The Planning Inspectorate

Appeal Decision

Inquiry held on 31 October and 2 November 2023

Site visit made on 1 November 2023

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11/12/2023

Appeal Ref: APP/Q9495/C/23/3325144
Land at New Oaks Farm, Kirkstone Road, Ambleside LA22 9EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act"). The appeal is made by Mr Steven Parsons against an enforcement notice issued by Lake District National Park Authority.
- The notice, numbered E/2021/0247A, was issued on 22 May 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the making of a material change of use of the land to residential, including the residential occupation of a caravan with domestic garden, vehicle parking and storage, and the carrying out of associated works to facilitate the residential use including the erection of a fence and gates, timber decking with balustrade and steps, and the installation of concrete block pillars and metal jacks to support the caravan and the installation of a chimney breast and flue to the caravan.
- The requirements of the notice are: (1) Discontinue the residential use of the land, including the residential occupation of the caravan, the domestic garden, the domestic vehicle parking and domestic storage, in the open and within buildings, including vehicles, boats and trailers; (2) Remove the caravan from the land; and (3) Remove from the land the fence and gates, timber decking with balustrade and steps, the concrete block pillars and metal jacks used to support the caravan, the chimney breast and flue to the caravan and garden plants and plant pots.
- The period for compliance with the requirements is: 8 months from the date the notice comes into effect.
- The appeal was made on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Act. 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.

Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

2. Intrinsic to the appeal made on ground (d) is a denial that the alleged material change of use of the land to residential, including the residential occupation of a caravan, occurred. This is more appropriately considered as an appeal on ground (b), *that those matters have not occurred*.

3. The appeals on grounds (b) and (d) were the subject of an Inquiry which sat on 2 days. The first day's sitting was in person, to hear evidence given on affirmation, with a virtual session for closing submissions held on the second sitting day. The appeals on grounds (a), (c), (f) and (g) were the subject of written submissions.

4. Unless specified otherwise, references to 'the land' mean the land affected by the notice, edged red on the plan accompanying it. That is to distinguish it from the wider land holding, shown on exhibit SP1 referred to in the appellant's statutory declaration, which he and his siblings own.

The appeal on ground (b)

5. The appellant contends, contrary to what the notice alleges, that works carried out in 2016 and 2017 resulted in what had previously been a caravan becoming a building. He also contends that this building was initially used for purposes other than as a dwellinghouse, prior to a material change of use of the building to use as a single dwellinghouse.

6. It is therefore necessary to determine whether the caravan remained a caravan, or had become a building, on or before the date the notice was issued. The onus is on the appellant to demonstrate the latter on the balance of probability. If that can be demonstrated, the matters stated in the notice will not have occurred as a matter of fact. In considering this, except where I refer to something that is agreed, or a party's position, I shall use the neutral description of 'structure'.

The works

7. The structure was a caravan when the appellant brought it onto the land in 2010. He acquired it to serve as a welfare facility, primarily in connection with keeping horses, although he also kept chickens for an unspecified period.

8. The caravan was repositioned in 2016, after which the appellant and his sons began to carry out works to it, starting with the removal of the walls and roof, but leaving the chassis and wheels. The timber frame of the structure's walls and roof was then constructed over the chassis and extending outward in 3 directions ("the extended parts"). The most significant extension, at one end of the chassis, was described by the appellant as being 8 feet (2.44 m) long. The other extensions widened the structure, adding 2 feet (0.61 m) to each side.

9. Insulation was installed in the walls and roof and the structure was clad in UPVC and profile sheeting. A door and windows were then inserted. Internally, the walls of the structure were boarded and plastered, and new plumbing and electrical connections were made. A decked area was added, set into the ground in concrete and bolted to the structure, and a septic tank was installed on adjacent land.

10. These works were completed in early 2017, after which the accommodation comprised 2 bedrooms, a toilet/shower room and a living area with kitchen, including an oven, hobs and a sink. A wood burning stove was installed in the living area and a chimney breast and flue were added to the structure in 2021. The appellant does not suggest these later additions altered the status of the structure, which he contends had already become a building.

11. The structure is supported by the caravan wheels, which remain in place, albeit set below ground level with the tyres deflated, and several other supports. From the photographic evidence[1] and my observation on site, those other supports are jacks resting on paving slabs beneath the chassis and short pillars formed with concrete blocks under the extended parts.

[1] Appendix HT1 to Mr Tonge's proof of evidence.

Whether the structure remained a caravan or had become a building

12. It is common ground that this must be determined having regard to section 29(1) of the Caravan Sites and Control of Development Act 1960 ("the 1960 Act"). This is *any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.* The definition also excludes railway rolling stock and tents and the structure is evidently neither.

13. The structure was capable of being moved from one place to another when it was brought onto the land in 2010 and when it was repositioned in 2016. It is agreed it was designed or adapted for human habitation, so it remains to be determined whether it was still capable of being moved from one place to another on the date the notice was issued.

14. Any attempt to move the structure, whether by towing or lifting and carrying, would subject it to forces of stress and strain. However, those forces would be presented over a relatively short period. Furthermore, an assessment of the structure's mobility should take account of any measures that might reasonably be adopted to provide stability during movement.

15. The structure is connected to water and electrical supplies that are laid in the ground and to pipework leading to the septic tank. Such connections are normal for a static caravan and can usually be easily severed to facilitate movement. There is no evidence that those connections are any different in this instance, or that they limit the ability to move the structure.

16. The decking is fixed to the ground and could not easily be moved in one piece. However, the bolts attaching it to the structure could be removed, such that it need not hinder movement of the structure. Similar detail about whether and how the chimney is fixed to the ground has not been provided. However, it is reasonable to believe that it could also be detached from the structure and would therefore not obstruct movement.

17. The appellant affirmed that, if the supports under the extended parts were removed, it would cause cracks in the plaster on windy nights. When questioned whether the structure could support its weight if the extended parts were not resting on anything directly below, he stated it was "hard to say". However, he concluded that he would say it could not support its own weight, because the supports were there for a reason. He further affirmed that the structure weighs much more than the 1½ to 2 tonnes the chassis was designed to carry. He did not explain how he had calculated the weight of the structure or established the design weight. However, he stated the structure was never intended to be moved and would need to be dismantled and rebuilt instead.

18. One of the appellant's sons, Simon Parsons, appeared as an interested party. He affirmed that the wheels of the structure are buried, although he did not suggest that would, of itself, prevent the structure from being moved. He considered the structure would need to be taken apart to be moved. In his view, if it were moved intact, it "wouldn't stand a chance", noting that the joists forming the floor are too small. He stated the structure would collapse, noting that the corners were plastered and without expansion joints, and that too much weight would be placed on the central section, over the chassis. He

did not think placing supports under the extended parts would overcome the problem; the structure was not designed to be moved.

19. When I asked what possibilities for moving the structure he had considered, he confirmed they were towing intact or taking apart before moving. He did, however, offer comment that houses are moved intact in New Zealand. When asked what would happen if the structure were moved in a similar way, with support, he said, "There would be bits of plaster everywhere" at the other end.

20. The appellant's professional witness, Harry Tonge, had written that trying to move the structure "would carry a very real risk of significant structural damage." While he did not know what weight the chassis had been designed to carry, he considered it could not take the full weight of the structure. He is not an engineer, and these opinions are therefore based on experience rather than qualifications. His experience had been of traditional buildings, including those with timber frames, but not like the structure the subject of this appeal.

21. Mr Tonge affirmed that he had not considered any ways of supporting the extended parts during movement and that he was not aware if any options for moving the structure had been examined.

22. Michael Hyde gave evidence for the Authority and was of the view that, if the structure were not supported, there would be some risk of failure if an attempt were made to move it. He had not considered whether the structure could be towed but he contended that, with care and attention, appropriately positioned lifting beams could be placed beneath it. In his view, it would then be possible to lift the structure intact onto a motor vehicle or trailer and he did not consider the size of the joists forming the floor to prevent this being done. He therefore stated the structure should be considered a caravan.

23. Mr Hyde initially formed this opinion before inspecting the structure. While he therefore reached his view on limited evidence, he maintained it after having inspected the structure. Consequently, I do not find the sequence of events to reduce the weight that should be afforded to his opinion.

24. While the appellant contends the chassis could not support the full weight of the structure, there is no evidence that it cannot hold the weight of the part of the structure above it. The lifting method described by Mr Hyde could provide direct support to the extended parts and it should therefore prevent, or at least limit, transfer of weight from them to the chassis during movement.

25. In addition to being a chartered town planner, Mr Hyde has a degree in civil engineering and had been a trainee structural engineer before that. He has acted as a consultant to caravan companies and that has involved providing lifting diagrams to show how units could be moved. He affirmed that this involves the use of beams and a cradle to lift a caravan as a single entity, although he had no experience of moving anything with extended parts comparable to the structure subject of this appeal. Notwithstanding that, and while no lifting diagram was provided for the structure, considerable weight should be afforded to his evidence in view of his training and experience. However, it remains that it is for the appellant to demonstrate, on the balance of probability, that the structure had become a building.

26. Mr Simon Parsons had considered what would happen if an attempt were made to tow the structure. I agree this would introduce a risk of structural damage if

no means of supporting the overhanging 2.44 m extension at the end of the chassis were identified. That part of the structure could therefore sway if the structure were towed, with consequent risk of structural damage or failure.

27. However, and critically, neither the appellant nor Mr Simon Parsons had given thought to lifting the structure on beams, as Mr Hyde had. Neither, on the evidence before me, had appropriate professional advice been taken on that or any other option. If the structure were placed on a vehicle or trailer with the lifting beams in situ, they could, with appropriate bracing, continue to provide support to the extended parts. Accordingly, it has not been demonstrated that the appellant had considered all reasonable measures for moving the structure.

28. It was put to me, for the appellant, that a caravan must not only be capable of being moved from one place to another, as per the definition in the 1960 Act, but also that it should arrive at the destination in the same condition it left in. No citation was provided for that additional criterion, and I see no reason to apply a test after something has been successfully moved, and thus has demonstrably met the relevant part of the 1960 Act's definition.

29. It was also suggested that whether a structure is designed or intended to be moved must play a role in determining whether it is capable of being moved. It is clear the appellant did not give any thought to whether the structure might be moved in future when he carried out the works; as he stated, he did not intend to move it. While it is reasonable to assume that a structure designed with movement in mind is more likely to be mobile than one designed without such thought, that is not determinative. The relevant part of the 1960 Act's definition of a caravan is only concerned with capability. To determine whether a structure is capable of being moved, one must have greater regard to its inherent characteristics than what might be known of the maker's intention.

30. The definition of a building in section 336 of the Act "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." The courts have ruled that whether a structure is a building will depend on consideration of its size, its permanence, and its attachment to the ground[2].

31. The size of the structure and its composition above the chassis resemble a building. However, the structure is not attached to the ground, rather it rests on its own weight, and as noted, it could be simply detached from the water and electrical supplies and the pipework leading to the septic tank. The available evidence does not indicate the decking and chimney could not be detached, so they do not lend permanence to the structure or make it incapable of being moved.

32. The appellant affirmed that, without plaster on the internal surfaces of the walls, the structure would be acceptable for holiday use but not to live in permanently. Plaster is brittle and therefore liable to crack or break if subjected to stress and strain, as Mr Simon Parsons affirmed. However, any such damage would be superficial, not structural, and it would be a result of, rather than a barrier to moving the structure from one place to another.

33. It has therefore not been demonstrated, on the balance of probability, that the structure had become a building when the notice was issued. From the

[2] *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No. 2) [2000] EWCA Civ 5569; [2000] JPL 1025.

evidence presented, it was capable of being lifted, placed on a trailer, and moved from one place to another in the manner described by Mr Hyde. Consequently, and as it was designed or adapted for human habitation, it remained a caravan, as defined by the 1960 Act.

The alleged residential use of the land

34. The appellant had stated that the use of the L-shaped group of buildings within the appeal site was not directly linked to the residential use of the structure but was instead in a mixed use comprising equestrian, workshop and storage. Mr Tonge affirmed that this mixed use applied to the group of buildings, with residential use occurring separately in the structure and its associated garden.

35. The appellant kept 2 horses in stables within the group of buildings, but that ceased in 2021, before the notice was issued. The claimed equestrian use was not explained in any detail and there is no grazing land or paddock area within the appeal site. However, on the evidence before me, it is probable that horse keeping is a lawful use of the land and use of the structure as a welfare facility incidental to that is unlikely to have caused a change of use.

36. At the time of my site visit, the remainder of the buildings were used for storage of trailers, domestic items and logs, as a workshop, and as a car port or garaging. I saw clothes washing and drying machines, indicating use for purposes incidental to the residential occupation of the structure. This, the domestic storage, car port and garaging, and log storage, which appeared to be for a wood burning stove in the structure, must cast significant doubt on the claimed separation from the residential use. Mr Tonge stated that the appellant had maintained a vehicle he uses for work in the workshop since before he began living at the site, but no further detail was forthcoming. However, it is not unusual for a person to park a work vehicle at home and, if self-employed, to carry out maintenance on it there. Evidence of any separate workshop use on the date the notice was issued is therefore scant and of little weight.

37. No evidence was presented that the keeping of chickens, which the appellant said had occurred for a while, was still occurring at the time the notice was prepared and issued. Reference was made in the Inquiry to storage of cars, a boat and a trailer owned by friends and to friends keeping their ponies in the stables on occasion. However, no evidence was presented that those activities were occurring on the date the notice was issued. Nevertheless, photographs attached to the notice show a boat, 2 trailers, a horse box, and a touring caravan in the yard between the buildings and the structure. While it is possible some of these items were owned by people who did not live in the structure, that has not been demonstrated.

38. Accordingly, it appears the appeal site was in residential use comprising residential occupation of a caravan with domestic garden, vehicle parking and storage when the notice was issued. It has therefore not been demonstrated, on the balance of probability, that the material change of use alleged in the notice had not occurred.

39. For these reasons, the appeal on ground (b) must fail.

The appeal on ground (c)

40. An appeal may succeed on this ground if an appellant can show that one or more of the matters alleged in the notice does not constitute a breach of

planning control. This could be because it is not development or does not require planning permission. This ground of appeal is limited to the operational development comprising the erection of a fence and gates and the installation of the chimney breast and flue to the caravan.

41. The fence and gates do not adjoin a highway used by vehicular traffic and do not exceed 2 m in height. They are therefore within the parameters of development that is permitted by Class A of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("Class A" of "the Order"). However, Article 3(5) of the Order states that the permission granted by Schedule 2 does not apply *inter alia* if, in the case of permission granted in connection with an existing use, that use is unlawful. This provision has the effect of preventing unlawful uses of land from acquiring permitted development rights.

42. The fence and gates enclose the caravan and its associated garden. The permission granted by Class A is dependent on the material change of use of the land to residential, including the residential occupation of a caravan with domestic garden, vehicle parking and storage being lawful.

43. No enforcement action may be taken against a material change of use that does not involve the change of use of any building to use as a single dwellinghouse after the end of the period of 10 years beginning with the date of the breach. The appellant states that the residential occupation of the caravan began in spring 2018, less than 10 years before the date on which the notice was issued, so enforcement action could have been taken against the use on that date. Accordingly, the use is not lawful and the fence and gates that facilitate it are not permitted by Class A but require an express grant of planning permission.

44. The appellant contends that the installation of the chimney breast and flue is development that is permitted by the provisions of Article 3 and Class G of Part 1 of Schedule 2 to the Order ("Class G"). This claim is made on the basis that the caravan is in fact a building in residential use, meaning a dwellinghouse. However, as I have found the caravan is not a building it follows that it cannot be a dwellinghouse. Consequently, the provisions of Class G do not apply, and the chimney breast and flue require an express grant of planning permission.

45. For these reasons the appeal on ground (c) must fail.

The appeal on ground (d)

The material change of use

46. An appeal on ground (d) is that, at the date the notice was issued, no enforcement action could be taken in respect of *any breach of planning control which may be constituted by those matters*. Reading section 174(2) of the Act as a whole, it is clear that "those matters" are the matters stated in the notice. Even if the claimed change of use of a building to use as a single dwellinghouse had occurred, I would be unable to consider an appeal on ground (d) in respect of it because it is not a matter stated in the notice.

47. The time limits within which enforcement action may be taken are set out in section 171B of the Act. As noted, no enforcement action may be taken against a material change of use not involving the change of use of any building to use as a single dwellinghouse after the end of the period of 10 years beginning with

the date of the breach. For the appeal on ground (d) to succeed it would therefore need to be demonstrated that the material change of use stated in the notice was instituted on or before 22 May 2013 ("the Relevant Date"), 10 years before the date the notice was issued. It would further be necessary to demonstrate that the use continued thereafter without significant interruption.

48. The appellant affirmed that the residential use began in spring 2018, after the alterations to the caravan, and it was therefore not instituted on or before the Relevant Date. The material change of use stated in the notice was therefore not immune from enforcement action on the date the notice was issued.

Vehicle parking and storage

49. Any enforcement action that could be taken against the material change of use of the land to residential use would encompass any vehicle parking and storage that is incidental to that use. As clarified in Mr Tonge's oral evidence, already noted in the appeal on ground (b), the appellant contends there was a separate mixed use comprising equestrian, workshop and storage, in the L-shaped group of buildings. However, the notice does not identify or attack any equestrian or workshop use or activity, so I shall concentrate on the storage element.

50. While I must have regard to the situation on the date that the notice was issued, it is helpful to refer to my observations at the time of the site visit. As already recorded, I saw evidence of incidental domestic storage but nothing that could readily be identified as a separate storage use.

51. The appellant stated that vehicles, a boat, and other items had belonged to people who did not live at the site. However, their identity or the periods during which their items were kept on the land was not presented. It has therefore not been demonstrated that this amounted to storage separate from the residential use. Even if it had, I could not consider an appeal on ground (d) in respect of it because it would not be a matter stated in the notice.

Associated works to facilitate the residential use

52. These include the erection of a fence and gates; timber decking with balustrade and steps; and the installation of concrete block pillars and metal jacks to support the caravan. Section 171B(1) of the Act confirms that no enforcement action may be taken against operational development after the end of the period of 4 years beginning with the date on which the operations were substantially completed.

53. While it is stated that the fence and gates were constructed "more than 4 years ago" the dates on which they were substantially completed have not been specified. It has therefore not been demonstrated, on the balance of probability, that enforcement action could not have been taken against them on the date the notice was issued.

54. However, the appellant affirmed that the decking, understood to include the balustrade and steps, was originally constructed at some point between spring 2016 and early 2017. His statutory declaration confirms that the decking was subsequently reduced in size in February 2018, as shown in a photograph dated 19 February 2018. The decking was therefore substantially completed more than 4 years before the date on which the notice was issued.

55. The installation of concrete block pillars and metal jacks under the caravan can only have been carried out concurrent with, or before, the works to form the extended parts. The appellant affirmed that the construction of the extended parts formed part of a series of works that were carried out between spring 2016 and early 2017. The pillars were therefore completed, and the jacks in place, more than 4 years before the date on which the notice was issued.

56. However, none of the appellant's witnesses offered a convincing explanation as to why that series of works, including the decking, had been necessary for the claimed continued use, post-completion, of the caravan as a welfare facility. Critical to this, the appellant affirmed that he had used the caravan as a welfare facility without a working toilet between 2010 and 2017. While the appellant and Mr Simon Parsons referred to 'family get-togethers' taking place on the land after early 2017 and before residential occupation of the caravan began in spring 2018, no details of their frequency were provided. The evidence does not demonstrate that such events were sufficiently substantive to cause a material change of use.

57. It is therefore clear that the works carried out in 2016, 2017 and 2018 were not to facilitate continued use solely for welfare purposes. Indeed, the appellant affirmed that the 2.44 m extension had been made with family get-togethers in mind. Considering all relevant evidence, it is apparent that the works were to adapt the caravan for residential occupation, part of the alleged material change of use. The decking and the concrete block pillars and metal jacks are therefore inseparable from, and facilitate, the material change of use of the land to residential, including the residential occupation of a caravan. That change of use was not instituted on or before the Relevant Date and was not immune from enforcement action on the date the notice was issued.

58. For these reasons, and despite the substantial completion of the decking more than 4 years before the notice was issued, the appeal on ground (d) must fail.

The appeal on ground (a)

59. The parties agree that the material change of use and associated operational development do not harm the defined attributes of the English Lake District World Heritage Site. Accordingly, the main issues in this ground of appeal are:

- Whether the appeal site is within open countryside.
- If the appeal site is within open countryside, whether there is an essential need for the use and the associated operational development.

Reasons

Whether the appeal site is within open countryside

60. Policy 02 of the Lake District National Park Local Plan 2020 – 2035 ("the LP") identifies Ambleside as a Rural Service Centre (RSC). Such locations are the focus for housing, employment and retail development within the National Park. However, the LP does not prescribe settlement limits and it is therefore a matter of judgement whether the appeal site lies within the RSC or in open countryside.

61. The Landscape Capacity Study for Settlements in the Lake District ("The LCS") records that Ambleside's settlement edges are robust, formed by the steep

rising uneven landform to the north and east, reinforced by rocky outcrops, field boundaries and woodland. The appeal site is at the eastern edge of the RSC, to the north of Kirkstone Road, which rises steeply as it heads northeast.

62. On the southern side of Kirkstone Road, on land that falls toward Stock Ghyll, there is continuous built form until a point approximately 150 m short of the appeal site's access. On the northern side of the road, the continuous built form ends at Kirkstone Close, with one dwelling, Oak Bank, beyond. The appeal site is approximately 50 m from the nearest dwelling on Kirkstone Close.

63. While the appeal site is therefore close to the nearest built form within the RSC, the settlement edge is accentuated and given an air of impermeability by a belt of trees immediately east of Kirkstone Close. The appeal site cannot easily be seen in views from that direction. In views toward the RSC from the appeal site, there is a distinct sense of separation, heightened by the steeply rising landform, the intervening field, and the belt of trees. These factors result in a clear separation between the RSC and the appeal site, which is therefore within open countryside.

Whether there is an essential need

64. Policy 02 only supports development that can be demonstrated to meet 2 general criteria and, within open countryside, 1 of 5 further criteria. Only the first criterion relevant to open countryside is claimed, specifically that the appellant has an essential need to live on the appeal site in connection with keeping and rearing horses.

65. I have had regard to a planning permission for the retention of a wooden log cabin/park home at Troutbeck, also within the National Park, on the basis that there was an essential need for a residential presence related to the rearing of horses[3]. Other than a copy of the decision notice, very little information has been provided. However, the stated reason for approval identifies 2 components of the essential need that was found in that case. These were:

- Functional husbandry requirements arising from the keeping of competition horses on the site, including attending to welfare matters arising as a result of disturbance from adjacent land uses and difficulty in ensuring the welfare of horses while living some miles from the site.
- The provisions of the Equality Act 2010 which require … reasonable adjustments for those persons with disabilities (in this case through long term ill health).

66. A personal planning permission was granted in recognition of the second component but no evidence of any relevant provision of the Equality Act 2010 has been presented in this appeal. Nor has evidence of comparable husbandry requirements or risk of disturbance from adjacent land uses been presented. Accordingly, the facts of the Troutbeck decision differ from this appeal, which should be determined solely on its merits.

67. The appellant affirmed that he ceased keeping horses in 2021 or 2022. No more than 2 horses were kept on the land before that, there being limited stabling within the L-shaped group, and no compelling explanation as to why horses might require a full-time residential presence was provided. It is clear

[3] 7/2022/5669, granted 9 May 2023.

from the appellant's evidence that he was able to keep and rear horses on the land between 2010 and 2017 without living there. An occasional overnight presence might be necessary, such as when an animal is ill or giving birth, but an essential need for the residential use has not been demonstrated.

68. The deemed planning application (DPA) has therefore not been shown to meet any criterion of policy 02 specific to open countryside. Furthermore, the appellant has not presented evidence in respect of the 2 general criteria of the policy[4], which are therefore not demonstrated to be met.

Other Matters

69. The Authority refers to the appearance of the caravan, contending that it lacks the authenticity and integrity expected of development that should contribute to local distinctiveness. It therefore considers it to conflict with LP policy 01, which requires development proposals to protect or enhance the authenticity, integrity and significance of the Lake District. This would be a significant consideration if I had found the structure had become a building. However, the breach of planning control is the material change of use of the land, which does not allow the design of a caravan to be controlled because removing one and replacing it with another would not constitute development.

70. Although not referred to in the reasons for issuing the notice, the Authority raises concern over the effect of the use of the site access on the safety of users of Kirkstone Road, classified C5001.

71. The site access joins Kirkstone Road just beyond the point where a 30mph speed restriction ends and the national speed limit of 60mph begins. There is restricted visibility looking toward Ambleside when leaving the access because of a large tree and a bend in the road immediately to the south and a stone wall marking the highway boundary. No concern is raised in respect of visibility in the opposite direction.

72. While the Authority states it would seek advice from the highway authority if a planning application were made, and anticipates that comments would be made in response, there is no evidence that such advice was sought in respect of the DPA. Furthermore, no relevant development plan policy has been cited.

73. In response, the appellant considers that the levels of activity associated with a single dwelling do not have a material impact sufficient to cause an unacceptable impact on highway safety. He further notes that the residential use has been taking place without incident.

74. Some mitigation may be expected by reason of the steep incline of the road heading out of Ambleside, which would limit the speed of a vehicle approaching the site access from that direction. It is also reasonable to assume that a driver will exercise caution because they cannot see around the bend. For these reasons, and in the absence of relevant expert advice, it has not been demonstrated that safe and suitable access to the site cannot be achieved for all residential users. The DPA therefore accords with Part 9 of the National Planning Policy Framework in this respect.

[4] The general criteria are that development is (1) of a scale and nature appropriate to the character and function of the location in which it is proposed and contributes towards meeting the needs of the local community, or brings benefit to the local community, or delivers a prosperous economy; and (2) is proportionate to the size and population of the settlement and is compatible with environmental and infrastructure capacity of the settlement to accommodate further growth.

75. Policy 20 of the LP requires all new housing developments to generate 30 percent of their operational energy requirements through decentralised, district heating and renewable and low-carbon energy sources. The Authority is satisfied that an appropriate planning condition could require this to be demonstrated if permission were granted.

Conclusion on ground (a)

76. For these reasons, the material change of use alleged in the notice, with associated works to facilitate that residential use, is sporadic development in the open countryside.

77. Furthermore, it has not been demonstrated that the development has an essential need for a rural location. Neither is it of a scale and nature appropriate to the character and function of the location that contributes towards meeting the needs of the local community, or brings benefit to the local community, or delivers a prosperous economy.

78. Accordingly, the development does not maintain the distinctiveness and sense of place of the open countryside, contrary to policy 02 of the LP, and is unacceptable. On the other hand, the absence of harm to highway safety and the potential to achieve policy requirements for operational energy are neutral considerations and do not weigh in favour of granting planning permission.

The appeal on ground (f)

79. This ground of appeal is restricted to the second requirement of the notice, to remove the caravan from the land. The appellant considers that is excessive, noting that the Authority accepted in 2017 that there was *a reasonable requirement for welfare facilities in connection with [his] use of 'the land'*. The caravan could provide such facilities, as it did prior to the change of use.

80. The purpose of the notice is to remedy the breach of planning control. As defined in the breach of planning control, from the evidence provided, and from observation, the residential use of the appeal site appears to be independent of any use of the wider landholding. The appeal site therefore has the attributes of a separate planning unit.

81. While I appreciate the logic of the appellant's argument, it is not clear whether, in the statement above, he means his use of the land affected by the notice or a use of the wider land holding. However, the appeal site has no paddock or grazing land, so it is unlikely that any animals requiring welfare would be exclusive to it, rather than the wider landholding.

82. There is no evidence that animals in need of welfare were kept on the appeal site, or of any non-residential use of that land, at the time the notice was issued, or at the time of my site inspection. While there are stables within the L-shaped group of buildings, the appellant has not kept horses on the land since 2021 or 2022.

83. I saw a washing machine and tumble drier in another part of the L-shaped group of buildings, so electrical and water connections that might serve any future need for a welfare facility also exist there. There is a large agricultural building and ancillary caravans within the wider land holding, beyond the land affected by the notice. Details of how the agricultural building and the caravans are used was not provided, nor of what access the appellant may have to

them, although he is a joint owner of the holding. However, he affirmed that he has a 'gentleman's agreement' with his brother to pay for the electricity he takes from the farm's supply, indicating that good relations exist. It would therefore appear that other options for providing welfare facilities, if they were needed in future, may exist.

84. Without evidence of a use of the appeal site that requires a welfare facility, the requirement to remove the caravan is not excessive, given the notice seeks to remedy the breach of planning control.

85. Accordingly, the appeal on ground (f) must fail.

The appeal on ground (g)

86. The appellant does not have access to any other residence, so he would need to secure alternative accommodation before he could comply with any of the requirements of the notice. He considers that is unlikely to be straightforward because of property prices and the limited rental market in the locality. He therefore contends that the stated period of 8 months falls short of what should reasonably be allowed and suggests a period of at least 12 months instead.

87. The Authority acknowledges this concern but considers that compliance with the requirements could be achieved within 3 months, leaving 5 months in which to find alternative accommodation.

88. While the appellant has referred to property prices and the limited rental market in the locality, he has not provided evidence of those matters, or that they would constrain his ability to find suitable alternative accommodation. It has therefore not been demonstrated that 8 months falls short of what should reasonably be allowed to comply with the requirements of the notice.

89. For these reasons the appeal on ground (g) must fail.

Conclusion

90. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Mark Harbottle BSc MRTPI

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Robson
He called
Steven Parsons
Harry Tonge, BA (Hons) MCD MRTPI — Associate, Steven Abbott Associates LLP

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Bruce-Smith
She called
Michael Hyde MRTPI

INTERESTED PARTIES:

Simon Parsons