



Appeal Decision

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: 8 January 2026

Appeal Ref: APP/D0840/C/25/3368984

Land North of 30A Church Road, Mylor, FALMOUTH, TR11 5NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr J E Bull against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 16 June 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of nil use land to a mixed use comprising of recreational leisure and storage of a caravan, through the siting of a caravan and associated operational development in the form of timber gate/gateway, hardstanding areas, timber decking (covered in astroturf), and domestic/leisure paraphernalia. The approximate location of the caravan is indicated by a blue 'A' on plan attached to the notice. The approximate location of the timber gate/gateway is indicated by a blue 'B' on the plan.
 - The requirements of the notice are to
 - (1) Cease the recreational leisure use of the land outlined red on the plan.
 - (2) Cease the storage of the caravan on the land.
 - (3) Remove from the land all materials, paraphernalia and debris resulting from the recreational use of the land.
 - (4) Remove from the land the caravan shown in the approximate location by a blue 'A' on the plan.
 - (5) Demolish and remove from the land the timber gate/gateway shown in the approximate location by a blue 'B' on the plan.
 - (6) Demolish and remove the hardstanding from the land.
 - (7) Demolish and remove the timber decking from the land.
 - (8) Remove from the land all materials and debris resulting from compliance with the requirements of (3) to (7) above and restore the land to its former condition before the breach took place.
 - The period for compliance with the requirement is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (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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Decision

1. It is directed that the enforcement notice is varied by adding the following words at the end of requirement 5:

“OR

Reduce the height of the timber gate/gateway to a height no greater than the height permitted in Class A of Part 2 of the Town and Country (General Permitted Development) Order (England) 2015.

2. Subject to the variation 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.

Applications for costs

3. An application for costs has been made by the appellant against the Council. This is set out in a separate decision.

Preliminary Matters

4. The grounds of appeal originally included an appeal on ground (d) and to be subject to the inquiry procedure. However the ground (d) appeal was withdrawn making an inquiry unnecessary.

The appeal on ground (a)

5. An appeal on this ground is that planning permission should be granted for what is alleged.
6. The main issue is the impact that the development has on the character and appearance of the landscape and riverscape. The site lies within the designated National Landscape on the south side of Mylor Creek.
7. The north side of Church Road in the vicinity of the appeal site is characterised by narrow plots of land, some of which are undeveloped and grassed to the water's edge, some have dinghies stored and others have vehicle hard standings. There is some vegetation along the road and a hedge has been planted around part of the appeal site. Despite the appellant regarding Church Road as "unmistakeably domesticated" and a "suburbanised creekside", there is a generally high degree of visibility of the water from Church Road and sufficient evidence remains of its original character to make it worthwhile protecting from unnecessary and inappropriate development.
8. The substantial timber gateway to the site is an incongruous feature which introduces a suburban element to the frontage and is harmful to the creekside setting which has a negative impact on the character and appearance of the landscape and riverscape, although it is noted that there are other gates and fences elsewhere on Church Road. The siting of a caravan would have been a similarly incongruous feature. Likewise the use of artificial grass on timber decking does little to protect the sensitive character and appearance of the National Landscape.
9. The appellant refers to other 'householder permissions' granted nearby and cites Poundstretcher Ltd v SSSE [1988] in support. However, the circumstances in that case are materially different to those existing on Church Road which is in a National Landscape. Consistency in planning decisions is important to the public acceptance of planning controls but such decisions are very much determined by local circumstances and policies. The appellant seems to have relied on how creekside plots had long been used and that he was unaware that any change of use required permission. However this does not justify or excuse the carrying out of unauthorised development. I note that three of the five planning permissions referred were determined prior to the adoption of the Local Plan, the Neighbourhood Plan and the Climate Emergency DPD.
10. Although the unauthorised development is not particularly prominent in the wider landscape due to its scale, its impact on visibility does not equate to lack of harm and could be repeated elsewhere leading to a negative cumulative impact on the countryside.

11. Policy 12, amongst others, in the Cornwall Local Plan requires the design of development to ensure Cornwall's enduring distinctiveness and to maintain and enhance its distinctive natural and historic character. This is echoed in the Mylor Neighbourhood Development Plan and the Climate Emergency DPD. The National Planning Policy Framework (2024) at paragraph 189 requires that "great weight" should be given to conserving and enhancing landscape areas of specific areas including National Landscapes.
12. The unauthorised development has resulted in a number of third party representations being submitted to the Inspectorate expressing support for the Council's enforcement action and the reasons for it.
13. The Council considers that the development exacerbates reliance on private vehicles but this is not a significant issue in this case which turns on the visual impact caused by the development.
14. I conclude on this issue that the unauthorised development has a harmful impact on the character and appearance of the landscape and riverscape, and the harm caused could not be sufficiently mitigated by conditions. The appeal on this ground fails,

The appeal on ground (f)

15. An appeal on this ground is that the steps required to comply with the requirements of the notice are excessive and that lesser steps would overcome the objections. Its purpose is to establish whether the notice goes further than is required to achieve its aim.
16. The appellant questions steps 5 and 6 only. In respect of step 5 regarding the removal of the gateway, the appellant requests the requirement to be changed by reducing the height of the gate to one metre, in line with Class A of Part 2 of the Town and Country (General Permitted Development) Order (England) 2015. The appellant points out that removing the present gate would not prevent its replacement with a lower one. The Council are of the view that permitted development rights could not be exercised by virtue of Article 3(5)(b) of the GPDO which states that deemed permission granted by Schedule 2 does not apply, if, in the case of any permission granted in connection with an existing use, that use is unlawful. However, the appellant states that the rights under Class A for "gates, walls, fences etc" under Part 2's heading of "minor operations" are not in connection with" any specific use of the land in question. I agree with this interpretation of the GPDO.
17. The appellant correctly states that the Mansi principle¹ establishes that an enforcement notice must not purport to stop a developer from doing something they are entitled to do without planning permission by relying on existing lawful use rights. The wording of the notice does not seek to do this. The requirements do not preclude the appellants doing what they are lawfully entitled to do in the future once the notice has been complied with.
18. In my view, the Murfitt principle² is also relevant in this case. Varying the notice to allow the reduction of the gateway to one metre in height would not serve to remedy the breach as the gateway is unlawful as a whole, along with the other

¹ Mansi v Elstree RDC [1964] 16 P&CR 153

² Murfitt v SSE and East Cambridgeshire CC [198] JPL 598

operational development alleged, as they are integral to the unauthorised use. Accordingly the requirements of the notice are not excessive in order to remedy the breach. However, requiring the complete removal would be unlikely to achieve anything as the grant of permission under the GPDO is a realistic fallback position and is an obvious alternative that could be achieved with less cost and disruption³. I shall amend the requirements accordingly.

19. In respect of requirement 6, the appellant maintains that ongoing maintenance of the quay walls and steps would benefit from having a vehicle parked alongside during the course of such works and that the size and materials of the hardstanding could be reduced or modified. I find such an argument to be unconvincing bearing in mind the likely frequency of such works, the size of the appeal site and proximity to the water's edge.
20. 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 therefore I consider that the requirements of the notice as amended, do not exceed what is necessary to remedy the breach.
21. The appeal on this ground succeeds in part only relating to requirement 5.

Conclusion

22. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

P N Jarratt

INSPECTOR

³ Tapeacrown Ltd v FSS & Vale of White Horse DC [2006] EWCA Civ 1744