



Appeal Decisions

Site visit made on 3 February 2026

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

an Inspector appointed by the Secretary of State

Decision date: 10 February 2026

Appeal A Ref: APP/D0840/C/25/3361408

Crean Mill Quarry, Crean, St. Buryan, PENZANCE, Cornwall, TR19 6HA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Peter Boxall against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 13 February 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for the construction of a timber building used for recreational and woodland management storage (B8) purposes and associated ancillary operational development.
 - The requirements of the notice are
 - 1) Cease the (B8) storage and recreational use of the land, demolish and remove the timber building and concrete base shown in the approximate location by a blue 'A' on the plan attached to the notice from the land outline in red.
 - 2) Remove from the land all tools, equipment, gas bottles, toilets stored within the curtilage of the building shown in the approximate location by a blue 'A' on the attached plan from the land outline(d) in red.
 - 3) Remove from the land outlined in red, all materials and debris resulting from compliance with the requirements of (1) above and restore the land to its former condition before the breach took place
 - The period for compliance with the requirements 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/D0840/W/25/3361244

Crean Mill Quarry, Crean, St. Buryan, PENZANCE, TR19 6HA

- The development proposed is 'Removal of Existing Caravan and Construction of Forestry Maintenance Building and Associated Works' without compliance of condition 2 of decision PA20/05387 dated 07/04/2021.
 - The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr P Boxall against the decision of Cornwall Council.
 - The application is PA24/04441.
 - The application sought planning permission for 'Removal of Existing Caravan and Construction of Forestry Maintenance Building and Associated Works' without compliance of condition 2 of decision PA20/05387 dated 07/04/2021.
 - The condition in dispute is No 2 which states that: "the development hereby permitted shall be carried out in accordance with the plans listed below under the heading 'Plans referred to in Consideration of this Application' (Note: these plans are Site/location plan 001 Rev C and Proposed 003 Rev B.)
 - The reason given for the condition is for the avoidance of doubt and the interests of proper planning.
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Decision

Appeal A Ref: APP/D0840/C/25/3361408

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal B Ref: APP/D0840/W/25/3361244

2. The appeal is allowed and planning permission is granted for 'Removal of Existing Caravan and Construction of Forestry Maintenance Building and Associated Works without compliance of condition 2 of decision PA20/05387 dated 07/04/2021 at Crean Mill Quarry, Crean, St. Buryan, Penzance, TR19 6HA in accordance with the application Ref PA24/04441 without compliance with condition 2 previously imposed on planning permission Ref PA20/05387 dated 07/04/2021 and subject to the following condition:
 - (i) The building hereby approved shall be used for agricultural purposes only. If within 10 years of the date of this decision the use for agricultural purposes permanently ceases and, within a further three years, planning permission has not been granted for an alternative use, and there is no outstanding appeal, the building shall be demolished, the materials removed from the land and the land restored in accordance with a scheme of work (including an implementation programme) that has been submitted to and approved in writing by the local planning authority prior to the commencement of the development.
3. It should be noted that s180(1) indicates that where planning permission is granted for any development carried out before the grant of that permission, the enforcement notice shall cease to have effect so far as inconsistent with that permission.

Preliminary Matters

4. In Appeal A where legal grounds of appeal are made, the onus of proof is on the appellant and the standard of proof is on the balance of probabilities.

The site and relevant planning history

5. The appeal site is a former quarry in the open countryside which encloses a section of cultivated land within which a series of fruit trees had recently been planted and a number of beehives located. The appeal building is on the east side of the site and a track provides access to the public highway. The site is within the West Penwith section of the Cornwall National Landscape and it is also within a defined Heritage Coast area.
6. In March 2019 an enforcement notice alleged the siting of a caravan. In November 2019 permission was refused for the removal of an existing caravan and construction of a forestry maintenance building. A further application for a similar development was approved in March 2021 (PA20/05387).
7. Subsequently the caravan was removed and replaced with a timber building different to that approved, with a footprint of 30 sq m compared to the approved footprint of 12 sq m. The approved building was a simple, timber, pitched roof, shed whereas what has been constructed is more akin to a small American style barn, described as Mississippi single garage on Drawing No 003C submitted with the

appeal application. It has a double-pitched, mansard type roof but varies from the submitted drawing as it has additional windows and a side door giving it a more domestic appearance. It contains a wood burner and domestic paraphernalia and has a loft space used for storage.

Appeal A

The appeal on ground (b)

8. An appeal on this ground is that the breach of control has not occurred as a matter of fact. The appellant states that the building is not being used for B8 (storage) purposes but is part and parcel of the forestry use, being used for the storage of produce, and associated tools and machinery on the site.
9. From my own observations the building is not being used exclusively for B8 storage of tools but it also provides a bothy facility and contains items of furniture not normally associated with use in connection with a forestry enterprise. This goes beyond an incidental storage use.
10. The Council's Land Agent considers that a simple garden shed would be adequate for keeping small tools on the site; that there is no agricultural justification for a wood burner within the building; and, that there remains very little justification for a storage building for this small scale amenity woodland. I also note that the Land Agent has also commented that a larger building would be necessary to house a small tractor and implements necessary for the appellant's intentions for the site for commercial fruit growing.
11. The material change of use has occurred as a matter of fact and the appeal on this ground fails.

The appeal on ground (c)

12. An appeal on this ground is that there has not been a breach of planning control. The appellant contends that the building on site is a temporary structure capable of being moved and does not represent operational development.
13. The three primary factors that distinguish whether a temporary or moveable structure is a building are size, permanence and physical attachment. Whilst the structure has been prefabricated off-site, it appears as a permanent structure mounted on a concrete base with no indication that it is intended to be moved in practice.
14. As a matter of fact and degree I consider that the structure represents a building for which no planning permission exists and the appeal on this ground fails.

The appeal on ground (d)

15. An appeal on this ground is that it is too late to take enforcement action. The appellant claims that the use has taken place since 2012 and that the structure replaced a caravan used for the same purpose.
16. The caravan formerly stationed on the land was subject to an enforcement notice in March 2019 when the caravan was in use for residential and storage purposes. The issue of the notice effectively 'stops the clock' on the accrual of immunity from enforcement action due to the passage of time. The appellant is unable to show that the use of the building on site for storage purposes commenced more than 10

years ago and has been continuous up to the issue of the notice the subject of this appeal.

17. The appeal on this ground fails.

The appeal on ground (f)

18. An appeal on this ground is that the three requirements are excessive but the appellant does not suggest what would be reasonable.

19. 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 in this case do not exceed what is necessary to remedy the breach.

20. 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.

21. The appeal on this ground fails.

The appeal on ground (g)

22. An appeal on this ground is that the compliance period is too short and the appellant suggests that a 12 month compliance period would be reasonable. However I am satisfied that a 6 month compliance period is entirely reasonable in view of the nature of the requirements of the notice.

23. The appeal on this ground fails.

Conclusions on Appeal A

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Appeal B

25. Because the development has already been carried out and the condition breached it is necessary to consider the planning merits of allowing the development to continue without compliance with the disputed condition. The issue therefore is whether the failure to comply with the condition has resulted in material harm, or would it be likely to cause harm over time.

26. The appellant has been developing his enterprise on site for some time and has invested in clearing deposited rubbish and preparing it for the planting of fruit trees as part of developing a commercial orchard in an environmentally friendly manner. He has submitted details of his business which indicates his approach to the site and that Forest for Cornwall (a scheme backed by Cornwall Council) has indicated support for £2600 in grants for additional planting.

27. The appellant justifies the building as constructed as being insulated through the depth of wood used, the upper window provides ventilation to maintain a steady temperature, and that its siting in a quarry helps to maintain a cool building. It will be used for 6 months seasonal storage and for winter maintenance of the site. It is stated that the stove has been installed to provide low level heat over a long period

and to dry fruit that is picked wet. Apart from desert fruit, the appellant is also considering producing apple juice or cider.

28. I am satisfied that whilst the building may be larger than strictly required at present, its size is justified in the light of the appellant's continuing development of the enterprise.
29. Although not of a design of agricultural building generally seen in Cornwall, it is modest in size, is well constructed in natural materials and has no visual impact outside the quarry site.
30. I conclude that the removal of condition 2 of PA/0/05387 is acceptable as the building constructed is not harmful to the Cornwall National Landscape and the size of the building is reasonably necessary for the purposes of forestry. The development is in accordance with the policies in the Cornwall Local Plan and the National Planning Policy Framework.
31. Conditions 1 and 4 of PA/0/05387 have been discharged and there is no need for these to be repeated. Condition 3 remains relevant and necessary and I therefore retain that condition as part of this permission.

Conclusion

32. For the reasons given above I allow the appeal.

P N Jarratt

INSPECTOR