("the LDC Application"), which was refused by the Council on 16 July 2024 [3]. That refusal has not, to date, been appealed.

The appeals on ground (b)

3. The ground of appeal is that the matters (being those matters stated by the notice to constitute a breach of planning control) have not occurred. The Appellants contend that the Appeal Site is not, and has never been, used for holiday purposes: rather, it is used by their family and friends for purposes incidental to the residential use of Candle Cottage. The Council contends that the evidence submitted as part of the 2023 Appeal, and the findings of the Inspector who determined that appeal, "make it clear that the proposal provides holiday accommodation rather than any form of ancillary residential accommodation associated with Candle Cottage."

4. The Appellants' case is that the Appeal Site has since 2009 been used for camping, weekend picnics and other family gatherings. The bar built in 2019, and the parking area and lodge constructed in February 2022, were for the purpose of facilitating their recreational use of the land. In 2002 they realised that the increased popularity of staycations, as a consequence of Covid, could provide an opportunity to generate income by renting out the lodge for holiday accommodation. Since the lodge was already in place they submitted an application for retrospective planning permission, which also included a shower block and kitchen. The application and the subsequent appeal were refused, so they have not pursued their plans to provide holiday lettings on the Appeal Site. Mrs Zoe Hickman has provided a Statutory Declaration which states "The lodge has never been advertised for letting or let out and has only been used by ourselves, family and friends."

5. The Council has not provided any substantive evidence (such as advertisements for holidays at the Appeal Site, pages from websites listing its facilities and availability, reviews from visitors who have stayed there, etc) to contradict the Appellants' version of events. Instead, it asserts that the case made by the Appellants in these current appeals is at odds with the Statement submitted by them in support of the 2023 Appeal. That 2003 Appeal Statement contained the following reference to the development then at issue: *The scheme proposes the siting of a holiday cabin, bar, shower block and toilet which would provide self-contained holiday accommodation. As the application is for retrospective permission, the cabin is already in position and photographs of the exterior and interior are provided below.*

[1] Ref PA22/09886
[2] Ref APP/D0840/W/23/3320960
[3] Ref PA24/04036

6. I do not see any conflict there. The 2003 Appeal Statement set out the Appellants' proposal to provide holiday accommodation, but contains no indication that it had already been provided. It described the permission sought as "retrospective" because the cabin had already been constructed prior to the submission of the application, not because it had already been used for holiday purposes. Similarly, the 2003 Appeal Decision makes no reference to any current or previous use as holiday accommodation: it notes that while parts of the proposed development had already been constructed others had not, and assesses it on the basis that *The appeal scheme would provide holiday accommodation for up to nine people*.

7. The Council drew my attention to references within the 2003 Appeal Statement to a Marketing Strategy and Business Plan prepared in support of the proposed holiday accommodation, which provide analysis of the "business opportunity" and likely target audience. As the Council rightly concludes, this is clear evidence of an intention to use the buildings for holiday purposes. Indeed, the Appellants have not made any secret of the fact that such was their intention. But an intention to carry out a use is not at all the same thing as actually carrying out that use. This distinction is particularly important in enforcement, because a Council cannot issue a notice on the basis that a future unauthorised use is intended: it must appear to them that there *has been* a breach of planning control.[4]

8. In summary, the Appellants have provided sworn first-hand evidence which states, precisely and unambiguously, that the Appeal Site has not been used for holiday purposes. This carries considerable weight, and none of the other evidence currently before me in any way contradicts or undermines it. I conclude that as a matter of fact and degree, the matters alleged by the notice have not occurred.

9. An Inspector has a duty to put the notice in order if at all possible, and wide powers to correct any misdescription it contains, subject only to the requirement not to cause injustice to the Appellant or the Council. With this in mind, I have given careful consideration to the possibility of deleting the word "holiday" from the allegation and replacing it with "residential". However, this would have implications for the deemed planning application: since the Council's case on ground (a) is that the notice attacks what it describes as "the same development" as was the subject of the 2003 Appeal, and refers to relevant policy considerations for holiday units in the countryside, I am concerned that amending the notice in this way would unfairly deprive the Council of the ability to address compliance with policies relevant to residential development that was not for holiday use.

Conclusion

10. For the reasons given above, I conclude that the appeals should succeed on ground (b). The enforcement notice will be quashed. In these circumstances, the appeals on grounds (c),(d),(a),(f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Jessica Graham

INSPECTOR

[4] S.172(1) of the 1990 Act