



Appeal Decisions

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2025

Appeal A Ref: APP/D0840/C/24/3356232

Appeal B Ref: APP/D0840/C/24/3356233

Appeal C Ref: APP/D0840/C/24/3356234

Land known as Land north of Penosivvi, Withie, Bodmin, Cornwall, PL30 5NP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mrs Kate Cherry (Appeal A), Mr Michael Cherry (Appeal B), and Ms Jacqueline Cherry (Appeal C) against an enforcement notice issued by Cornwall Council.
- The Notice was issued on 30 October 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of agricultural land to residential through the stationing of a shepherds hut for residential accommodation (holiday let) and associated development consisting of a detached toilet/shower block, a partially paved area surrounded by a low-level log wall containing a hot tub, and a hardstanding area for parking. Also, the removal of a section of hedgerow. The approximate position of the residential shepherds hut and detached toilet/shower block are indicated by a blue 'X' on the attached plan¹.
- The requirements of the notice are to:
 - (1) Cease the residential use of the land outlined in red on the attached plan.
 - (2) Cease the residential use and remove the shepherds hut shown in the approximate location by a blue 'X' on the attached plan from the land.
 - (3) Remove from the land all services connected to the shepherds hut for the purposes of independent human habitation, including but not limited to electric cabling, water pipes, sewage pipes, septic tank, gas bottles etc.
 - (4) Demolish and remove the toilet/shower block from the land outlined in red on the attached plan.
 - (5) Remove from the land all services connected to the toilet shower block, including but not limited to electric cabling, water pipes, sewage pipes, septic tank etc.
 - (6) Demolish and remove the low-level log wall from the land.
 - (7) Remove from the land all materials, paraphernalia and debris resulting from the residential use of the land, including but not limited to plant pots, outdoor furniture, BBQ, chiminea, timber steps, hot tub etc.
 - (8) Demolish and remove the paved area and hardstanding area from the land outlined in red on the attached plan and restore the land to its former condition before the engineering operations took place.
 - (9) Demolish and remove the picket fencing along the site's western boundary and reinstate the hedgerow in accordance with the specification attached to this notice.
 - (10) Remove from the land all materials and debris resulting from compliance with the requirements of (1) – (9) above and restore the land to its former condition before the breach took place.
- The period for compliance with the requirements is: 8 months after the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld, with corrections.

Preliminary Matters

1. The written evidence indicates that there would be little benefit in undertaking a site visit in connection with this appeal. I wrote to the parties explaining why I considered this to be the case, amongst other matters, inviting comments. I have

¹ Reference in this heading to the attached plan is to a plan attached to the enforcement notice.

received no responses and, therefore, I have proceeded to determine the appeal on the basis of the evidence submitted.

The enforcement notice

2. Before determining the appeal, I have a duty to put the enforcement notice ("the Notice") in order. The 8th requirement refers to restoration of the land to its former condition before the engineering operations took place. Engineering operations are not explicitly alleged in the Notice. Therefore, whether or not this can relate to the paved area and hardstanding detailed in the 8th requirement, reference to the engineering operations should be deleted from the Notice, for consistency. This will make no practical difference to the operation of the Notice, and so cause no injustice to either party, because the 10th requirement is to restore the land to its former condition in any event.
3. There is a typographical error in the numbering of the sections of the Notice. Both the land to which the Notice relates and the matters which appear to constitute the breach of planning control are numbered "2". For clarity, the latter should be renumbered "3". The Notice is, however, clear on its face, so this correction would cause no injustice to either party.

Ground (f)

4. The Notice seeks to remedy the breach of planning control. In this context, ground (f) is that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters alleged. Whether or not lesser steps may remedy any injury to amenity, that is not the purpose of this Notice, and so cannot be considered.
5. The appellant suggests that the requirements are imprecise because the hedgerow referred to, and required to be reinstated, is a large, loose belt of semi-mature trees and vegetation. However, the requirement to reinstate the hedgerow sits alongside one to remove a picket fence. The Council has provided photographs of the site showing a picket fence in a stretch of vegetation that appears to be a clear boundary hedgerow to the adjoining field, separate to the wider belt of trees within which the site is located. I suggested this interpretation in my correspondence with the parties, and have not been corrected.
6. On this basis, I find the requirements of the Notice to be entirely clear as to the location of the picket fence and hedgerow replacement required in its place. It does not stray beyond a requirement to carry out planting where there may have previously been none. There is no substantive evidence that the planting specification in the Notice is not reflective of the stretch of hedgerow clearly being targeted by the requirement.
7. For these reasons, the steps required to be taken do not exceed what is necessary to remedy the breach of planning control alleged. The appeal on ground (f) should fail accordingly.

Ground (g)

8. Ground (g) is that the time specified to comply with the Notice falls short of what should reasonably be allowed. An associated planning application for the development was refused and an appeal lodged. The appellant suggested that the

planning appeal should be allowed to run its course before a decision was made on this case. That process has now concluded, and the planning appeal has been dismissed.

9. I appreciate that upholding the Notice may impact on the financial viability of the appellant's wider business. However, as those matters relate to the planning merits of the case, they cannot be considered as part of this appeal on the grounds that have been pursued. There may be a need to cancel some forthcoming bookings, but the 8 months compliance period allows substantial time to make these arrangements.
10. The period for compliance has not been shown to be impractical. Even if the replacement planting has not fully matured within the stated time, that will not prevent the explicit requirement for its physical planting being met.
11. I, therefore, find that the time specified does not fall short of what should reasonably be allowed and the appeal on ground (g) should fail.

Formal Decisions

12. It is directed that the enforcement notice is corrected by:
 - The renumbering of the section of the enforcement notice headed 'the matters which appear to constitute the breach of planning control' from "2" to "3".
 - The deletion of the words "and restore the land to its former condition before the engineering operations took place" in Paragraph (8) of Section 5 (what you are required to do).
13. Subject to the corrections, the appeals are dismissed, and the enforcement notice is upheld.

M Bale

INSPECTOR