



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: 23 February 2026

Appeal A Ref: APP/D0840/C/24/3355044

Land known as Land southwest of Pengelly, Bosavern, St Just, Cornwall, TR19 7RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Barnes Thomas against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 22 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the undertaking of engineering operations to form a pond and creation of a stone quay. The approximate location of the pond is marked by a blue 'X' on the plan attached to the notice.
 - The requirements of the notice are :
 - 1) Demolish and infill the pond shown in the approximate location by a blue 'X' on the plan.
 - 2) Demolish and remove the quay constructed from granite stone from the land outlined in red on the plan.
 - 3) Restore the land to its former condition/contours before the engineering operations took place.
 - 4) Remove from the land all materials and debris resulting from compliance with the requirements 1, 2 and 3 above, and restore the land to its former condition before the breach took place.
 - The period for compliance with the requirements is 8 months.
 - The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/D0840/W/24/3352891

Land South of Pengelly, Bosavern, St Just, Cornwall, TR19 7RD

- 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 Barnes Thomas against the decision of Cornwall Council.
 - The application Ref is PA23/05034.
 - The development proposed is construction of a pond (retrospective).
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Decisions

Appeal A Ref: APP/D0840/C/24/3355044

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

Appeal B Ref: APP/D0840/W/24/3352891

2. The appeal is allowed and planning permission is granted for the construction of a pond (retrospective) at land South of Pengelly, St Just, TR19 7RD in accordance with the terms of the application, Ref PA23/05034, and the plans submitted with it, subject to the conditions in the attached schedule.

The site and relevant planning history

3. The appeal site is within the shallow Cot Valley within a defined Heritage Coast within the Cornwall National Landscape and within the West Devon Mining Landscape World Heritage Site. West of the site is a group of houses set in a small woodland but the surroundings generally comprise open fields on rising ground and the remains of former mine workings. Part of the site is in flood zones 2 and 3.
4. Following investigations in June 2021 regarding the creation of a pond of about 30x80m, the Council concluded that it represented engineering operations requiring planning permission. An application to retain the development was submitted but subsequently withdrawn.

Appeal A

5. This appeal is on ground (g) only, which is that the compliance period is too short. The Council consider that the compliance period of 8 months is proportionate and reasonable given the degree of harm to a sensitive attractive landscape. The appellant considers that a compliance period of 12 months would be an appropriate period if Appeal B does not succeed. However, no explanation is provided to justify a longer compliance period.
6. The appeal on this ground fails.

Conclusion on Appeal A

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

Appeal B

8. The main issue in this appeal is the extent of the impact of the pond on the character and appearance of the countryside.
9. The pond has been dug into the valley side and has earth banking separating the pond from a nearby watercourse. A stone jetty has been constructed at the west end of the pond. It is relatively significant local feature within a highly sensitive landscape crossed by a number of footpaths and rights of way giving views of the pond. It is considered by the Council that the pond appears artificial and out of context with the local topography. It is also considered that it appears as an incongruous, domestic addition that neither conserves nor enhances the rural landscape character of the St Just Mining District. However it is acknowledged that the harm to the World Heritage site is less than substantial and that there are few public benefits.
10. Policies in the Cornwall Local Plan seek to protect, maintain and enhance the character and appearance of the landscape and other policies seek to protect historic assets in accordance with their significance.
11. The development has generated a substantial number of representations both in support and opposed with an online petition of many signatories, together with objections from the St Just in Penwith Town Council. However, despite the objections made the scale of the pond is not substantial and consequently the topography of the landscape remains legible and does not detract from the landscape character of the surrounding area. The limited size of the pond conserves the character and appearance of the National Landscape.

12. I also note that the guidance for the Cornwall Character Assessment for West Penwith North and West Coastal Strip refers to the enhancement and expansion of wet woodland and wetland habitats in the sheltered valleys to increase climate resilience. Additionally Policy C1(5) of the Climate Emergency DPD supports developments that ensure a net gain for biodiversity.
13. The development is some 1.4km from the boundary of Land's End aerodrome and lies close to the flightpath of aircraft. Concern has been expressed about the increased possibility of bird strike arising from wildfowl being encouraged by the presence of the pond. However, this eventuality can be mitigated by an appropriate condition requiring the submission and approval of a Bird Hazard Management Plan.
14. The Environment Agency is satisfied that the submitted Flood Risk Assessment demonstrates that there will be no risk of increased flooding elsewhere.
15. A Preliminary Ecological Appraisal was submitted as part of the planning application which concluded that the pond adds to the biodiversity of the site and that this will improve over time.
16. It is accepted that the construction of the pond has had an impact on the character and appearance of the countryside but, on balance, its scale is small and not so substantial to significantly harm the character or appearance of the area. Concerns regarding flood risk, bird strike hazards, safety and ecology can be controlled through the imposition of appropriate and necessary conditions. Additionally, a condition requires the outflow to be modified in order to secure a maximum water level for the pond such that it reassembles a wet marsh land habitat with no overtopping hazard. It is noted that the appellant does not challenge the proposed conditions and has also offered to remove the quay, although as this is not harmful to the landscape, this would be unnecessary. The appellant has also indicated that a condition restricting the ponds use to wildlife/environmental purposes and not for recreational purposes would be acceptable but such a condition would also be unnecessary.
17. Accordingly, with these conditions the development would accord with the Policies 16, 23 and 24 of the Cornwall Local Plan relating to health and wellbeing, natural environments and historic environments It would also accord with policies in the Cornwall AONB Management Plan and the National Planning Policy Framework.

Conclusion on Appeal B

18. For the reasons given above the appeal should be allowed.

Other matter

19. 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.

P N Jarratt

INSPECTOR

Appeal B Ref: APP/D0840/W/24/3352891

Schedule of Conditions

1 The development hereby permitted shall be carried out in accordance with the plans listed below:

- Site/location Plan; Plan 1
- Existing P498675.01
- Proposed 3005 Rev A
- Existing 0222-1925-002
- Existing 0222-1925-001 Rev C
- Existing 3003C
- Existing 0222-1925-001 Rev B

2 The development site shall be modified such that no part of the final ground elevation is greater than the pre-construction ground elevation. The pre-construction ground elevation has been determined using Environment Agency Composite Lidar DTM data which can be found here (<https://environment.data.gov.uk/survey>) under the product name 'Lidar Composite DTM, Year: 2022, Resolution: 1m'. This data is sourced from a collection of lidar surveys dated from 2019 and earlier. This modification should be completed in accordance with the following planning application documents:

- 'Flood Risk Assessment Addendum', provided by EDS on the 21/12/2023 (Document Ref. J-2750).

- Figure: 'Plan Showing Pre-Development Ground Levels and Approximate Position of Pond', provided by EDS on the 21/12/2023 (Project No. J-3000, Drawing No. 3003, Rev. C). This figure is contained within the final page of the document 'Flood Risk Addendum', detailed above.

3 Within three months of the date of the decision, all raised made-ground material to be removed from atop the embankment (situated adjacently north-west and southwest of the lake) shall be repositioned onto the lake-facing sides of the embankment. This modification should be completed in accordance with the following planning application documents:

- Figure - 'Proposed Bank Widths and New Outfall Pipe', provided by EDS on the 20/02/2024 (Project No. J-3000, Drawing No. 3005, Rev. A, Entitled - Plan Showing Proposed Bank Widths and New Outfall Pipe).

The Local Planning Authority shall be notified once the works have been completed and the embankment shall be retained thereafter in perpetuity in that condition.

4 Within three months of the date of the decision, the outfall at the western corner of the site shall be removed and replaced. This modification shall be completed in accordance with the following planning application documents:

- Figure: 'Proposed Bank Widths and New Outfall Pipe', provided by EDS on the 20/02/2024 (Project No. J-3000, Drawing No. 3005, Rev. A, Entitled - Plan Showing Proposed Bank Widths and New Outfall Pipe). The Local Planning Authority

shall be notified once the works have been completed and the embankment shall be retained thereafter in perpetuity in that condition.

5 Within three months of the date of the decision, a Bird Hazard Management Plan (BHMP) shall be submitted to and approved in writing by the Local Planning Authority. The pond shall be maintained in accordance with the approved details thereafter in perpetuity.

6 Within three months of the date of the decision, details of a planting, landscaping and means of enclosure around the pond shall be submitted to and approved in writing by the local planning authority. The means of enclosure shall subsequently be erected in accordance with the approved details within three months of the date of approval of the details by the local planning authority. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the approval of the submitted details. Notice shall be given to the Local Planning Authority when the approved scheme has been completed. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.