



Appeal Decisions

Site visit made on 1 April 2025

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 MAY 2025

Appeal A Ref: APP/P1615/C/24/3346535; Appeal B Ref: APP/P1615/C/24/3346536

Appeal C Ref: APP/P1615/C/24/3346537; Appeal D Ref: APP/P1615/C/24/3346538

Appeal E Ref: APP/P1615/C/24/3346539

24a [Altera], Meendhurst Road, Cinderford GL14 2EG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Mr Graham Wildin (Appeal A), Mrs Deborah Trigg (Appeal B), Mrs Jacqueline Mannion (Appeal C), Mr Philip Wildin (Appeal D), Expresser Limited (Appeal E) against an enforcement notice issued by the Forest of Dean District Council.
- The notice was issued on 10 June 2024.
- The breach of planning control as alleged in the notice is unauthorised development consisting of the erection of CCTV [Closed circuit Television Cameras] and Poles.
- The requirements of the notice are to:
- Within the area outlined in red on the attached plan [Appendix 1]:
 1. Permanently remove all CCTV [Closed Circuit Television Cameras] cameras and associated poles from the land within the redline area shown in Appendix A, except for those fixed to the main dwelling house 24a [Altea] that comply with the permitted development rights.
- The period for compliance with the requirement is: 1 (one) month.
- The appeals (A to E) were made on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeals are dismissed, and the enforcement notice is upheld with variations.

Matters Concerning the Enforcement Notice

1. It is incumbent upon me to put the Enforcement Notice (Notice) in order. I have had regard to my powers under section 176(1)(a) of the Town and Country Planning Act 1990 (1990 Act) to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the test is whether the correction or variation would not cause any injustice to the appellant or the Council.
2. In paragraph 5, the attached plan is referred to as '[Appendix 1]' and 'Appendix A'. However, the attached plan is neither labelled nor titled as 'Appendix A' or '[Appendix 1]'. As there is only one attached plan, and the Notice refers to it, the words 'Appendix 1' and 'within the redline area shown in Appendix A' can be deleted to provide clarity without affecting the nature of the allegation or the requirements, or causing injustice to either party.
3. The Notice also alleges operational development in the form of poles and CCTV cameras, but under 'the reasons for issuing the Notice', it is outlined that development has occurred within the last 10 years. It is acknowledged that that the wording of section 171B (1) (a)- [time limits for taking action] of the 1990 Act has recently been changed to indicate that the time limit for action on all unauthorised development in England is 10 years, beginning with the date on which the operations

were substantially completed. However, the ten-year limit for bringing enforcement action only applies to operational development where the alleged development was substantially completed on or after 25 April 2024. As such, the period for taking action on unauthorised operational development in this instance is 4 years, not 10 years, and the wording of the Notice would need to be varied to indicate this to be the case.

4. The Council and the appellant were consulted regarding whether altering the reference period from 10 years to 4 years would result in any injustice. The Council expressed confidence that such a change could be made without causing harm, citing evidence in the appeal to demonstrate that the development took place within the last 4 years and that the Notice was issued within that timeframe. Additionally, the Council noted that the appellants have acknowledged the development occurred on the site. The appellant did not respond to my request for comments.
5. There is no evidence with the appeal submission to indicate that the appellant has ever suggested that the development took place more than four years prior to the Notice being issued. It is also important to note that a Council is only required to state the reasons why they consider it expedient to issue the Notice; and it is not deemed invalid if it does not include the relevant time limit to take action. Therefore, I am satisfied that this is a situation where I can use my powers to vary the Notice for greater clarity without inflicting injustice on either party.
6. To clarify, in paragraph 3 under “Reasons for Issuing the Notice,” I will delete the sentence “within the last 10 years the unauthorised erection of poles and CCTV [Closed Circuit Television Cameras] cameras” and substitute it with “It appears to the Council that the alleged development has taken place within the last four years.”

The Appeals on Ground (b)

7. An appeal on ground (b) is that the matters alleged in the Notice, which appears to the Council to constitute the breach of planning control, have not occurred.
8. I acknowledge that the appellants have made their appeal on ground (b), however, they do not actually contend that the development has not occurred as a matter of fact. The appellant’s appeal form notes that the alleged development is on site but outline that they are flagpoles of less than four metres in height. Furthermore, they contend that the development is not covered in planning law, and a Judge considered the cameras as being necessary for overseeing damage carried out to vehicles parked in Meendhurst Road.
9. Based on the evidence presented, and what I observed during my visit, two poles have been erected at the front of the premises, one attached to the front wall and the other to the side boundary wall. Each pole displays a single national flag and CCTV cameras are attached to the top. CCTV cameras were also attached to the top of pillars of the front boundary wall. In light of the evidence submitted, and from what I saw on site, the alleged development has occurred on site.
10. The appeals on ground (b) fail.

The Appeals on Hidden Ground (c)

11. As the appellants accept the development has occurred, but contend it is not a breach of planning control, this is best dealt with as a hidden ground (c) appeal. To

succeed on a ground (c) appeal, the appellants must demonstrate that, on the balance of probability, the matters alleged in the Notice do not constitute a breach of planning control. The burden of proof is on the appellants to demonstrate their case.

12. As indicated above, the appellants state they are flagpoles of less than four metres in height, and the cameras are necessary to oversee damage to vehicles. The appellants do not direct me to any specific legislation in the appeal submissions but include a government website that provides advice on the flying of flags which cites the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (Advert Regulations)¹. Based on the evidence submitted, I have had regard to Part 5, Schedule 1, Class H of the Advert Regulations, which permits the erection of flagpoles or flag staffs together with the flying of specific flags without the need for any express or deemed consent.
13. My interpretation of Part 5, Schedule 1, Class H of the Advert Regulations is that flagpoles can be lawfully erected in connection with certain permitted flags being flown. The flags being flown at the time of my visit were national flags, which would be permitted by Part 5, Schedule 1, Class H of the Advert Regulations. However, there is no right to erect a flagpole or flagstaff that supports a CCTV camera as well as a flag. Regardless of whether the CCTV cameras were installed before or after the flags, in my judgement, the fact that the cameras are mounted on the flagpoles means they are not compliant with Part 5, Schedule 1, Class H of the Advert Regulations.
14. The appellants also included an extract from Schedule 2, Part 2, Class F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) when corresponding with the Council. The extract is annotated to infer that the CCTV cameras and poles do not conflict with the limitations outlined for Schedule 2, Part 2, Class F of the Order. Schedule 2, Part 2, Class F of the Order permits the installation, alteration or replacement on a building of a closed-circuit television camera to be used for security purposes.
15. The poles and the boundary wall where the CCTV cameras are situated would not ordinarily be described as 'buildings.' However, a 'building' is defined in section 336 of the 1990 Act as 'any structure or erection and any part of a building, as so defined, but does not include plant or machinery comprised in a building.' In my judgement, it is reasonable to conclude that the poles and boundary wall could be defined as 'any structure or erection' and be included in the interpretation of a building set out within section 336 of the 1990 Act. As such, the CCTV cameras on top of the poles and wall can be evaluated against the limitations of Schedule 2, Part 2, Class F of the Order.
16. The limitation set out in Schedule 2, Part 2, Class F (c) of the Order specifies that development is not permitted if any part of the camera, when installed, is less than 2.5 meters above ground level. During my site inspection, I observed that the boundary wall does not exceed a height of 2.5 metres. As a result, the CCTV cameras on the wall do not comply with this limitation, and cannot be considered permitted development under Schedule 2, Part 2, Class F of the Order.
17. The appeal submissions also lack sufficient detail to demonstrate that the cameras on top of the poles are compliant with all the limitations of Schedule 2, Part 2, Class

¹ Including amendments to the 2007 Advert Regulations in 2012 and 2021

F of the Order. While I acknowledge that the poles are not classified as listed buildings or ancient monuments, there is inadequate information regarding the sizes of the cameras and their housing, as well as the distances of the cameras from the poles and each other. Consequently, the appellant has not met the burden of proof required to show that the installed CCTV cameras comply with limitations outlined in Schedule 2, Part 2, Class F (b), (e) and (f) of the Order.

18. Notwithstanding the above, Article 3 (5) of the Order states that permissions granted under Schedule 2 do not apply if (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. In this context, the poles—due to their height, their attachment to the ground, and their level of permanence—amount to 'development' as defined under Section 55(1) of the 1990 Act. Since there is no evidence of deemed or express consent for the erection of the poles, they must be considered unlawful. Therefore, even if the CCTV cameras are compliant with the limitations of Schedule 2, Part 2, Class F of the Order, they could not be regarded as permitted development when attached to the unlawful poles.
19. Accordingly, based on the evidence presented, the development involving the erection of the poles and CCTV cameras constitutes development and a breach of planning control.
20. The appeals based on the hidden ground (c) fail.

Other Matters

21. I acknowledge the advice highlighted by the appellant in the document titled 'Do CCTV Cameras Need Planning Permission?' I accept that, generally, planning permission is not needed to erect CCTV cameras in your property or on any part of your property. However, generally means in most cases, but not all, and it will depend on the circumstances of the case. For the reasons set out above, the CCTV cameras and poles at the site would be a development that requires planning permission.
22. The Appeal Form states that the development subject of the Notice was found not to be intrusive to other people. The issue of whether the poles and CCTV cameras would impact on neighbours' living conditions would be a material consideration in a ground (a) appeal. However, as the appeals have been made on ground (b), and also proceeded as a hidden ground (c) appeal, matters associated with the impact of the development on neighbours' living conditions are not before me for consideration.
23. The appellant has included a series of photographs of flagpoles and poles with cameras on, which I would assume have been taken in the locality of the site. I have not, however, been provided with the full details of these developments, including the addresses, and whether the developments were granted permission or were considered compliant with the Order. It is difficult to make a comparison when I am not aware of the full facts of the developments highlighted. As such, I have given this limited weight in my determination and considered the appeals on their own merits.

Conclusions

24. For the reasons given above, I conclude that the appeals should not succeed, and I shall uphold the enforcement notice with variations.

Formal Decisions

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25. It is directed that the enforcement notice is varied by:

In paragraph 5, delete the brackets, word and number '[Appendix 1].'

In paragraph 5, Step 1, delete the words 'within the redline area shown in Appendix A.'

In paragraph 3, under the heading Reasons for issuing the Notice, delete the words 'within the last 10 years the unauthorised erection of poles and CCTV [Closed circuit Television Cameras] cameras' and substitute with the words 'It appears to the Council that the alleged development has occurred within the last four years.'

24. Subject to the variations, the appeals are dismissed, and the enforcement notice is upheld.

M. P. Howell

INSPECTOR