



Appeal Decisions

Site visit made on 15 December 2025

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 December 2025

Appeal A Ref: APP/D0840/C/24/3355595

Land East of Lobb's Shop Cottage, Porthpean, St Austell, Cornwall, PL26 6BE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Josh Pollard against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 16 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a timber building, installation of a septic tank, widening of existing pedestrian access to create new vehicular access, creation of a hardstanding area and the associated material change of use of the land from agricultural to domestic/leisure use.
 - The approximate location of the timber building is indicated by a blue 'X' on the plan attached to the notice. The approximate location of the new vehicular access and septic tank are indicated by a blue 'A' and a blue 'S' respectively.
 - The requirements of the notice are
 - 1) Cease the non-agricultural use of the land outlined in red on the attached plan.
 - 2) Demolish and remove the timber building shown in the approximate location by a blue 'X' on the attached plan.
 - 3) Dig up and remove the septic tank, all connecting pipes and inspection points.
 - 4) Block up the new vehicular access by reinstating the hedgerow and pedestrian access as shown in the attached images.
 - 5) Demolish as (sic) remove the hardstanding from the land and restore the land to its former condition before the breach took place.
 - 6) Remove from the land all materials and debris resulting from the non-agricultural use of the land.
 - 7) Remove from the land all materials and debris resulting from compliance with the requirements (2), (3), (4), (5) and (6) above, and restore the land to its former condition before the breach took place.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) of the Town and Country Planning Act 1990 (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.
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Appeal B Ref: APP/D0840/W/24/3347858

Land east of Lobb's Shop Cottage, Porthpean, St Austell, Cornwall, PL26 6BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Pollard against the decision of Cornwall Council.
 - The application Ref is PA23/06613.
 - The development proposed is the retention, alteration and extension of existing timber shed to provide chicken coop.
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by the deletion of the word "as" and its substitution with the word "and" in requirement (5).
2. Subject to the correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. Although the Council officer attended the pre-arranged site inspection, the absence of the appellant meant that I had to carry out an unaccompanied inspection. I was able to see sufficient of the site from the gated highway entrance.
5. The notice has an obvious typographical error in requirement (5) and I shall correct the notice by replacing the word "as" with "and".

The site

6. The site is a small site of 0.03ha located at a minor road junction at a cluster of 6 dwellings known as Lobbs Shop and is in open countryside. The site has a bank around most of its perimeter with some limited vegetation. Within it is a timber structure and septic tank but the hard standing referred to in the notice is largely obscured by grass. Part of a Cornish hedge on the road frontage has been removed to provide for a pair of field gates.
7. A caravan and summerhouse were previously located on the site but were removed following enforcement investigations according to the appellant.
8. Opposite to the site is the Grade II listed C18 Lobbs Shop Cottage and a Scheduled Ancient Monument (SAM) known as Castle Gotha Round is about 150m distant. The site is also within the Cornwall Area of Outstanding Natural Beauty, a National Landscape.

Appeal A: the appeal on ground (c)

9. An appeal on this ground is that there has not been a breach of planning control. As this is a legal ground of appeal, the onus is on the appellant to prove their case and the level of proof is on the balance of probabilities.
10. The appellant states that the site is detached garden/amenity land based on a planning officer's assessment in 2001 of land opposite a two storey detached dwelling (under reference 01/00418). The site appraisal sheet does not indicate whether this garden/amenity use was associated with the subject cottage or another property but its use at the time is clearly stated. The appellant states that a smaller timber building existed on the site and, according to neighbours, was used for the keeping of chickens. It is claimed that the site had a broader amenity use than solely for agricultural use. Additionally, given the definition of agriculture in s336 and no other activity taking place, the keeping of chickens for the production

of food would be agriculture and the alleged change of use has not taken place. Furthermore the appellant is of the view that the use of garden/amenity land does not exclude the keeping of chickens and therefore no material change of use has occurred.

11. It is noted that in response to a Planning Contravention Notice in May 2023, the appellant confirms the previous use of the appeal site as agricultural but the limited evidence submitted suggests the use of the site is for leisure purposes and the timber building, septic tank and hardstanding contribute to the domestication of the site.
12. The appellant acknowledges that the physical development lacks planning permission but it has not been demonstrated on the balance of probabilities that the material change of use of the land from agricultural to domestic/leisure use has become lawful through the passage of time.
13. A breach of planning control has occurred. The appeal on this ground fails.

Appeal A: the appeal on ground (a), the deemed application; and Appeal B: the s78 appeal

14. An appeal on ground (a) is that planning permission should be granted for what is alleged in Appeal A. In respect of Appeal B, this is that planning permission should be granted for the development applied for, which is for the retention, alteration and extension to the timber shed as a chicken coop.
15. The issues in both appeals relate primarily to the degree of impact that the development would have on the setting of heritage assets and on the character and the appearance of the area, although any such impacts would be greater for Appeal A due to the extent of development that has been carried out.
16. From photographs submitted by the parties and from my site inspection, it is clear that the character and appearance of the area have been compromised by the loss of a significant portion of a Cornish hedge, the introduction of a wide highway access, the creation of a hardstanding, the construction of the timber building and installation of a septic tank. The site is more prominent in the landscape as a result and the development fails to respect the distinctive character of the AONB and is harmful to it.
17. The current replacement timber building that has been constructed on site appears to be about twice the size of the structure illustrated in the appellant's Image 1. It has about 20sqm of internal floorspace proposed to be divided between a chicken coop (9sqm) and associated storage (11sqm). It appears to be an inappropriate design as a chicken coop having glazed doors and four pairs of windows. Its appearance is more akin to a garden/leisure building albeit that the s78 application drawings indicate that four of the glazed panels would be replaced with timber.
18. At the time of the s78 application, it was confirmed that the coop would house no more than 10 chickens. Whilst this small scale activity represents a hobby rather than a business and it would normally be appropriate as a rural activity located in this countryside location, the timber building is of an excessive scale to house only 10 chickens based on the Welfare of Farmed Animals (England) Regulations 2007.
19. The timber structure is therefore an inappropriate design for its intended purpose and this is harmful to the character and appearance of the area.

20. The Castle Gotha Round is a Scheduled Ancient Monument of which the significance of its setting should be taken into account when considering the impact of development proposals. In this case the SAM is at considerable distance and the form of the monument is not distinguishable from the appeal site. Its setting is not harmed by the development as a structure (albeit smaller) existed on the site prior to the unauthorised development. The effect of the development on its setting is neutral.
21. The Grade II listed Lobbs Shop Cottage is across the road from the appeal site, with a clear visual separation between the two. The loss of part of the Cornish hedge and the construction of a wide gated access has reduced the degree of enclosure provided by the hedge, and with the timber building, have an impact on the setting of the listed building. In the context of paragraph 215 of the NPPF (December 2024)¹ this is at a less than substantial level of harm but there are no significant public benefits arising to be taken into the balance.
22. Concern has been expressed about the safety of the access but I note that the Council's Highway Officer considers the access to be safe and suitable.
23. A number of third party representations have been submitted. Those against the development cite the impact on the AONB and character of the area, visual amenity, neighbouring amenity, harm to the setting of the listed building and to the scheduled ancient monument. In support, the site has historically been used for chickens and the site is visually improved.
24. I conclude that both the alleged breach of planning control and the development applied for would appear as an unwarranted development that fails to respect its surroundings, resulting in a negative change in the character of the area and landscape setting that does not enhance the rural character of the landscape as required by Cornwall Local Plan Policies 2 and 23, St Austell Bay Neighbourhood Plan Policy (2D2) and the objectives of the National Planning Policy Framework (NPPF) in respect of conserving and enhancing the historic environment.
25. I have considered whether the harmful elements of the development could not be sufficiently mitigated through the imposition of conditions, but this would not be achievable.
26. The appeals on these grounds fail.

Appeal A: the appeal on ground (f)

27. An appeal on this ground is that the steps required by the notice are excessive and the appellant raises questions about some of these. In particular, the appellant considers that requirements (3) and (5) requiring the removal of the septic tank and the hardstanding would either have no impact on the character of the area or serve no purpose.
28. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and

¹ A revised draft NPPF for consultation was published in December 2025. Under National Decision Making Policy HE6: Proposals affecting designated heritage assets, at paragraph 3, the term "less than substantial harm" is no longer referred to but the thrust of the policy has not changed.

therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.

29. In respect of the appellant's criticism of requirement (4) relying on images attached to the notice, I consider this to be perfectly clear as the appellant will know what works were undertaken in respect of the access and the extent to which it was widened.
30. The requirements do not preclude the appellant doing what they are lawfully entitled to do in the future once the notice has been complied with.
31. The appeal on this ground fails.

Conclusion

32. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) and refuse to grant planning permission for the s78 application.

P N Jarratt

INSPECTOR