



Appeal Decision

Site visit made on 24 March 2026

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2026

Appeal Ref: APP/K1128/C/24/3351249

Murtwell House, Diptford, Totnes TQ9 7NQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Oliver Cowmeadow against an enforcement notice ('the Notice') issued by South Hams District Council ('the Council').
 - The notice was issued on 7 August 2024.
 - The breach of planning control as alleged in the notice is 1. Without planning permission: (a) the unauthorised siting of a yurt on the land for use as residential purposes in connection with an International Macrobiotic Cookery School; (b) the unauthorised change of use of the dwelling Murtwell House from residential (Class C3) to a mixed use of residential and International Macrobiotic Cookery School language school Class C3; (c) the use of an outbuilding as residential purposes in connection with an International Macrobiotic Cookery School; and (d) the construction and use of an unauthorised wooden structure as an office in connection with the unauthorised C3 use.
 - The requirements of the notice are to: (i) Cease the use of the Yurt as residential accommodation; (ii) Cease the subdivision of the main dwelling house to revert back to a single residential unit; (iii) Cease the use of the outbuilding for residential use; (iv) Cease the use of the wooden structure as an office; and (v) Remove the wooden structure currently being used as an office in connection with the Class C3 use.
 - The periods for compliance with requirements (i)-(iv) is 3 months and requirement (v) is 5 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (g) 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 corrected by:
Removing paragraph 1.(a) of section 3 of the Notice, 'The matters which appear to constitute the breach of planning control', and replacing it with a new paragraph 1.(a) to read "the unauthorised siting of a yurt on the land for use as a separate unit of residential accommodation in connection with the International Macrobiotic Cookery School;"; omitting the words "language school Class C3" from paragraph 1.(b) of section 3 of the Notice; deleting the word "as" from paragraph 1.(c) of section 3 of the Notice and substituting the word "for"; and omitting the word "C3" from paragraph 1.(d) of section 3 of the Notice.

And varied by:

inserting "a separate unit of" between the words "Yurt as" and "residential accommodation" in section 5.(i) of the Notice, 'What you are required to do'; and deleting the words "Class C3 use" from section 5.(v) of the Notice, 'and the substitution of the words "use of the property"'.

Subject to the correction and variations, the appeal is allowed in part on ground (a) insofar as it relates to the change of use of the dwelling Murtwell House from residential (Class C3) to a mixed use of residential and International Macrobiotic Cookery School, the use of an outbuilding for residential purposes in connection

with the International Macrobiotic Cookery School; and the construction and use of an unauthorised wooden structure as an office and planning permission is granted, subject to the schedule of conditions, on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the change of use of the dwelling Murtwell House from residential (Class C3) to a mixed use of residential and International Macrobiotic Cookery School; the use of an outbuilding for residential purposes in connection with the International Macrobiotic Cookery School; and the construction and use of an unauthorised wooden structure as an office on land at Murtwell House, Diptford, Totnes TQ9 7NQ.

Otherwise, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused for the use of the Yurt as a separate unit of residential accommodation at Murtwell House, Diptford, Totnes TQ9 7NQ on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Schedule of conditions

1. The educational use hereby approved shall be limited to use as a cookery school and not for any other purpose in Class F1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
2. The premises shall not be used for teaching/commercial purposes outside the hours of 0800 to 1800.
3. The use of the residential accommodation in the stone barn shall only be used in connection with the use of the cookery school.
4. The residential accommodation at first floor level in the southwestern part of Murtwell House shall only be used for purposes other than as part of Murtwell House as a single dwelling through its use as accommodation in connection with the cookery school.
5. The wooden building shall only be used as an office in conjunction with the cookery school or for purposes ancillary to the main dwellinghouse.
6. No more than one course shall be run from the land at any one time.

The Notice

2. Alleged breach of planning control 1.(b) refers to “language school C3”. I take this to be a reference to Class C3 from the Use Classes Order 1987, as amended, which is for the use of a property as “Dwellinghouses, used as sole or main residences”. In the context of the alleged mixed-use of Murtwell House, its inclusion makes no sense. As it would not cause injustice to either party, I shall correct the Notice by omitting this from the allegation.
3. I find similarly in respect of the reference to “C3” in alleged breach of planning control 1.(d). Correcting the Notice, by omitting it, is necessary and would not cause injustice. This would require variation of number (v) of the requirements of the Notice.
4. The use of the word “as” in allegation 1.(c) is clearly a simple drafting error and can be corrected without injustice.

Procedural Matter

5. Diptford Parish Council supported the actions taken by the Council. As its comments reflect those made in detail in the Council's submissions, they are addressed in my reasons, below.

Ground (a) and the Deemed Application

6. A Ground (a) appeal is made on the grounds that planning permission should be granted for the development referred to in the Notice.

Main Issues

7. The main issues are:
 - whether the development lies in an appropriate location, taking into account whether it would result in an increase in vehicular traffic;
 - the effect of the development on highway safety;
 - the effect of the development on the character and appearance of the area; and
 - the standard of accommodation in the yurt.

Reasons

Site location and description

8. Murtwell is a small collection of properties that lies in the open countryside, in a deeply rural setting. It is served by a network of narrow, often sunken lanes that link it, and other similar collections of dwellings and isolated farmsteads, to larger settlements. The nearest such settlement, Harbertonford, some 2.5kms to the east, has a small range of facilities and service provision.
9. Murtwell House is a fairly large, detached property set within an extremely generous garden area. It lies on the southern side of a steeply sided valley formed by a small stream.
10. The house has been sub-divided at ground level by a 'wall' formed by a folding wooden screen door. When this is closed, there is a two-storey dwelling on one side. On the other side, at ground level, is a room with an independent access from the garden. From this room, a flight of stairs leads to three bedrooms and a bathroom on the first floor. There is no link to the remainder of the house at that level.
11. Further accommodation has been formed in a stone outbuilding close to the house. Here, there are two small rooms with single beds, a slightly larger room with a double bed and en-suite bathroom and shower, and a fourth room housing a shower, toilet and hand-basin. There is no internal link to the latter, so persons staying in the two single rooms have to go outside the building to access it.
12. Adjacent to this is another detached building, which was originally a large garage. This has been converted, and its use changed, to a cookery teaching room. That use was allowed under the terms of a conditional planning permission granted in February 2018, (Council reference 0513/18/FUL – "the 2018 permission").
13. Adjacent to the access from the public road, is a wooden shed, used as an office for the cookery school. Between this and the road is a narrow stone building. This is referred to in submissions as the 'log store'.

14. Away from these buildings, a yurt has been constructed on an area of garden to the west of the house. There is a parking area, as well as a growing area that includes a polytunnel, on the western side of the house. Another parking area lies to its east.

Relevant planning history

15. Before assessing the main issues, it is necessary to rehearse the terms of planning permission 0513/18/FUL. As well as the cookery school use, it refers to a parking area at the east end of the property. The garage, which measured about 12.5m by 8.4m, now houses a teaching area with cooking facilities, worktops and a sink; there are also 10 similarly equipped cooking stations for students.
16. Amongst the conditions that were attached to the planning permission were: No. 5 that restricted teaching hours to between 08.00 and 18.00, attached to safeguard the residential amenities of adjoining residential properties; and No. 6 that restricted the use of the building to a use within Class D1 of the Town and Country Planning (Use Classes) Amendment Order 2005 (as amended). This piece of legislation was an amendment to the Town and Country Planning (Use Classes) Order 1987 ('UCO'), and the condition was attached for similar reasoning. Class D1 was defined as 'Non-residential institutions', and referred to any use not including a residential use, including under (c) for the provision of education.
17. Amongst other things, Class D1 was revoked in 2020¹. Reference to 'any use not including residential use' is now found in Class F.1 of the amended UCO, which includes '(a) [a use that] is 'for the provision of education'. The cookery teaching room now sits within this use class.
18. Subsequent to the 2018 permission, permission was granted² for the change of use of agricultural land to a car park and two applications were made retrospectively and subsequently withdrawn. The car park is that at the western, higher end of the Murtwell House. The first³ withdrawn application was for the use of part of the dwelling, stone building and office in connection with the cookery school, and the second⁴ for the temporary use of the yurt as staff accommodation.

Appropriate location

19. The Council refers to a number of policies from the Plymouth and South West Devon Joint Local Plan 2014-2034 ('JLP') that restrict development within the open countryside for a variety of reasons. Its Policies SPT1 and SPT2 are amongst what are described as the JLP's 'higher level' policies, and both have the aim of securing sustainable development at their heart. The former is entitled 'Delivering sustainable development' and supports growth and change that delivers a more sustainable future. JLP Policy SPT2 is entitled 'Sustainable linked neighbourhoods and sustainable rural communities' and sets out a number of criteria that guide decision-makers on whether development is sustainable in this regard. Amongst their terms is a hierarchy of sustainable locations from highly sustainable urban areas to the least sustainable areas in the open countryside.

¹ By The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (S.I. 2020/757)

² Council reference 4032/18/FUL – Approved 17 April 2019

³ Council reference 1900/23/FUL – Withdrawn 25 September 2023

⁴ Council reference 1949/23/FUL – Withdrawn 25 September 2023

20. Detailed policy guidance on 'Development in the open countryside' is found in Policy TTV26, 'Supporting the rural economy' in Policy DEV15, and 'Delivering high quality housing' in Policy DEV10. Amongst their aims to provide sustainable development are avoiding developments that are reliant on car travel, and the encouragement of alternative means of transport.
21. In respect of new residential development, this guidance is in broad accordance with the terms of the Government's National Planning Policy Framework, December 2024, ('the Framework').
22. Amongst other things, this sets out that decisions should avoid the development of isolated homes in the countryside, as the Council alleges has occurred here, unless it accords with specified circumstances. In its submissions, the Council refers to the case of *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government & Ors* [2021] EWCA Civ 320. Amongst other things, it provided a definition of 'isolated' in terms of the provision of homes in the countryside.
23. Whilst there are several houses at Murtwell, by reason of their small number and spread I do not consider this to be a settlement and, therefore, Murtwell House is isolated in terms of the provision of new homes.
24. Policy TTV26 sets out that isolated development will only be allowed in exceptional circumstances. Amongst these, in terms of new permanent residential development, an essential need for a rural worker should be demonstrated. The evidence shows that the yurt has been used as a dwelling, by a couple that relocated to Murtwell House for work purposes. No essential need for this accommodation was provided. Furthermore, the evidence shows that the yurt did not offer the couple a sufficiently good standard of accommodation as required in Policy DEV10.
25. Given the above, the requirement to cease the use of the yurt for residential purposes is sound. However, requirement (i) of the Notice does not reflect its alleged breach (a), so the requirement needs to be varied.
26. In its submissions, the Council refer to "staff and students living on the site". In respect of the use of the accommodation in the house and barn, it would better be described as they are 'staying' on site for the duration of courses.
27. As such, I find that, in residential terms, Policy SPT2 is only relevant to the use of the yurt. My reading of the policy is that its drive towards linked neighbourhoods and sustainable rural communities is, in residential terms, aimed at new dwellings and homes. The manner in which the accommodation in Murtwell House and the stone barn are used has not resulted in new dwellings.
28. However, the questions of reducing the need for travel and the protection of the character and appearance of an area, found within the overall aim of Policy SPT1 and elements of Policy DEV15, are relevant in assessing whether this is an appropriate location for the provision of this form of accommodation.
29. The amount of accommodation that has been formed from the use of bedrooms in Murtwell House and the conversion of the stone barn provides bed spaces for up to 10 people. This equates to the 10 cooking stations in the school.

30. The Council's position in its appeal statement, is that it has "a concern that a diversified and expanded operation still carries with it greater scope for an increase in traffic, pedestrians and cyclists in the local road network over what was granted planning permission in 2018". It does not expand on this, however. Similarly, the Council's suggestion that a "surge in demand for day classes with the expanded operation could still potentially increase daily vehicular movements from those customers that do not favour an overnight stay" is not explained.
31. Overall, scant evidence has been put forward by the Council to substantiate the assertion in the fourth reason for issuing the Notice, that the development would be "likely to result in an increase in traffic".
32. Although the cookery school's courses include other elements, such as the growing of food, it revolves around its kitchen. Its 10 workstations limit the number of people that can be educated. Although not a point made by the Council, I acknowledge that more than one student might use a workstation. However, that could be the case presently as there is no restriction on numbers in the 2018 planning permission. It has not been demonstrated how the provision of the small teaching area on the ground floor of Murtwell House might lead to a surge in demand, and I can see no reason why it should.
33. The provision of the accommodation on the site allows students and one member of staff to stay on the site during courses should they wish to, instead of accessing the school daily from accommodation elsewhere. The Appellant has submitted evidence⁵ that, he says, shows one trip in and out of the property every two days during courses. I have little evidence of either the methodology used or whether all of the courses during the period of the study were included. Therefore, I cannot be categorical in agreeing with the Appellant's assertion that car trips have been reduced to about a quarter of the traffic before the accommodation was provided. Reference has been made to a sustainable travel plan, but that has not been submitted to me in evidence.
34. Given the length of teaching days at the school and the provision of meals on the site, it seems unlikely that those staying would make many trips out in the evenings. The ethos of the business to provide a relaxed environment to "rejuvenate physically and mentally", which is quite understandable given its quiet location, reinforces my view on this.
35. Therefore, in the absence of any compelling evidence to the contrary, the ability for staff and/or students to stay on site would be very likely, to my mind, lead to a decrease in vehicle movements. If no-one stayed in the accommodation, it would be no worse than would be allowed under the terms of the extant 2018 planning permission.
36. The Council is right in that the site is not well served by public transport, walking and cycling opportunities, as required by paragraph 6 of Policy SPT2. However, this is already the case and there would be no increase in numbers of people accessing the site when compared to the permitted use.
37. For the above reasons, I find that, subject to conditions, the provision of the accommodation in the main house and stone barn would accord with JLP Policy DEV15.

⁵ Appendix 7 – Actual car trips to and from Murtwell House, September 2023 – August 2024

38. Policy TTV26 seeks to protect the countryside from unnecessary development. Its thrust is to ensure that it will protect the special characteristics and role of the countryside. It is part of a suite of policies and, as its supporting text sets out, its terms should be read in conjunction with other JLP policies. Policy DEV15 provides conditional support for business-related development proposals in rural areas.
39. The aims of these policies broadly accord with the 'Supporting a prosperous rural economy' section of the Framework. Amongst its terms are that planning decisions "should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings; ...and c) sustainable rural tourism and leisure developments which respect the character of the countryside".
40. The office is used by the owner of Murtwell House and its cookery school, and an administrator who works from the site. Notwithstanding that the office is of a fairly small size, were its facilities to be provided in the main house they would take up a significant amount of space. This, allied to having the office would avoid the need for the administrator to come into the house, and that it would allow the Appellant to leave his administrative work behind when returning to his home at the end of the day, I can readily understand why the Appellant sought to relocate the office functions. I find that these, and that it would assist in the running of the business, provide the required need for the office building.
41. Providing the office at the property does not lead to an increase in vehicle movements. The Appellant lives at the property, and the evidence shows that the administrator already travels to the site to work.

Highway safety

42. Although not a reason for issuing the Notice, the Council's submissions include an assertion that the development would have a severe impact on road safety. It says that residents of the area have experienced this and have described the effects. Diptford Parish Council remark that there is poor access to the site. The Council does not refer to a policy from the JLP in respect of highway safety, but I am aware of the terms of paragraph 116 of the Framework.
43. The roads in the area are narrow, steep and serpentine, and their junctions often have limited visibility. However, as I have found that there would be no increase in traffic movements above those allowed, I find that there would not be an adverse effect on highway safety arising from the accommodation and office provided at Murtwell House.

Character and appearance

44. Although not referenced in the Notice, in its statement the Council says that taken cumulatively it considers that the development "does have an adverse impact on the countryside setting. On this basis the proposal is not considered to accord with Policy TTV26".
45. I have found that the use of the yurt would be contrary to policies in the JLP. However, the Council makes no case that it would affect the appearance of the area nor that it should be removed.

46. Policy TTV26 2.ii sets out that developments, where appropriate, should “Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration”. The manner in which the rooms in the stone barn have been provided is sympathetic to the building, complements the rural location and causes no harm to its character or appearance. This is also the case with the accommodation and teaching area provided in the main house.
47. The wooden office building is not large, it is rectangular in footprint and is set under a low-angled mono-pitch roof. It has sufficient room for two workstations, office equipment such as printers, filing cabinets and shelving, and a wood burning stove.
48. Although positioned close to the public road, it is set well above it and is behind the log barn which largely screens the office from public views. Parts of its end elevations can be seen, more so when descending the public road. However, thick vegetation at either end of the office, especially in the spring and summer, allied to its dark wood finish, mean it is not a prominent feature. It has no ill-effects on the character or appearance of the area.
49. For the above reasons, I find that the development at the site, save for the use of the yurt, has no adverse effect on the character and appearance of the area, whether taken individually or cumulatively. For this reason, it accords with those terms of JLP Policies TTV26 and DEV15 that relate to character and appearance.

Conditions

50. The Appellant suggested a number of conditions that might be applied if his Ground (a) case were to be successful. The Council did not submit a schedule of conditions with its Questionnaire. I later asked if it wished to do so. It did, and the Appellant was given an opportunity to comment on the proposed conditions. I subsequently wrote to the parties asking for their views on whether the hours of the educational use of the land and parking should be conditioned. I have taken the parties' views into account, as well as the contents of the Government's Planning Practice Guidance and paragraphs 56 and 57 of its Framework.
51. The Council initially proposed four conditions. Though it did not supply reasons for these, they can easily be divined from its appeal submissions. I find that three of the four conditions initially suggested by the Council are required, in some form, to make the development acceptable.
52. The Appellant objected to a condition restricting the accommodation to be used in connection with the cookery school. He said that he might wish to rent rooms for holiday accommodation in the manner that many houses in the area do, when courses do not require the accommodation. The use of rooms in the house in this manner might be undertaken without the need for planning permission and it would be unfair to remove this right from the Appellant. Therefore, in respect of rooms in the house I attach a condition to reflect this. However, it has not been demonstrated that the use of the accommodation in the stone barn might be used in that way without planning permission, so the Council's proposed restriction is applied there.
53. The Council's proposed conditions restricting the use of the office was not challenged by the Appellant, and is necessary to ensure that there is not an increase in traffic movements to and from the site. That restricting the use of the

cooking school, which again was unchallenged, reflects and updates that applied in the 2018 permission and is necessary.

54. Were more than one course to be run at any one time at Murtwell House, which is a possibility given the teaching space that has been formed in the house, additional, harmful traffic movements might occur. Therefore, a condition to preclude this is necessary and reasonable.
55. Both parties agreed that it would be necessary to transfer the condition restricting teaching hours at the school from the 2018 permission to this one. It had been applied to protect the amenities of the area's residents. It is reasonable and necessary, as other uses in that Class might lead to an increase in car travel and bring adverse change to the character of the area.
56. It would not be reasonable for me to restrict the number of courses at the site in a year, as proposed by the Appellant. There is no such restriction on the original planning permission for the cooking school and none of the development hereby approved changes the situation to the degree that such a condition would be required.
57. Although not objected to by the Appellant, I shall not attach that proposed by the Council requiring compliance with plans submitted with the appeal. This is not necessary, as the work has already been undertaken and those matters that I am allowing to remain have been carried out in an appropriate manner. Further, the submitted plans are incomplete, very basic and I cannot be sure that what has been carried out is accurately reflected in those drawings.
58. The Council did not request a condition relating to parking at Murtwell House. It informed me that in respect of the car parking at the upper end of the site, which is outside the red line, it was satisfied the terms of planning permission 4032/18/FUL were being complied with. In the circumstances, there is no need to apply a parking condition to the permission I grant.

Conclusion on Ground (a) and the Deemed Application

59. For the reasons that I have given, above, the development proposed at Murtwell House, save for the use of the yurt, is appropriate to its location. It has no ill-effect on the character and appearance of the area whether looked at individually or cumulatively, and does not adversely affect highway safety. The works that have been undertaken and the change of use that has occurred represent sustainable development. As I have detailed in my reasoning, subject to the use of conditions, it accords with the terms of those development plan policies referred to in the Notice and with those in the Framework.

Ground (g)

60. An appeal under Ground (g) is that the times for compliance with the terms of the Notice fall short of what should reasonably be allowed.
61. As I have only found against the use of the yurt, any Ground (g) case can only relate to this.
62. There is no reference to the yurt in the Ground (g) submissions, and the Appellant says that the use referred to in the Notice has ceased. Therefore, there is no need to extend the period for compliance in this regard.

63. For the above reasons, the Ground (g) case fails.

Conclusion

64. For the reasons given above I conclude that the Ground (a) appeal should succeed in part only, and I will grant planning permission for the change of use of the dwelling Murtwell House from residential (Class C3) to a mixed use of residential and International Macrobiotic Cookery School; the use of an outbuilding for residential purposes in connection with an International Macrobiotic Cookery School; and the construction and use of an unauthorised wooden structure as an office, but otherwise I will uphold the Notice with variation and refuse to grant planning permission in respect of the siting of a yurt on the land for use as residential purposes in connection with the International Macrobiotic Cookery School. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

R Curnow

INSPECTOR