



Appeal Decisions

Site visit made on 16 December 2025

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal A: APP/X1165/C/25/3369832

Land at Singleton Gardens, Meadfoot Sea Road, Torquay TQ1 2LQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Graham Cridland of Origin 3 Legal Limited against an enforcement notice issued by Torbay Council.
- The notice was issued on 23 June 2025.
- The breach of planning control as alleged in the notice is that the demolition works that have been carried out on the Land to the dwellinghouse in the location hatched approximately in yellow on the attached plan titled "Map 2" and the adjoining boundary wall that runs adjacent to the south of Meadfoot Sea Road, exceed those permitted by the planning permission P/2023/0994. The partial demolition of the stone wall in the approximate location identified by a green line on the attached plan titled "Map 2" and as seen in the attached photograph titled "Photograph 8". The demolition works are, therefore, unauthorised and constitute relevant demolition.
- The requirements of the notice are:
 - 1) Reconstruct the building in its entirety in the location hatched approximately in yellow on the attached plan titled "Map 2", as similar as possible to the building as it stood immediately prior to its demolition. The building should be constructed in accordance with the attached drawing titled "818.18A", and with reference to the attached photographs titled "Photograph 1", "Photograph 2", "Photograph 3", "Photograph 4", "Photograph 5", "Photograph 6" and "Photograph 7".
 - (i) In relation to the walls indicated by black cross hatching on the attached drawing titled "818.18A", stones used for the reconstruction of these walls should be reused from the demolished walls where possible, where extra stone is required, these stones should match those used in type and size, of the existing. The reconstructed section of walls must be traditionally built with the use of a rubble core and lime mortar to match the existing construction method and appearance. The extent of the original walls must be preserved and left undisturbed where possible. The walls must be traditionally and continuously built, without movement joints.
 - (ii) On the south elevation as indicated by the yellow cross hatching in the attached drawing titled "818.18A", the rebuilt stone wall should be finished in a rough cast cement render to match the remaining existing boundary wall, as seen in photograph titled "Photograph 7".
 - (iii) In relation to the eastern and northern elevations as indicated by blue cross hatching in the attached drawing titled "818.18A", the walls should be externally finished with a smooth painted render, as seen in photographs titled "Photograph 1", "Photograph 2", "Photograph 3", "Photograph 4", "Photograph 5" and "Photograph 6".
 - (iv) In relation to the chimney stack as indicated by green cross hatching in the attached drawing titled "818.18A", the chimney stack must be reinstated using stones used in the existing construction, where extra stone is required, these stones should match those used in type and size, of the existing. The reconstructed section of the chimney stack must be traditionally built to match

the existing construction method and appearance and externally finished with cement render, as indicated in the attached photograph titled "Photograph 7".

(v) In relation to the reinstated hipped roof, a natural slate must be used with a size, colour and texture that matches the slates used in the demolished building and fixed in the traditional manner with nails rather than slate hooks, as indicated in photographs titled "Photograph 4" and "Photograph 7". Clay ridge tiles must be used to match those used on the demolished building as indicated in photographs titled "Photograph 4" and "Photograph 7".

(vi) The rainwater goods on the two storey elements of the dwelling must be reinstated to the dimensions, profiles and method of fixing to match those on the demolished dwelling and be formed from metal with a white painted finish, as indicated in the attached photographs titled "Photograph 2", "Photograph 4" and "Photograph 7".

- 2) Reinstatement of the stone wall that has been partially demolished, in the approximate location identified by a green line on the attached plan titled "Map 2". The reinstated wall must be reconstructed in accordance with the attached photograph labelled "Photograph 9". The stones used for the reconstruction of the wall should be reused from the removed stones where possible, where extra stone is required, these stones should match those used in type and size, of the existing. The reinstated wall must be constructed with a traditional rubble core and pointed with lime mortar. The coursing and capping of the reinstated wall shall match the wall prior to the unauthorised works being carried out, as depicted in the attached photograph "Photograph 10".
 - 3) Until the reconstruction works as set out under (2) and (3) above have been completed, all stone, bricks, blocks and rubble from the unauthorised demolition works must be retained within the site. This step is required to ensure the appropriate reconstruction of the building and wall. For absolute clarity reusing the aforementioned materials in the reconstruction of the dwelling and the wall would be in accordance with this requirement
- The period for compliance with the requirements is 18 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).

Appeal B: APP/X1165/W/25/3375118

Singleton Gardens, Meadfoot Sea Road, Wellswood, Torquay TQ1 2LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ray Bishop of OJ Developments Limited against the decision of Torbay Council.
 - The application Ref: P/2025/0365 is dated 12 June 2025.
 - The development proposed is described on the application form as extensions and alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse and outbuilding, landscaping and associated works.
-

The Enforcement Notice

1. I have noted that the alleged breach of planning control in paragraph 3 of the Notice includes "the adjoining boundary wall that runs adjacent to the south of Meadfoot Sea Road" whereas it seems to me that this particular section of wall in question runs adjacent to the north of Meadfoot Sea Road. In my judgement the location of the section of wall is quite clear from Map 2 Ref 2025/0093/EN of the Enforcement Notice and therefore this wording can be changed to "the adjoining wall that runs adjacent to Meadfoot Sea Road" without causing injustice to the appellant.

Appeal A on ground (b)

2. The ground of appeal is that the breach of planning control alleged in the notice has not occurred. To succeed on this ground, it would need to be demonstrated that the matters which appear to constitute the breach of planning control have not occurred as a matter of fact.
3. The appellant's main argument is that the demolition has not been carried out to the extent stated in the Notice and alleges some ambiguity in the wording of the alleged breach in the Notice. Planning permission for "*Extensions and alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse and outbuilding, landscaping and associated works*" was approved under local planning authority reference P/2023/0994 on 5 March 2024.
4. From the evidence submitted and my own site observations, it is clear that demolition works have been carried out to the dwellinghouse in the location hatched in yellow on Map 2 Ref 2025/0093/EN attached to the Enforcement Notice, including the boundary wall that runs adjacent to Meadfoot Sea Road. In addition, the partial demolition of the stone wall in the approximate position identified by a green line on Map 2 has also occurred as a matter of fact. Therefore, the matter alleged in the Notice has occurred and the appeal on ground (b) does not succeed.

Appeal A on ground (c)

5. The ground of appeal is that the matter alleged does not constitute a breach of planning control. In this case the appellant has confirmed that the appeal on ground (c) only relates to the partial demolition of the stone wall situated in the south-east corner of the appeal site as shown by a green line on Map 2 attached to the Notice.
6. The appellant submits that the partial demolition of the stone wall in question does not constitute a breach of planning control. Class A (gates, fences, walls etc) of Part 2 (Minor Operations) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) provides for works *comprising the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*. It is argued that the works to the stone wall in question constitute an alteration rather than demolition and therefore are permitted development.
7. The appellant partly relies on case law established by Shimizu (U.K.) Ltd v Westminster City Council [1997] 1 WLR, but that confirmed that the ordinary meaning of "demolition" in relation to a building is the pulling down, breaking up or destruction of a building and that such destruction cannot be regarded as being an "alteration".
8. S196D(1) of the 1990 Act makes it an offence to fail to obtain planning permission for the demolition of unlisted buildings in conservation areas in England. In Barton v SSCLG & Bath and North East Somerset Council [2017] EWHC 573 it was held that the s336(1) definition of 'building' applies to s196D, meaning that the demolition of part of a gate or wall in a conservation area was relevant demolition within the meaning of s196D rather than alteration

(and was not permitted development). Therefore, in this case, the partial demolition of the wall requires planning permission which has not been obtained. As such the appeal on ground (c) does not succeed.

Appeal A on Ground (f)

9. The appeal on ground (f) only relates to the alleged demolition works that have been carried out on the Land to the dwellinghouse. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are to remedy the breach of planning control (s173(4)(a) of the Act or to remedy injury to amenity (s173(4)(b)). Since the notice requires the reconstruction of the building in its entirety as similar as possible to the building as it stood immediately prior to its demolition in accordance with a given specification, the purpose is to remedy the breach. It is also clear to me that there is a specification for the reconstruction of the south elevation of the building as indicated by yellow cross hatching on drawing 818.18A.
10. Failing to carry out the requirements set out in paragraph 5 of the Notice would not achieve the purpose of the Notice. Therefore, the appeal on ground (f) fails.

Appeal B

11. The main issue is whether the Council's reasons for failing to validate planning application reference P/2025/0365 are justified and, if so, whether planning permission should have been granted. That falls on whether planning permission P/2023/0994 remains implementable.
12. *R v Secretary of State for the Environment, Transport and the Regions ex parte Bath and North East Somerset District Council* [1999] 1 WLR 1759 established that the local planning authority is not the sole arbiter of the validity of planning applications and when they have failed to validate an application for planning permission, an applicant can appeal to have the issue of validity resolved by the Secretary of State.
13. In the case of *Geall v SSE* (1997) 78 P. & C. R. 264 the Judge held that "an invalid planning application cannot be the foundation for any jurisdiction in an appeal". An Inspector can only consider the merits of an application and determine the appeal if they are satisfied that a valid planning application has been made. Whether the local planning authority has validated the application and issued a decision letter is not determinative and the Inspector must consider and reach a view on validity themselves. If the Inspector determines that an application is invalid, the Secretary of State has no jurisdiction to determine any appeal and it must be turned away as invalid.
14. As previously set out above, planning permission P/2023/0994 is for *"Extensions and alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse and outbuilding, landscaping and associated works"*. As I have concluded in Appeal A, the works the subject of the enforcement notice have occurred as a matter of fact and are unlawful demolition of the original dwelling rather than the extension and alterations the subject of planning permission. Consequently, given that the planning permission does not authorise the demolition to the

extent that it has taken place and the extensions and alterations to that no-longer surviving building cannot take place as a matter of fact, the planning permission does not itself survive and is not implementable.

15. The courts have held in *Finney v Welsh Ministers* [2029] EWCA Civ 1868 that it is unlawful to attempt to secure a variation to a condition that is inconsistent with the operative part of a planning permission. That being the case it is not possible for the latest proposal under reference P/2025/0365 for "*Variation of Conditions relating to application P/2023/0994: Extensions and alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse and outbuildings, landscaping and associated works. Conditions: P1 – Approved Plans, 03 – Tree Protection Measures, Variation sought: Alterations to demolition areas and amendments to wall positioning which may impact tree protection matters.*" to be validated because the original permission no longer exists.
16. Therefore, the Council's reasons for failing to validate planning application reference P/2025/0365 is justified and entirely correct in accordance with established case law and legislation justified. Appeal B cannot succeed.

Formal Decisions

Appeal A APP/X1165/C/25/3369832

17. I direct that the enforcement notice is corrected by the deletion of the words "the south of" in paragraph 3.
18. Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Appeal B APP/X1165/W/25/3375118

19. The appeal is dismissed.

A A Phillips

INSPECTOR