



Appeal Decisions

Site visit made on 12 March 2026

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

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Appeals A and B Ref: APP/K1128/C/24/3339477 and APP/K1128/C/24/3339478 Lower Clunkamoor, Diptford, TOTNES, TQ9 7NL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
 - Appeal A is made by Mr William Staddon and Appeal B by Mrs Emma Staddon against an enforcement notice issued by South Hams District Council.
 - The notice was issued on 8 February 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the creation of a stone surfaced track across the Land.
 - The requirements of the notice are:
 - (i) Remove all the rubble/hardcore and stone piles from the land; and
 - (ii) Reprofile the field shown hatched green on the land by scraping the soil back over the line of the unauthorised track to ensure the levels of this field are returned it (sic) to their original levels and sloping nature.
 - The period for compliance with the requirements is three months.
 - The appeals are 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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Decisions

1. It is directed that the enforcement notice is corrected by the deletion of the words 'the creation of a stone surfaced track' in the allegation and their replacement with the words 'the creation of a track.'

Subject to the correction, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the creation of a track at land as shown on the plan attached to the notice and subject to the following condition:

- (i) Within 6 months of the date of this decision a scheme for the completion of the track shall be submitted to and approved by the local planning authority. and be implemented within 6 months of the local planning authority's approval. The scheme shall include details and extent of surfacing materials, and landscaping, including the planting of a hedgerow to the north of the track adjacent to Lower Clunkamoor, and measures for improving biodiversity.

Applications for costs

2. An application for costs has been made by the appellants against the Council. This is the subject of a separate decision.

Preliminary matter

3. The allegation in the notice refers to the creation of a stone surfaced track but much of the stoned surface has been removed by the appellants and piled up in places as shown on the photographs attached to the notice. However the track is still evident on the ground and is flanked in part by mounds of earth moved as part of the creation of the track. In view of this I intend to correct the allegation to 'the creation of a track' which I am able to do as I do not consider that this correction would cause any injustice to either party.

The appeal site and relevant planning history

4. The appeal site is in open countryside in the South Devon National Landscape. It relates to two fields extending to 9.2ha which slope north to south with the two fields separated by a hedge and ditch. At my site inspection it was apparent from the state of the ground that the fields had been used for sheep grazing. There is a lawful access track from the public highway which is not subject to the notice and this connects to the appeal site track of about 800m with the site of a proposed agricultural building. In November 2021 it was determined that prior approval for the building was not required (3808/21/AG). The Council states that at their inspections of the site in 2023, the stone surfacing of the track had been largely removed but remained in two piles. At present, some stones remain on the track as does scraped earth to the side of the track.
5. Two applications to regularise an access track were withdrawn in 2022 and 2023. In respect of the latter application (4012/22/FUL), the Council notified the agent that Counsel had advised that the decision to issue the prior approval was unsound in the sense that the decision-making process was flawed. Notwithstanding this, the Council did not seek to take any action to rectify the situation and the decision still stands.
6. There has been some discussion over the re-siting of the proposed agricultural building but no application has been made seeking this.

The appeal on ground (c)

7. An appeal on this ground is that there has not been a breach of planning control in view of the provisions of Part 4 of the Town and Country Planning (General Permitted Development (England) Order 2015, (GPDO), as amended, which sets out that certain temporary buildings and uses are allowed on land in association with approved development. It is contended that the stone removed from the track has been stored on the area for the building approval to be used as materials for the construction of the barn. Similarly topsoil is also stored on this part of the site. The appellants claim an entitlement to store the materials on the land under Part 4 Class A of the GPDO as part of the development approved.
8. Notwithstanding these arguments, prior notification for the creation of an agricultural track as required under paragraph A.2(2)(i) means that the track is not permitted under Part 6 of the GPDO. Additionally as the stone removed from the track has remained in piles for a considerable period of time, and not incorporated forthwith into the building, condition A.2(1)(c) is not met.

9. The appellants have not shown on the balance of probabilities that the track is permitted development under the provisions of the GPDO. Accordingly, the appeal on this ground fails.

The appeal on ground (a)

10. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
11. The appellants state that the track has been positioned to access the proposed agricultural building to limit damage to the ground more than necessary, so as to retain the quality of the grazing land availability. Cattle and sheep have been grazed continuously since the land was acquired and Mr Haddon is a VAT registered farmer who farms an additional 180 acres at Dodovens Farm.
12. The Council considers that there is no proven agricultural need for the track as its justification is reliant on the building subject to the prior notification, which at the time that the notice was served, did not exist. The Council questions whether it could be erected as permitted development in the absence of a Certificate of Lawfulness which would be accompanied by the relevant supporting evidence.
13. Despite the appellants' statement that consent was granted by the Council for the agricultural building for which there was an agricultural justification, it is the GPDO that grants planning permission. Furthermore, where prior approval is not required, the development is lawful only if it is carried out in accordance with the permitted development criteria identified in Schedule 2, Part 6 of the GPDO which is a responsibility that rests with the appellants.
14. However in this ground (a) appeal, I am considering the planning merits of a track and not facts relating to the agricultural building. The main issue is the impact the track has on the countryside and on the South Devon National Landscape which the South West Devon Joint Local Plan Policies TTV26 and DEV25 seek to protect as do the wider policies contained in the National Planning Policy Framework (NPPF).
15. The setting of the track is characterised by the deeply rolling patchwork agricultural landscape within which farm tracks form a discrete and natural part of land and agricultural management. The topography and vegetation in the vicinity of the site limits opportunities to view the track. Whilst the existing track and the adjoining lateral scraped back soil neither conserves nor enhances the National Landscape, neither does it harm its intrinsic characteristics as it is not a significant feature in the landscape.
16. The appellants have indicated a wish to complete the track in accordance with the details forming part of their withdrawn applications to regularise the track which included biodiversity measures. The track is required to facilitate safe movements of tractors and agricultural machinery particularly in adverse ground conditions. The 3.5m wide track would provide a hard surfaced route from the gateway to the proposed agricultural building. However as such details have no particular status in this appeal, the submission of a scheme could be the subject of a condition which would ensure that the track could be completed to an appropriate standard.
17. Accepting that prior notification for the agricultural building is not required, it would be unreasonable for one to be erected on the appeal site without the provision of

some form of safe and functional vehicular access, which the track would provide. The track would not by itself create increased vehicle movements but it facilitates movements to the agricultural building.

18. The appellants have referred to a potential fallback position following the requirements of the notice being met, which would be to exercise their permitted development rights by giving prior notification to create a track.
19. The South Hams Society has submitted extensive representations in which there is criticism of the Council's processing of the prior notification of the agricultural building, whether the claim that there existed a historic track, whether permitted development rights exist for the area of track concerned, the extent of the stone removed, the impact of the track on the rural environment, agricultural activity at Dodovens Farm, and biodiversity issues amongst many other matters.
20. Representations have also been submitted by a neighbour whose living conditions have been affected by noise and vehicular lights and that her holiday letting business has been destroyed by disturbance. It is also claimed that the nature reserve created by the neighbour is likely also to be adversely affected. The appellant has suggested a landscape condition requiring a hedgerow to be planted could prevent the potential for light spill to the house at Lower Clunkamoor.
21. I conclude that there is an agricultural operation on the land through the grazing of livestock and that the provision of an access track is reasonably necessary to access any agricultural building constructed to serve the operation. Such a track, subject to a condition regarding the implementation of a scheme incorporating landscaping and biodiversity measures (as identified in the ecological appraisal submitted as part of withdrawn application 4012/22/FUL), would be acceptable in this location and would ensure that its visual impact is not significant. It would conform to the intentions of the relevant policies in the Local Plan and NPPF.

Conclusions

22. For the reasons given above, I conclude that the appeals succeed on ground (a). I shall grant planning permission for the operations as described in the notice as corrected. The enforcement notice will be corrected and quashed.
23. In these circumstances the appeals on ground (f) do not fall to be considered.

P N Jarratt

INSPECTOR