



Appeal Decisions

Inquiry held on 28 & 29 October 2025

Site visit made on 28 October 2025

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Appeal A Ref: APP/Y1138/C/25/3368147

Appeal B Ref: APP/Y1138/C/25/3368148

Land at NGR 305111 111808, (Adj. Pleasant Streams), Uffculme, Devon, EX15 3DA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr Tom Dolan and Appeal B is made by Ms C Mohan against an enforcement notice issued by Mid Devon District Council.
 - The notice was issued on 12 June 2025.
 - The breach of planning control as alleged in the notice is “The carrying out of unauthorised engineering operations on the Land. The carrying out of unauthorised engineering operations consist [sic] of the digging up of ground, importation and laying of hard-core to create a hard standing base, building of raised earth bunds, installation of service pipes, the clearing of the Land of trees and other vegetation to facilitate unauthorised engineering operations and widening of an existing access.”
 - The requirements of the notice are:
 - 1) Permanently cease the unauthorised development on Land including the clearing of the Land of trees and other vegetation to facilitate unauthorised engineering operations and;
 - 2) Remove permanently from the Land all unauthorised hard-core, pipework, bunds, metal works, tarmac, gravel, chippings and any other items brought on to the Land to facilitate the unauthorised development and remove all resultant material from the Land, and;
 - 3) Where the unauthorised materials imported onto the Land have been compacted, carryout rotavating and decompaction (similar to preparing a field for crop planting).
 - 4) Return the Land to a similar state it was prior to the unauthorised engineering operations taking place (save for the established hard-core area edged blue on the attached plan) by planting 500 60/80cm whip trees at 2-2m apart in the next planting season (Oct 2025 to February 2026) which should be as follows;
 - (a) 30% Downy Birch,
 - (b) 20% Hazel,
 - (c) 15% English Oak,
 - (d) 15% Grey Willow,
 - (e) 10% Crab Apple and;
 - (f) 10% Holly.
 - 5) The planting and aftercare of the replacement trees shall be strictly carried out in accordance with BS 8545:2014 Trees: from nursery to independence in the landscape. If within a period of 5 years from the completion of the new planting, as per the Enforcement Notice, any trees are cut down, felled, uprooted, removed, destroyed, or die or become in the opinion of the Council, seriously damaged or defected;
 - (a) The Council shall be immediately notified; and
 - (b) Another tree of the same size and species shall be planted at the same location, at a time agreed in writing by the Council, with photographic evidence of the re-planting to be submitted.
- Unless the Council agrees in writing to dispense with or vary the requirement.
- The periods for compliance with the requirements are: 2 months for requirements 1), 2) and 3), 7 months for requirement 4), and 5 years for requirement 5).
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (d), and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
 - *In section 2, the deletion of the grid reference and words “NGR 305111 111808 (Adj Pleasant Streams)” and their substitution with the words “Oak Lee”;*
 - *In section 3, the deletion of all the words and their substitution with the words “Without planning permission, the carrying out of engineering operations comprising the importation of materials, laying of hardstanding, the formation of earth bunds, installation of service pipes, and the widening of an existing access.”;*
 - *In section 5, the deletion of all the requirements and their substitution with:*
 - 1) *With the exception of the hardstanding edged in blue on the plan attached to this notice, remove from the Land the imported materials, hardstanding, earth bunds and service pipes; and*
 - 2) *Except for the widening of the existing access, restore the Land to its condition before the breach occurred.*
 - *In section 6, replace the 3 separate compliance periods with a single period of 7 months; and*
 - *Substitute the plan annexed to this decision and labelled ‘Exhibit 2’ for the plan attached to the enforcement notice.*

Subject to the corrections and variations, Appeal A is dismissed, and the enforcement notice is upheld.

Applications for costs

2. An application for costs was made by Mr Tom Dolan against Mid Devon District Council. An application for costs was also made by Mid Devon District Council against Mr Tom Dolan. These applications are the subject of separate decisions.

Matters concerning the notice

3. The land to which this notice relates forms part of the property known as ‘Oak Lee’. The parties agree that substituting ‘Oak Lee’ for the grid reference set out in section 2 of the notice would provide clarity.
4. The allegation set out in section 3 of the notice includes duplication and matters that do not constitute development or facilitating works. I shall correct the allegation to provide precision and clarity.
5. In various documents and correspondence preceding the inquiry, Mr Carruthers confirmed that 60 tons of type 2 hard-core have been imported and laid on the land; that the appellant *“fitted a field drain with the owner of Selgars Mill as the land was inundated”*, which amounts to laying service pipes; that one tree has been removed adjacent to the existing access and I saw that additional surfacing materials have been laid, which amounts to widening the access; and the

appellants' and Council's photographic evidence show earth bunds having been created around the periphery of the land. There can be no doubt therefore that engineering operations have been carried out.

6. It was agreed by the main appeal parties, that the engineering operations comprise *"the importation and laying of hard-core to create hardstanding, the formation of earth bunds, installation of service pipes, and the widening of an existing access"*. The Council provided a new plan, Exhibit 2, showing the approximate locations of the identified engineering operations.
7. Plan 'Exhibit 2' shows a service pipe running roughly north to south with a spur running off in a westerly direction. Whether the service pipe spur exists was the subject of discussion, with the appellant claiming it is an electric cable rather than a service pipe. The spur terminates at a vertical standpipe. While the pipe is not the usual alkathene pipe associated with water supply pipes, I saw that it has the appearance of a water pipe and there is nothing visible to suggest it carries electricity. I therefore find it more likely than not that the spur is a service pipe. The plan Exhibit 2 shall be substituted for the one attached to the notice without variation.
8. From what I saw during my site visit and based upon the oral evidence given to the Inquiry, it is not just type 2 hard-core that has been imported on to the land. I also saw that the imported material includes bricks, concrete, roof tiles, and tarmac (or similar material). To avoid ambiguity, I shall replace the words 'hard-core' with 'materials'. Furthermore, not all the imported materials have been laid to form hardstanding, much of it remains in piles. Regardless of who has deposited the materials on the land, this constitutes an unauthorised engineering operation, and I shall reword the allegation accordingly.
9. The steps required to be taken shall be varied to reflect the corrected allegation. These shall require the removal of the imported materials, hardstanding (except for that edged blue on the enforcement plan), earth bunds and service pipes, and require the restoration of the land to its condition before the breach occurred, except for the widened access.
10. The time for compliance also needs to be varied to reflect the varied requirements. There is no need for different periods to be specified. A single period of 7 months is reasonable, and the main appeal parties have confirmed this to be acceptable.
11. I am satisfied that the appellant and Council will not be prejudiced by the corrections and variations set out above, which provide clarity and precision to the notice.

Preliminary Matters

Case Management Conferences

12. Case management conferences were held on 14 August 2025 (CMC1) and 25 September 2025 (CMC2) to deal with procedural matters relating to the inquiry. My concerns regarding the wording of the notice as detailed above were raised with the parties during CMC1 and the main appeal parties were afforded time to address those concerns.
13. My suggested rewording of the allegation and requirements, along with the substitution of the plan attached to the notice were agreed by the appeal parties at

CMC2. As a result, the grounds of appeal were to be amended to (c) and (d) only. However, only written confirmation of the withdrawal of ground (f), and a not previously mentioned ground (e), was received from the appellant before the inquiry opened.

Inquiry

14. Mr Carruthers, on Mr Dolan's behalf, formally withdrew grounds (b) and (g) at the inquiry. The appeal therefore only falls to be considered on grounds (c) and (d).
15. The inquiry sat for 2 days. Following opening statements, an accompanied site visit was undertaken before witness evidence was heard. As the appeal was brought on legal grounds, oral evidence was given under affirmation.

Appeal B

16. Section 174 (1) of the 1990 Act states that an appeal against an enforcement notice can be brought by "*a person having an interest in the land to which an enforcement notice relates or a relevant occupier...whether or not a copy of it has been served on him.*" Appeal B has been brought by Ms C Mohan, whom a copy of the notice had not been served on. That of itself would not preclude Ms C Mohan bringing the appeal.
17. Mr Dolan confirmed during the inquiry that Ms Mohan is his daughter. He further confirmed that she does not own any of the land, she has not occupied the land, nor has she had any involvement with the engineering operations that have occurred. Ms Mohan does not therefore have an interest in the land as required by section 174 (1) of the 1990 Act and does not have the right to appeal the notice.
18. For this reason, Appeal B has not been lawfully brought, and it does not fall to be considered.

Appeal A on ground (c)

19. An appeal on this ground is that, while the matter alleged has occurred, it does not constitute a breach of planning control. It is for the appellant to show, on the balance of probability, that the engineering operations comprising the importation of materials, the laying of hardstanding, the formation of earth bunds, installation of service pipes, and the widening of an existing access either benefit from planning permission or do not constitute development.
20. It is the appellant's case that the engineering operations benefit from deemed planning permission granted by article 3 and Parts 2, 4, 6 and 10 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("the GPDO"). These relate to minor operations, temporary buildings and uses, agricultural and forestry development, and repairs to services. The appellant contends the lawful use of the appeal site is agriculture.
21. Of the engineering operations carried out, Part 2 of the GPDO could only apply to the widening of the existing access. I saw that there are no gates, gate posts, walls or fences at the widened access. Class A of Part 2 therefore has no relevance. Class B confirms that "*the formation, laying out and construction of a means of access*" to the access track is permitted development. Class B does not provide for the "widening" of an existing access, regardless of what type of highway the access opens on to.

22. Even had I found that the widening of the existing access falls to be considered under Class B, it would need to be shown that it was required in connection with development permitted by any Class in Schedule 2. It is the appellants contention that the land is used for agriculture. In his oral evidence, Mr Dolan said that he intended (my emphasis) to use the land as a paddock. If I were to accept that use as a paddock was an agricultural use, section 55(2)(e) of the 1990 Act confirms that the use of land for the purposes of agriculture or forestry is not development. The conditional requirement in Class B would not therefore be met and deemed planning permission for the widening of the access would not be granted.
23. In his oral evidence Mr Carruthers argued that the earth bunds are temporary structures permitted by Part 4. If I accept that earth bunds are “*moveable structures*”, and they are required temporarily, Class A of Part 4 permits them for the duration of operations being or to be carried out on the land. However, there are no agricultural operations currently being carried out on the land and the appellant has not made it clear how agricultural operations could be carried out in the future given the extent of the hardstanding. I therefore remain unconvinced that the earth bunds could benefit from the deemed planning permission granted by Part 4 of Schedule 2.
24. There is no dispute that if Part 6 is applicable to the development, then it is Class B that is of relevance. Class B of Part 6 confirms that “(c) *the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;...(e) the provision of a hard surface;...*” is permitted development “*where the development is reasonably necessary for the purposes of agriculture within the unit.*” This could therefore apply to the laying of hardstanding and service pipes. However, I first need to establish whether the land forms part of an agricultural unit.
25. While the 1990 Act does not define what is meant by an “agricultural unit”, it is defined in the Agriculture Act 1947 as “*land which is occupied as a unit for agricultural purposes*”. Section 336 of the 1990 Act provides a definition of “*agriculture*”, which includes “*osier land*” and “*the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes*”.
26. The appeal site is not currently occupied. The appellant contends that the trees that covered the land, which have been felled, were grown as a crop by Mr Benn¹, a local farmer and former owner of the land. There is no dispute that the land was not in use for agricultural purposes or any other purpose when the notice was issued. Prior to the notice being issued, the concrete hardstanding (edged blue on Exhibit 2) had been used as a car park in connection with Selgar’s Mill.
27. There is also no dispute that the appeal site was previously covered in trees and vegetation. Aerial images, dating from approximately 2016, show the land to be heavily wooded and having a similar appearance and density to the woodland that continues to occupy the land to the east of the appeal site. The aerial images (2002 and 2006) also show sections of the land to have been the subject of regimented tree planting. This ties in with documentation suggesting that a former owner received a grant for carrying out tree planting here.
28. Other than Mr Carruthers’ evidence and the oral evidence of Mr Dolan, there is no evidence to demonstrate that Mr Benn is a local farmer, or that when he owned the

¹ Paragraph 23 of Stuart Carruther’s Proof of Evidence

land, he planted grant aided trees as a crop. Even if he had, there is no evidence to demonstrate that this was an osier land use, or that the tree planting was ancillary to the farming of land for other agricultural purposes, as required to meet the definition of agriculture.

29. Taking all these facts together, in my judgement the land is not an agricultural unit nor part of such a unit. No realistic explanation has been given for the hardstanding laid to be reasonably necessary for the suggested purpose as a paddock for keeping livestock. Even if it had, no reasonable explanation was given to justify the area of hardstanding that has been laid. I therefore remain unconvinced that the hardstanding is reasonably necessary for agricultural purposes.
30. Turning to the service pipes, Mr Dolan explained how he has laid a land drain, which runs in a roughly north/south direction through the land. The purpose of this land drain is to remedy the standing water that was claimed to accumulate on the land. No evidence has been provided to show that the land suffered from standing water. While I appreciate that the aerial images only provide a snapshot in time, there is no evidence of standing water on the land in any of them. I accept a land drain could be reasonably necessary in connection with the use of land for the keeping of livestock, however the appellant has no livestock, and none has been kept on the land.
31. It is the appellant's case that when digging the trench for the land drain, the mains water pipe was unearthed, and it was found to be leaking. Mr Dolan told of how the 'waterboard' came out and fixed the main. Such works would be permitted development as set out in Class A of Part 10 of Schedule 2. The notice does not however attack the water main, which there is no dispute crosses the land.
32. Taking all these factors together, I find the appellant has failed to demonstrate, on the balance of probability, that the engineering works comprising of the laying of hard standing, formation of earth bunds, laying of service pipes and the widening of the existing access benefit from deemed planning permission granted by the GPDO. Express planning permission has not been granted for these engineering operations, and they therefore constitute a breach of planning control.
33. For these reasons, the appeal on ground (c) fails.

Appeal on ground (d)

34. An appeal on this ground is that, at the date the notice was issued, the time for taking enforcement action had passed. There is no dispute that the importation of approximately 60 tonnes of type 2 hard-core, the formation of earth bunds, the laying of service pipes and the widening of the existing access all occurred within the last 10 years. The appellant does not pursue a case under ground (d) in those respects.
35. The appellant does however contend that when the surface of the land was scraped back and tree roots were dug up, hardstanding was unearthed. He further contends that all he has done is carry out essential maintenance of the unearthed hardstanding. It is therefore for the appellant to demonstrate, on the balance of probability, that the extent of the material piled on the land and hardstanding laid has been on the land for 10 years or more. The material date is 10 years before the date the notice was issued, thereby 12 June 2015.

36. Mr Dolan and Mr Carruthers both confirmed in oral evidence that they have no historic knowledge of the land. Mr Carruthers only became aware of the land in January 2025. Despite living at Pleasant Streams, opposite the land, Mr Dolan expressed having no detailed knowledge of what was occurring on the land until after he purchased it in March 2025.
37. Mr Carruthers' (SC) proof of evidence (POE) refers to having interviewed several people who are claimed to have historic knowledge of the land. SC's POE does not contain transcripts of these interviews. Nor have any of those interviewed provided sworn statements. The weight to be attributed to the third hand recollections set out within the POE and referred to in oral evidence by SC is therefore extremely limited.
38. Mr Tony Kerslake (TK) of 2 Selgars Cottages is claimed to have told SC that four polytunnels previously sited on the land were mainly used for the storage of furniture. SC's POE offers no further commentary on what TK told him. Even if I were to accept this as evidence, it provides no information as to the size or location of the polytunnels, or whether they were sited on hardstanding bases.
39. Mr Thomas Hooke (TH), who lived at Oak Lee as a child, is claimed to have confirmed that the land used for placing polytunnels by his parents was covered with hardstanding. He further *"identified that each of the nine areas laid out for polytunnel use had electricity and water services, and that some of the gaps between the polytunnels were tarmacked"*. TH allegedly went on to say in the interview that his parents *"in some cases laying a concrete base"* for the polytunnels. During cross examination SC went on to claim that TH had told him that his parents had allowed the importation of hard-core/builder's rubble, which was then used to form hardstanding.
40. A letter purporting to have been written by TH however states there were 4 polytunnels with concrete bases and hardstanding tracks leading to them on the land. It makes no reference to the importation of materials or the location of the polytunnels and their bases. This letter is not a sworn statement, nor did TH appear as a witness at the inquiry.
41. The previous Inspector's decision letter only refers to them seeing 4 polytunnels on the land, which were largely being used to store furniture. No mention is made of concrete bases being present within the polytunnels. While pathways to and between the polytunnels are mentioned, there is nothing to suggest that these were any more permanent than compacted earth or grass.
42. No plans have been provided to show the location and extent of the claimed hardstanding. Several aerial images have however been provided. An RAF image dated 1946-1949 shows the land to be part of a larger field. The image dated 2002 shows mature trees around the perimeter of the land, mature hedgerows around what was agreed as being the concrete hardstanding occupied by Miss Hooke's caravan site, and the remainder of the land has the appearance of rough grassland with young trees forming a linear pattern.
43. Aerial images dated 2006, 2015, 2016, 2018, 2019, 2020, 2022 and 2024 show tree planting across the site becoming increasingly mature. It is possible to identify desire lines crossing the land, where vegetation has been trodden down, in some of the earlier images.

44. During cross examination, SC talked about having dug a hole on the land on 27 October 2025. He went on to claim that he had not had to dig down far to reach the hardstanding below. While SC claimed to have dug this hole the day before the inquiry site visit, and despite the appellant's evidence relying on the pre-existing presence of hardstanding on the land, this hole and what it apparently showed was not brought to my attention during the site visit.
45. I find the appellant's evidence to be imprecise and ambiguous as it does not confirm where the polytunnels were located, whether the polytunnels had concrete bases or the extent and location of tarmacked/hardstanding paths. There is also no corroborating evidence to show that 9 areas were laid out for polytunnel use or that Miss Hooke allowed any materials to be imported on to the land.
46. Mr Timothy Jarrett, the Council's Arboriculture Officer, confirmed the aerial images do not support there having been a clear and obvious decline in the health of the tree planting across the land. Furthermore, Mr Jarrett advised that if trees had been planted in a hardstanding environment, they would not have thrived as seen in the aerial images. There is no evidence to show that trees on the land struggled to become established due to a lack of nutrients and oxygen resulting from compacted soil and an anaerobic rooting environment created by a hardstanding environment.
47. It would not be unreasonable to find that trees would not grow well through concrete or other forms of hardstanding. If they did grow, I would expect their growth to be stunted or for them to have an unhealthy appearance. The aerial images offer no support to the argument that the trees on the land were dead, dying or dangerous because of having grown through hardstanding as claimed by the appellant. I therefore find Mr Jarrett's evidence relating to the health of the trees and the likely absence of hardstanding across the land to be more credible.
48. It is clear from Miss Heather Nesbitt's (HN) evidence that she visited the land several times throughout 2025, firstly in January and then February, March and May. Throughout these visits photographs of the site were taken.
49. Photographs dated 14 January 2025 show that trees have been felled along the access road frontage, the presence of concrete hardstanding previously used by Miss Hooke for the stationing of caravans for residential purposes. The rest of the land has an earth surface with vehicle tracks running through it. There is no discernible level difference between the concrete hardstanding and the surrounding earth surface. Vegetation is visible on the bank adjacent to the access road. While there are several piles of cleared vegetation and possibly soil, these are of limited size.
50. Photographs dated 18 March 2025 show the land to have a considerably different appearance. The area of concrete hardstanding has been increased by the laying of what appears to be builders' rubble, an earth bund has been formed parallel to the access road, and behind Selgars Cottages and adjacent to the remaining woodland further earth and cleared vegetation bunds have been formed. There are piles of builder's rubble and type 2 hard core on the land. A digger is present, and a trench has been dug for the land drain.
51. There is no visible evidence in Figures 19 and 22 (Appendix B of HN's POE) of a layer of hardstanding having been exposed through the digging of this trench. I also carried out a visual inspection of what remained of the trench during my site

visit. I saw no clear evidence of a layer of hardstanding being present. In the absence of a plan showing where the pre-existing hardstanding area was located, I accept that the trench may not have crossed it.

52. Photographs dated 29 April 2025, and 28 May 2025 show that more hardstanding has been laid. Additional piles of hardcore and materials also appear to have been brought on to the land.
53. Having regard to the series of photographs taken by HN, it would be reasonable to conclude that any unearthing or digging up of hardstanding materials occurred after 14 January 2025. As an enforcement officer had already visited the site and attempted to contact the landowner, it would not be unreasonable to expect the landowner/appellant to keep a photographic record of what works were on going, particularly the unearthing and digging up of the claimed *“at least 4000 tons of hardcore”*². The appellant has provided no such photographic evidence and seeks to rely on those taken by HN.
54. There is nothing to suggest in the later site visit photographs provided by HN that the quantity of materials laid as hardstanding and remaining in piles on the land have been unearthed or dug up. The visible material does not appear to be coated with mud or other debris that one might expect to see if it had been buried. There are no holes or pits around the land and there is no discernible difference in land levels across the land, which I would expect to be present if approximately 4000 tons of hardstanding had been unearthed or dug up.
55. Taking all these factors together, I find it less than likely that hardstanding was laid on the land in the 1990s, which had since been covered over and through which vegetation and trees had grown. The appellant has therefore failed to show, on the balance of probability, that the hardstanding (except for the concrete hardstanding edged blue on the Exhibit 2 plan) was laid on or before 12 June 2015.
56. For these reasons, the appeal on ground (d) fails.

Overall conclusion

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

M Madge

Cm[INSPECTOR

² Stuart Carruthers' email to Heather Nesbitt dated 26 September 2025 (copied to the Planning Inspectorate)

Enforcement Notice Plan: Exhibit 2
(Not to scale)



APPEARANCES

FOR THE APPELLANT:

Mr Stuart Carruthers	Agent and advocate for the appellant
Mr Tom Dolan	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Miss Lara Spencer	of Walnut House Chambers, Counsel for the Council
Ms Heather Nesbitt	Senior Enforcement Officer, MDDC
Mr Tim Jarrett	Arboricultural Officer, MDDC

DOCUMENTS

ID1	Aerial image of the Land dated 2015 provided by the Council
ID2	6 site photographs dated 27 October 2025
ID3	Confirmation of Mr Dolan's land purchase (TR1, Contract, TP1, Plan signed by Anton Chernikov, and screen shots)
ID4	Appellant's opening submission
ID5	GPDO extract – Class B of Part 6 of Schedule 2
ID6	Site Photograph dated 21/03/2025 showing location of water supply pipe
ID7	Site photograph dated 29/04/2025 showing location of 'stand pipe' and enlargement focussing on 'stand pipe'
ID8	Council's closing submissions
ID9	Appellant's closing submissions