

LIST OF APPEAL DECISIONS FROM 18 FEBRUARY 2017 to 27 APRIL 2017

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01775/CLU	Certificate of Lawfulness for existing use of caravan as residential dwelling for a period in excess of 10 years	Land and Buildings at NGR 306655 114226 (Kerrells) Burlescombe Devon	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

The main issue was whether, on the balance of probability, the caravan on the site has known as Caravan A had been occupied as a permanent residence continuously for a period in excess of 10 years. There is no dispute that the caravan was stationed on the site from before the relevant date, nor that the appellant stayed on the site from time to time during lambing or foaling. The Inspector considered evidence given to the inquiry by the appellant and witnesses on her behalf and from officers and a neighbour on behalf of the Council, in addition to written evidence submitted to the appeal. Whilst the Inspector attached due weight to the sworn testimony for the appellant, and stated that he must consider all the evidence together, and found the simplicity of the evidence given by the neighbour on behalf of the Council more compelling.

There were also discrepancies over evidence as to where the appellant had lived, who had lived/stayed on the site when, the nature of her relationship with her partner, and the difference in the domestic appearance of the site from 2014 onwards compared with the agricultural nature of the site prior to that date.

The Inspector concluded that the appellant had not proved on the balance of probability that the use of the land for the stationing and occupation of one caravan/mobile home as a permanent residence commenced on or before 5 November 2005 and this use then continued for at least 10 years without significant interruption. The Inspector considered it probable that the appellant lived elsewhere, at least for significant periods

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15/00100/NUCU	Appeal against Enforcement Notice	Kerrells Down Farm Buildings Burlescombe Tiverton Devon EX16 7LF				Enforcement Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

This appeal was linked to the appeal on 15/01775/CLU, although the enforcement notice related to two caravans: Caravan A (the subject of the CLU appeal) and Caravan B, a more recent park home. To succeed, the appellant must prove on the balance of probability that the use of the land changed from agriculture to a mixed use comprising agriculture and use as a caravan site for human habitation on or before 8 September 2006 and that the mixed use then continued for at least 10 years without any significant interruption. The appellant pointed out that section 1(4) of the Caravan Sites and Control of Development 1960 defines a caravan site as land on which a caravan is stationed for the purposes of human habitation. The appellant submitted that even if the caravan has not been occupied continuously for the relevant 10 year period, a caravan has been on site for the purposes of human habitation throughout the relevant period.

The Inspector pointed out that a caravan is only a caravan so long as it is designed or adapted for human habitation. However, in order to acquire immunity for use as a caravan site for human habitation, actual use is required; a caravan needs to have been continuously inhabited on the site for 10 years without any significant interruption. Whilst, for some purposes, a person may be deemed to remain in occupation of a dwelling if they still have their personal effects in it, in this context, actual occupation is necessary.

The enforcement notice requires the removal of all residential caravans and the Inspector pointed out that this would not prevent the stationing of caravans on the site for purposes ancillary to the lawful agricultural use. The Inspector agreed that 6 months was too short a period for compliance with the enforcement notice and amended its terms to refer to 9 months in which to comply. Subject to this variation, the enforcement notice is upheld.
