



Appeal Decision

Site visit made on 28 August 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 19th September 2025

Appeal Ref: APP/F0114/C/24/3340256

Field off access road to Charlcombe Grove Farm, Charlcombe, Bath, BA1 9BQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Giles Thomas against an enforcement notice issued by Bath and North East Somerset Council.
 - The notice was issued on 8 February 2024.
 - The breach of planning control as alleged in the notice is: Without Planning Permission the Unauthorised Erection of a Residential Dwellinghouse.
 - The requirements of the notice are to demolish the building and remove all resultant materials from the site.
 - The period for compliance with the requirements is six months from the date the notice takes effect.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(b), (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

The Appeal on Ground (b)

2. An appeal on ground (b) is made on the basis that the matters alleged in the enforcement notice have not occurred as a matter of fact.
3. The building in question has been in situ for a considerable period of time, since at least the 1960s. The historic photograph provided by the appellant showing what is clearly a completed dwellinghouse, the witness statement from the builder who constructed the property and the modernist style of the structure, with its concrete construction and distinctive butterfly plan, all tally with the appellant's statement that it was constructed in the 1960s. The declaration by the builder may not constitute a statutory declaration, given that it was not witnessed by a solicitor. Nonetheless, the Council has no evidence of its own to contradict the statement of events and I have no reason to believe it is inaccurate, given the supporting evidence, including photographs and his obvious knowledge of the site.
4. Moreover, the extremely weathered nature of the external concrete walling is evidence of the vintage of the building. The appellant is also the grandson of the original occupants, Mr & Mrs Thomas, who it is said occupied the dwelling throughout the 1960s and 70s as part of Charlcombe Grove Farm. I have no reason to doubt the appellant's version of events, given that family connection and corroboration by the builder who constructed the property and had ongoing experience of working at the premises in various roles.

5. Consequently, the evidence is clear that the building was constructed and occupied as a dwellinghouse at some time in the 1960s and that occupation carried on throughout the 1970s. The Council appears to accept that within its final comments¹. It then alleges that there is no evidence that planning permission was granted for the erection of the dwellinghouse at the time and that the appellant's admission it was constructed for that purpose is evidence that the breach of planning control alleged in the notice has, in fact, occurred.

6. That position is somewhat different to the Council's position within its original statement. At that point in time it contended that there was no evidence that the dwellinghouse was ever completed, such that it could not have gained immunity through the passage of time. The inference from that was that the recent work to the property, which resulted in the enforcement notice being served, was a continuation of its construction as a dwellinghouse.

7. I appreciate that no appeal has been made on ground (d) but, given the acceptance by the Council of the appellant's position in respect of the above, the decision to continue with enforcement proceedings appears to be unusual, given the time limits for taking enforcement action set out within s171B of the Town and Country Planning Act 1990 (the Act). Even if the recent works were intended to fit the building out for residential purposes, they would not amount to the "erection of a dwellinghouse" as alleged because that act of development was completed in the 1960s and the building has stood on the site ever since.

8. Judging by the evidence presented, the timeline of events was used as a dwellinghouse until some time in the early 1980s when the occupation for that purpose ceased. The reasons for that are not altogether clear although it is said that Mrs B Thomas decided that she didn't like the cold and exposed location of the property. Evidence of use from that point up until the present appellant came into ownership of the property is limited. However, statements suggest it was used for the storage of materials associated with the refurbishment of the associated Charlcombe Grove Farm which took place in the 1980s and 1990s according to the declaration of Mr Ridewood.

9. Throughout that period the building clearly fell into disrepair judging by the overhead photographs. Even in the earliest image from 1999 the pitched roof that can be seen in the 1960s photograph has been removed, save for the garage to the front. The upper floors at least are open to the elements and one can make out the room layout of the upper floor, as shown by the internal walls. The appellant contends that the lower floor was still intact and used for storage but the resolution on the photographs is not sufficiently clear to make that out.

10. In the earliest overhead image, in 1999, there is no obvious vehicular access to the building which sits alone in the middle of the field. Judging by the condition of the structure, with no roof for the most part and no vehicular access, it would appear to have become uninhabitable by that point in time.

11. What could potentially be an access track running across the field can be seen in the 2005 and very faintly in the 2014 images and that roughly aligns with the appellant's contention that a hardcore drive was installed by "Pennys of Radstock" in roughly 2006. Hardcore beneath the overgrown vegetation could clearly be seen at the time of my site visit. The 2022 image clearly depicts the flat roof that is now present. The rudimentary nature and appearance of the roof, windows and doors is consistent with the

¹ Paragraph 1.2 of the LPAs Final Comments, dated June 2024.

appellant's contention that they were installed in an attempt to secure the building and make it weather tight in order to use the building for storage purposes.

12. The method of construction of the roof is quite basic, with no insulation, the windows are non-opening and the doors are clearly re-used from elsewhere, being selected purely to plug the opening with no aesthetic consideration. Internally, the original walls have been lined and skimmed but that of itself is not indicative of residential use, it could equally be that the purpose was to provide a dry space for storage use, as suggested by the appellant. There is no kitchen, no bathroom, no obvious running water. An electricity supply had been installed but that only extended to the provision of a single light fitting in each room. There are no electrical sockets in any rooms and no heating in the building.

13. The building clearly lacks the facilities required for day to day living and was not a dwellinghouse at the time the notice was served. The fact that the layout had a residential appearance is unsurprising, given the original function of the property. The presence of domestic items stored in the property is consistent with the use for storage associated with the appellant's property business. The various invoices, numerous statutory declarations and supplementary documentation provided supports the view that the building was used for storage purposes from approximately 2008 onwards. The Council has provided no evidence of its own to contradict the appellant's version of events in that regard.

14. Drawing all of the above together the act of erecting a dwellinghouse, as alleged in the notice, took place decades ago. The fact that the appellant acknowledges that a dwellinghouse has been erected does not dictate that the appeal on ground (b) should fail, having regard to the subsequent planning history. Since becoming disused as a dwellinghouse, the building fell into disrepair and was subsequently patched up and used for storage purposes. It may be that the residential use was abandoned prior to the storage use taking place on account of the passage of time, the dilapidation of the building, the lack of functioning services and the erosion/ removal of a functioning access to it. However, it is not necessary to reach a definitive conclusion on that point because the storage use would have amounted to a material change of use of the building in any event.

15. In either scenario, the work being undertaken at the time the enforcement notice was served did not amount to the erection of a dwellinghouse. Even if the intention was to bring the building back into residential use, which seems unlikely from the evidence presented, that would have amounted to a material change of use of the existing building, as opposed to the erection of a dwellinghouse.

16. It seems more likely that the work was largely a repair of the existing structure to enable a continuation of the storage use. Whether any storage use had become lawful as a result of the passage of time is not for me to determine. However, in any scenario it is clear that the work being undertaken at the time the notice was served was not the erection of a dwellinghouse, that act of development having been completed decades previously, after which the building has been put to different uses.

17. Given the above, I find that the appeal on ground (b) should succeed. I could not correct the notice without causing injustice for numerous reasons. Whether the physical alterations require permission of themselves and/or whether any material change of use is involved would be matters for the Council to consider and the appellant would need to be given an opportunity to comment and provide evidence

relating to any such matters. That cannot be done in the scope of the present appeal. Accordingly, I shall allow the appeal and quash the notice.

Conclusion

18. For the reasons given above, I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed.

19. In these circumstances, the appeal on ground (f) does not fall to be considered.

Chris Preston

INSPECTOR