



Appeal Decisions

Inquiry held on 14-17 January, 25-27 February and 24 March 2025

Site visit made on 27 February 2025

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal A Ref: APP/P1615/C/24/3352196 and 3352197

Tan House, Laundry Lane, Newland, Coleford GL16 8NQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Lady Tanya Somerset and Mr Francois Norris against an enforcement notice issued by Forest of Dean District Council.
- The notice was issued on 8 August 2024.
- The breach of planning control as alleged in the notice is the material change of use of the Land from what were three planning units that were used separately as: -
 - (i) Single family dwellinghouse ('Tan House') shown hatched and numbered 1 at Appendix 1;
 - (ii) Single family dwellinghouse (formerly 'Highbank' now known as 'Hillside Retreat') shown hatched and numbered 2 at Appendix 1; and
 - (iii) Agricultural land (being all other land that is not hatched or numbered shown within the area edged in red at Appendix 1)

To one single planning unit (shown edged in red at Appendix 1) with a mixed use of: -

- (iv) One single-family dwellinghouse ('Tan House') plus Garden-Wing annex used as separate holiday accommodation; plus
- (v) An events/holiday letting venue (including the use of 'Hillside Retreat'), with the siting of a marquee, a caravan, and a shepherd's hut; and
- (vi) Agricultural land.

along with the following unauthorised operational development: -

- (vii) Laying of hardstanding areas for parking, camping and trackways;
- (viii) Material changes in ground levels;
- (ix) Erection of a concrete block retaining wall; and
- (x) Laying of associated waste/water drainage and electricity works.

(together, "the Unauthorised Use").

- The requirements of the notice are: 1. Permanently cease the use of the agricultural land as a car park and driveway (as shown here attached as Appendix 2 and Appendix 3); 2. Permanently remove all the hardstanding (gravelled) areas on the agricultural field being used as a car park (as shown here attached as Appendix 2) to match the adjacent land levels and seed with grass; 3. Reinstate the land levels of the agricultural field being used as a car park (as shown here attached as Appendix 2) to match the adjacent land levels and seed with grass; 4. Reinstate the land levels of the area being used as a driveway (as shown here attached as Appendix 3) to match the adjacent land levels and seed with grass; 5. Permanently remove the unauthorised marquee structure (as shown here attached as Appendix 4) from the courtyard area of the land; 6. Permanently remove from within the area of woodland to the east of Tan House (as shown here attached as Appendix 6) all materials used for the purposes of creating pitches on the land along with the removal of all water, electricity and waste services; 7. Permanently cease the use of the land for the holding of events including those associated with weddings; 8. Permanently cease the use of the accommodation that is ancillary to Tan House known as Garden Wing (as shown here attached as Appendix 8) as a separate, self-contained guest accommodation in conjunction with events such as weddings and large groups of people and use only as ancillary to Tan House; 9. Permanently cease the use of

Hillside Retreat (as shown here attached as Appendix 7) for holiday/guest accommodation in conjunction with events such as weddings and large groups of people and use for domestic purposes only; 10. Permanently cease the use of the caravan situated on the land as holiday/guest accommodation (as shown here attached as Appendix 5) and use for domestic residential purposes only in association with the occupation of Hillside Retreat.

- The period for compliance with the requirements is 6 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). The appeal by Lady Tanya Somerset is also proceeding on the grounds set out in section 174(2)(a) 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.
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Decision

1. The enforcement notice is corrected by the deletion of '(together, "the Unauthorised Use")' in section 3.
2. The enforcement notice is varied by the deletion of:
 1. All text relating to the alleged material change of use of the land in section 3;
 2. 'along with' before 'the following unauthorised operational development' in section 3;
 3. '(viii) Material changes in ground levels;' in section 3;
3. Subject to the correction and the variations, the ground (a) appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the laying of hardstanding areas for parking, camping and trackways, the erection of a concrete block retaining wall and the laying of associated waste/water drainage and electricity works on land at Tan House, Laundry Lane, Newland, Coleford subject to the following condition:
 1. Within three months of the date of this decision details of the cladding and capping of the retaining wall (identified in the enforcement notice appendix 3 photographs) and safety measures to prevent falls from the adjacent trackway shall be submitted to, for approval in writing by, the Local Planning Authority. Works in accordance with the approved details shall be completed within three months of the date of approval and shall be retained and maintained thereafter.

Preliminary Matters

4. An application for costs has been made by the Appellants against the Council. This application is the subject of a separate Decision.
5. It was agreed at the Inquiry that a phrase in brackets at the end of section 3 of the enforcement notice is superfluous. The notice has been corrected accordingly.

Reasons

Background information

6. Tan House is a two-storey plus attic dwelling and is a Grade II listed building. The dwelling was originally a farmhouse and is now the home of the Appellants and their children. Attached to Tan House, on its south-west side, is a two storey dwelling, which

is referred to in the alleged breach of planning control as 'Garden-Wing annex'. To the south-east of Tan House is a detached single storey building which is called the Carriage Barn by the Appellants. To the south of Tan House and the annex is a two-storey L-shaped range of former farm buildings, now used for ancillary and general storage purposes.

7. Tan House, the annex, the Carriage Barn and the range enclose a courtyard, with entry points either side of the Carriage Barn and between the range and the annex. To the north of the group of buildings is a formal garden stretching up to a frontage onto Laundry Lane. Alongside the garden is a driveway leading into the Tan House property. The driveway continues beyond the group of buildings to another property, formerly High Bank but now known as Hillside Retreat. This property comprises a bungalow in a garden area and agricultural land to the east and south. The Appellants jointly own the Tan House property whilst Hillside Retreat is owned by Lady Somerset.

8. The Tan House property was purchased by the Appellants in 2019. It was formerly known as Tanhouse Farm and was part of a large sporting and agricultural estate. It is now about 6 hectares and outside the garden areas it is subdivided into areas of grassland and woodland. Formal agricultural use of the Tan House property ceased about 1979 and agricultural activity by a former owner ceased in 1990. Hillside Retreat was purchased in 2021. The enforcement land comprises the Tan House and Hillside Retreat properties, though excludes agricultural land to the south of, and associated with, the latter property.

The ground (b) appeals

9. The material change of use alleged in an enforcement notice does not need to specify the previous use. But the Council has alleged that there has been a change from three planning units to one. It is necessary therefore to consider, firstly, whether there were three planning units and whether the specified use of those three planning units has been accurately described.

10. The first of the three previous planning units alleged by the Council is 'Single family dwellinghouse (Tan House)'. The Tan House property was purchased by Mr and Mrs Chamberlain and Mr and Mrs Rowland in 1979. For the next forty years Mr and Mrs Chamberlain lived in Tan House on a permanent basis and the Rowland family used the annex as a weekend and holiday retreat until Mrs Rowland passed away in 1992. Her share of the property was inherited by her children and the Rowland family continued to use the annex as a retreat until the sale of the whole property to the Appellants in 2019. The two families were clearly good friends and part of the agreement between them was that they would have shared use of the attic bedrooms and a first floor bedroom in Tan House.

11. There was, during the forty year period, an interconnecting door at first floor level between Tan House and the annex. The Chamberlains, being permanent residents of Tan House, did not use accommodation in the annex but evidence indicates that the Rowlands, on the basis of their agreement, did occasionally use accommodation in Tan House. This occasional use, akin to friends coming to stay, did not alter the fact that Tan House and the annex were, despite the connecting door, separate dwellings for which separate Council Tax was paid. The Chamberlains and Rowlands shared use of the former farm buildings and the former farm land around the buildings but this does not alter the conclusion that, as a matter of fact and degree, Tan House and the annex

were, prior to purchase of the property by the Appellants, separate dwellings. The Chamberlains and the Rowlands were not, in this regard, a single household.

12. Even if Tan House and the annex was previously a single family dwellinghouse this description does not take into account the fact that Mrs Chamberlain operated a bed and breakfast business in Tan House, originally set up to be a residential Medieval Field Study Centre but later for individual paying guests. Four rooms with en-suite sanitary facilities were used for the business; about 33% of the floor area of Tan House so clearly not a *de minimis* use. The Appellants took over the business when they purchased the property, they were at that time determined to establish that the business was a going concern, so the previous use as a 'single family dwellinghouse' was incorrect because Tan House itself was in a mixed residential/business use.

13. The second of the three previous planning units alleged by the Council is 'Single family dwellinghouse (formerly Highbank now known as Hillside Retreat)'. The Council has not at any time indicated when they consider that the change of use occurred. If it was when the Appellants purchased Tan House then, at that time, Highbank was in separate ownership and included land both inside and outside the enforcement land. If it was when Highbank was purchased by Lady Somerset in 2021 then the alleged now single planning unit includes "...the use of Hillside Retreat" only as incidental to the alleged 'events/holiday letting venue'. But Hillside Retreat remains a separate dwelling, for which separate Council Tax is paid, and is occupied by Lady Somerset's son. The dwelling has been used in association with the events business but only for, on average, 35 nights per year and this does not alter its status as a separate dwelling.

14. The third of the three previous planning units alleged by the Council is 'Agricultural land', this being all the enforcement land outside the Tan House and Hillside Retreat alleged previous planning units. In his sworn appeal statement Mr Rowland stated that "...we ceased farming operations in 1990". Thereafter the land was used in association with the residential use of Tan House and the annex. The land became, in effect, a large garden for use by the Chamberlain and Rowland families and guests of the bed and breakfast business. It was also used for occasional events such as village cricket matches. The Council has not brought forward any evidence to indicate that the land outside the Tan House and Hillside Retreat alleged planning units was, after 1990, in agricultural use. There is, on the contrary, clear evidence that previous agricultural use had been replaced by ancillary residential use from 1990.

15. The Council alleges that the whole property is now a single planning unit in a mixed use. The third of this mix of uses is 'Agricultural land' but it can only be repeated that there is no evidence to indicate that any part of the enforcement land is in agricultural use. The second of the mix of uses is 'An events/holiday letting venue (including the use of Hillside Retreat)' but Hillside Retreat is not used solely to support the events business as suggested in the alleged current use of the land; it is a separate dwelling that is sometimes let for holiday purposes and it is a matter of convenience that it is used on occasions in conjunction with the events business. The dwelling was first let on 22 July 2022 and in the following year it was let for 38 nights; 16 nights with Tan House and independently for 22 nights. Hillside Retreat, as a matter of fact, is an independent dwelling and is not, as suggested in the alleged material change of use, included in the events business.

16. In his judgement in the case of *Miller-Mead v MHLG [1963] JPL 151* Lord Justice Upjohn stated that the test in deciding whether an enforcement notice satisfied the statutory requirement set out in section 173 of the Act must be "Does the notice tell him

(the recipient of the notice) fairly what he has done wrong...". This principle has been endorsed in other court judgements such as *Clive Payne v The National Assembly for Wales and Caerphilly County Borough Council* [2006] EWHC 597.

17. There are several reasons why the Appellants, on the basis of the alleged material change of use as set out in the enforcement notice, cannot know what they have done wrong. The inclusion of agricultural land use in both the former alleged separate uses and present alleged mixed use of the land is incorrect and confusing, and the independent residential use of Hillside Retreat is not recognised. This latter matter is compelling in itself and leads to a conclusion that the alleged material change of use of the land is wrong. The allegation would need wholesale variation to accurately reflect the previous and current uses of the land. The allegation cannot be varied without causing injustice to the Appellants and, possibly, to the Council. The ground (b) appeals thus succeed in respect to the alleged material change of use, which has been deleted from the enforcement notice.

18. It is worth noting that in a ground (a) appeal planning permission can only be granted for what is alleged in the enforcement notice, whether varied on appeal or not. At appeal stage it should not be the task of an Inspector to discard an allegation and reinvent it just so that planning permission can be granted, in the event that a ground (a) appeal is successful, on an understandable and reasonable basis.

19. The Appellants have also maintained ground (b) appeals in relation to the second of the unauthorised developments alleged in the enforcement notice; material changes in ground levels. Photographic evidence clearly shows that an area to the south-west of the L-shaped barn has been stripped back, to facilitate the laying of hardstanding for parking purposes, but the Council has provided no evidence to indicate that this work was anything other than the removal of a thin layer of ground material. Consequently, the works did not involve material changes in ground levels. The ground (b) appeals therefore also succeed in relation to the second of the unauthorised developments alleged in the notice. The enforcement notice has been varied accordingly.

The ground (c) appeals

20. The ground (c) appeals relate to the first and third unauthorised developments alleged in the enforcement notice; the laying of hardstanding areas for parking, camping and trackways, and the erection of a concrete block retaining wall. The retaining wall is about two metres from, and parallel to, the south-east wall of the L-shaped barn. Whilst the wall might be development permitted under the provisions of Class A of Part 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), it was erected to retain a raised trackway. The erection of the wall and the raising of ground levels must be considered to be a single engineering operation, which is not development permitted under the provisions of the GPDO. The laying of hardstanding areas is also not development permitted under the provisions of the GPDO. The ground (c) appeals thus fail.

The ground (d) appeals

21. Taking into account the success of the ground (b) appeals, the ground (d) appeals relate to the first, third and fourth of the unauthorised developments alleged in the enforcement notice. The Appellants have not pursued ground (d) appeals in relation to these alleged unauthorised developments. The ground (d) appeals do not therefore fall to be determined.

The ground (a) appeal

22. The ground (a) appeal relates to the first, third and fourth of the unauthorised developments alleged in the enforcement notice. The main issue is the effect of the unauthorised developments on the character of the Wye Valley Area of Outstanding Natural Beauty (WVAONB), within which Tan House is situated, and on the setting and historic significance of Tan House.

23. The permeable hardstanding area that has been laid for parking purposes to the south-west of the L-shaped barn has, as was noted at the site visit, largely grassed over given the passage of time since it was introduced. This greening of the area will continue and it is likely that the area will appear in time to be no different, materially, in character to the land around it. The Council has not identified any public vantage points from where cars parked in this location will be visible. Neither the hardstanding nor cars parked on it have any significant adverse effect on the character of the WVAONB or on the setting and significance of Tan House.

24. The trackway supported by the retaining wall parallel to the barn is no different in character to the trackway that existed before ground levels were raised. The small areas of permeable hardstanding, allegedly introduced for camping purposes even though no camping has occurred to date, are innocuous and have no effect on the character of the area. They are, furthermore, far removed from Tan House and have no effect on the setting or significance of the listed building. The Council has raised no objection to the concrete block retaining wall subject to it being clad and capped with stone. This can be ensured by imposition of a suitable planning condition. The waste/water drainage and electricity works are mostly underground and it was, in fact, difficult to establish where these items are in the area to the east of Tan House. Certainly these works have no effect on the character of the WVAONB or on the setting and significance of Tan House.

25. The works that have been carried out and which are the subjects of the ground (a) appeal do not have, subject to the imposition of a condition, any significant adverse effect on the character of the WVAONB or on the setting and significance of Tan House. The works do not conflict with any policies in the Forest of Dean Allocations Plan or in the Forest of Dean Core Strategy.

26. The ground (a) appeal thus succeeds and planning permission has been granted for the laying of hardstanding areas for parking, camping and trackways, the erection of a concrete block retaining wall and the laying of associated waste/water drainage and electricity works on land at Tan House, Laundry Lane, Newland, Coleford. The ground (f) and (g) appeals do not therefore need to be considered.

27. The Council submitted a list of draft conditions and that relating to the wall has been imposed, though it has been amended in the interests of clarity and precision.

John Braithwaite

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mr C Moys	Barrister
He called	
Mr B Simpson MBE	Previous owner of Tan House
Mr R Rowland	Previous part owner of Tan House
Lady T Somerset BA(Hons)	Appellant
Mr F Norris BA(Hons) MSc PGCE	Appellant
Mr P Tufnell DipTP MRTPI	Principal of Tufnell Town and Country Planning
Mr P Maguire IHBC	Director of Asset Heritage Consulting
Mr J Stuttard BSc(Hons) MSc	Technical Manager of Ecology at Arbtech Consulting Ltd
Mr C Parker-Jones BSc MSc MIOA	Director of ParkerJones Acoustics Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Wadsley	Barrister
He called	
Mrs K Sullivan	Local resident
Mrs J Knight	Local resident
Mrs C Sturgess	Local resident
Mr S Colgate MRTPI	Principal Planning Officer
Ms M Matthews MSc IHBC	Senior Conservation Officer
Mr E van Dyke BSc(Hons) CIEH	Senior Environmental Health Officer
Ms C Lidgett BSc(Hons) MSc	Lead Biodiversity Officer
Mr M Jones DipTP&TE	Highways Engineer

INTERESTED PARTIES:

Mrs R Evans	Local resident
Mr S Hannaby	Representing Newland Action Group
Mrs J Davis	On behalf of Mr S Hannaby

DOCUMENTS

1. Appellants' Opening Statement.
2. Opening Submissions by Forest of Dean District Council.
3. Corrections to occupancy figures.
4. Statement by Councillor T Hale.
5. Statement by Mr S Hannaby on behalf of Newland Residents Group.
6. Statement by Mrs J Davies, Chair of Newland Parish Council.
7. Enforcement Notice EN/0177/20 Report.
8. Conditions.Schedule – Working Draft.
9. Access Information Plan.
10. Closing Submissions by Forest of Dean District Council.
11. Appellants' Closing Submissions.
12. Appellants' Costs Application.
13. Response to Appellants' Costs Application.
14. Appellants' Final Costs Comments.