



Appeal Decision

Site visit made on 11 August 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/D0840/C/23/3328824

Land at the rear of 2 Sea View Terrace, Lower Kenneggy, Rosudgeon, Penzance TR20 9AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Miss Tracy Hill against an enforcement notice issued by Cornwall Council.
- The notice was issued on 2 August 2023.
- The breach of planning control as alleged in the notice is: *Without planning permission, the material change in use of land from agricultural to a mixed use comprising of agricultural, storage of non-agricultural paraphernalia, recreational use through the stationing of a caravan for recreational purposes and associated operational development in the form of wooden domestic sheds, which are used for recreational purposes. Also, the non-compliance with condition 1 attached to planning permission PA10/07709. The land has been outlined in red on the attached plan 'The Plan'.*
- The requirements of the notice are:
 - (1) Cease the non-agricultural use of the land outlined in red on the attached plan.
 - (2) Remove all services connected to the caravan shown in the approximate location by a blue 'X' on the attached plan i.e. electric cabling, gas bottles etc.
 - (3) Cease the use of the caravan shown in the approximate location by a blue 'X' on the attached plan and remove the caravan from the land.
 - (4) Demolish and remove from the land three wooden sheds shown in the approximate locations by blue '1', '2' and '3' on the attached plan.
 - (5) Remove all non-agricultural items and equipment from the land outlined in red on the attached plan; including but not limited to: outdoor furniture, plant pots, bird house, water tanks etc.
 - (6) Demolish and remove the polytunnel approved under PA10/07709.
 - (7) Remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place.
- The period for compliance with the requirements is: *6 months after this notice takes effect*
- The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act (as amended). 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.

Summary of decision: The appeal is allowed, the corrected and varied enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. All designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales have been renamed and rebranded as National Landscapes to reflect *"their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do"*. I have therefore replaced references to the Cornwall AONB to the Cornwall National Landscape (NL).

Matters affecting the Enforcement Notice (EN)

2. Before considering the grounds of appeal, I have a duty to put the EN in order, if necessary. The powers transferred to Inspectors under s176(1)(a) of the 1990 Act

include to correct any defect, error or misdescription in the EN or, under s176(1)(b), to vary the terms of the EN. In each case, the only test is whether the correction or variation would not cause any injustice to either party.

3. I have concerns that the EN is defective in two particular respects. Firstly, the description of the development that constitutes the breach of planning control appears to be inaccurate. In particular, I find the terms '*recreational use*' and '*recreational purposes*' insufficiently precise to describe the current use; the land is not open to the public for recreation, rather, it appears to be used simply as a private domestic garden associated with the use of No. 2 Sea View Terrace as a dwellinghouse. Moreover, the use as a garden appears now to be the sole use of land since all storage activity seems to be related to the domestic use of the dwellinghouse, albeit incidental, and the growing of fruit and nut trees for personal use would not be deemed agricultural use.
4. Furthermore, the evidence before me suggests that, whilst the caravan on the site has remained stationary for some time, it is still movable and there is no obvious means of attachment to the ground. Notwithstanding that it benefits from connection to electricity services, the structure appears to remain a caravan and not have become a building through the carrying out of building operations. It also appears that the caravan was not stationed on the land to provide living accommodation, but rather to facilitate the change of use of the site to use as a domestic garden, incidental to the dwellinghouse as described above.
5. Secondly, s173(1)(b) of the 1990 Act states the contents of the EN should identify which paragraph of s171A(1), in the opinion of the Council, the breach falls. S171A(1)(a) concerns the carrying out of development (operational development or a material change of use) without the requisite planning permission, while s171A(1)(b) concerns a failure to comply with a condition or limitation that has been imposed on a planning permission already granted.
6. In this case, and while there is a reference to s171A(1)(a) only, the EN purports to allege that there has been a breach of condition 1 attached to planning permission PA10/07709, as well as development without planning permission. The EN is therefore inconsistent with s173(1)(b). Under s177(5) of the 1990 Act, where an appeal against an EN is brought on ground (a), the appellant shall be deemed to have made an application for planning permission in respect of the allegation. However, by seeking to enforce against development without permission and a breach of condition, the appealed EN seems to create potential for two deemed planning applications.
7. It appears to me that the Council is mainly concerned about the alleged material change of use and operational development. Indeed, the condition said to have been breached appears contingent upon the lawful use of the land. I therefore propose to correct the EN by deleting all references to the breach of condition 1, and to describe the alleged development as follows:

'The material change of use of the land from agricultural to a domestic garden use associated with the residential use of the dwellinghouse known as 2 Sea View Terrace and operational development in the form of three wooden sheds identified as 1, 2 and 3 on the plan attached to the notice.'

8. In tandem, I will also correct the requirements¹ of the EN to remove the reference to the alleged breach of condition 1 of planning permission PA10/07709.
9. I have written to the parties and sought their views on these corrections, but I have been given no reason to conclude that correcting and varying either the allegation, or the associated requirements would cause injustice to either party, as the EN would be made more precise but no more onerous in substance for the appellant to comply with.

Appeal on ground (a), the deemed planning application

Main issue

10. An appeal under ground (a) is that planning permission should be granted for the matters alleged in the corrected and varied EN. The main issue therefore is the effect of the development on the character and appearance of the area, having particular regard to the location of the appeal site within the Cornwall NL.

Reasons

Character and appearance

11. Paragraph 189 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in NL which has the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
12. The appeal site is located within the South Coast Western Area (SCWA) section of the Cornwall NL, which is described as a coastal landscape with a soft profile with south facing sandy beaches between rocky granite outcropping headlands. The inland portion of the SCWA is an undulating plateau in predominantly agricultural use. The appeal site is also located within the landscape character area of Mounts Bay² as designated in the Cornwall Landscape Character Assessment (LCA).
13. The surrounding area near the appeal site is generally characterised by agricultural fields bounded by hedges, trees, copses of woodland and open fields with sporadic dwellings and other agricultural buildings located within this landscape. This provides a pleasant rural character to the area.
14. The appeal site is a relatively small parcel of land that extends to the rear of the existing buildings in Sea View Terrace. From the information before me, the area of land was surplus to the requirements of a local farmer, who subsequently gifted the land to the appellant for domestic use including organic food produce for their own consumption, and to encourage local wildlife.
15. The site is well vegetated with fruit and nut trees, along with hedges and shrubs. It is bordered to the east by an open agricultural field. The sheds, caravan and polytunnel are situated in and amongst the existing vegetation and are well

¹ Delete requirement (6) of the enforcement notice which states 'Demolish and remove the polytunnel approved under PA10/07709'

² CCA07

screened from public vantage points, albeit there are glimpsed views of these structures along the roadside.

16. The existing buildings are plain, utilitarian and modest in scale and appearance, which means they have a relatively subdued presence. The shed structures are located some distance from the rear of the dwellinghouse at No. 2 Sea View Terrace. Nevertheless, the relatively secluded location coupled with their modest proportions and use of natural timber materials appears appropriate in the surrounding landscape environment. They are seen against the backdrop of a vegetated boundary and even in the winter months would appear as relatively inconsequential additions to the landscape.
17. Overall, the sheds blend in visually and do not significantly alter the balance of buildings to greenery in the area. As such, the design and materials are appropriate for their context and purpose, and do not harm the appearance of the surrounding area or the NL.
18. The caravan is located closer to the rear of No.2, however views of it from public vantage points are limited by the existing dwellings, trees and mature hedgerows. Nevertheless, there is a glimpsed view of the end of the caravan from the gate. Even so, the caravan is not a particularly prominent feature given its low height and modest size and the fact it is mainly seen within the context of No. 2 and its neighbours. This retains the verdant surroundings and character of the area. As such, this part of the development does not harm the landscape and scenic beauty of the NL.
19. Whilst not currently used for separate residential purposes, I am mindful that if planning permission was granted and the caravan was used as a separate residential use, then a separate grant of planning permission would be required, and the caravan would be at risk of enforcement action if such permission were not granted. It would be necessary therefore to attach a condition to ensure that the use of the caravan and the sheds are incidental to the enjoyment of the dwellinghouse.
20. Paragraph 189 of the Framework advises that the scale and extent of development within designated areas, such as NL should be limited, while development within their settings should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. The scheme is of a modest size, and, for the reasons given above, I have found that it does not harm the character and appearance of the area.
21. Therefore, although it is not a positive enhancement, it does nevertheless conserve the landscape and scenic beauty of the existing NL. As such, there is no conflict with the wider conservation and enhancement of the NL special landscape qualities goals of policies 1, 2, 12 and 23 of the Cornwall Local Plan (2010-2030), policy C1 of the Climate Emergency Development Plan Document, policies PD-P1 and PD-P11 of the Cornwall Area of Outstanding Natural Beauty Management Plan (2022-2027) and the relevant sections of the Framework.

Conditions

22. In attaching conditions to this decision, I have had regard to the tests set out at paragraph 56 of the Framework and the Planning Practice Guidance³. Given that the proposal is retrospective there is no need to attach the standard time limit condition or approved plans.
23. I have imposed the Councils suggested condition in respect to the use of the caravan and sheds as incidental to the main dwellinghouse. A condition is also required for the details of any external lighting in the interests of appearance of the area and the protection of the existing environment and wildlife.

Conclusion

24. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the corrected and varied notice. The EN will be quashed.

Formal Decision

25. It is directed that the EN is corrected and varied by:
- The deletion of the matters which appear to constitute the breach of planning control in section 3 of the EN and substitution with the words:
‘The material change of use of the land from agricultural to a domestic garden use associated with the residential use of the dwellinghouse known as 2 Sea View Terrace and operational development in the form of three wooden sheds identified as 1, 2 and 3 on the plan attached to the notice.’
 - The deletion of requirement (6) in section 5 of the original EN, and renumbering. The new requirements would subsequently read as follows:
(1) Cease the non-agricultural use of the land outlined in red on the attached plan.
(2) Remove all services connected to the caravan shown in the approximate location by a blue ‘X’ on the attached plan i.e. electric cabling, gas bottles etc.
(3) Cease the use of the caravan shown in the approximate location by a blue ‘X’ on the attached plan and remove the caravan from the land.
(4) Demolish and remove from the land three wooden sheds shown in the approximate locations by the blue ‘1’, ‘2’ and ‘3’ on the attached plan.
(5) Remove all non-agricultural items and equipment from the land outlined in red on the attached plan; including but not limited to: outdoor furniture, plant pots, bird house, water tanks etc.
(6) Remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place

³ Use of Planning Conditions: Paragraph: 003 Reference ID: 21a-003-20190723

26. Subject to the correction and variations, the appeal is allowed, the notice is quashed and planning permission is granted on the application deemed to have been made under s177(5) of the 1990 Act for a change of use to a domestic garden use and operational development in the form of three wooden sheds on the land to the rear of 2 Sea View Terrace, Lower Kenneggy, Rosudgeon, Penzance TR20 9AP.

Robert Naylor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The caravan and sheds hereby permitted shall only be used for purposes incidental to the enjoyment of the dwellinghouse known as No 2 Sea View Terrace, Lower Kenneggy, Rosudgeon, Penzance TR20 9AP and for no other purpose.
- 2) No external lighting shall be installed on the site other than in accordance with details, which have first been submitted to and approved in writing by the Local Planning Authority. Details shall include but not limited to the location of the external lights and product specifications.

END OF SCHEDULE