



Appeal Decisions

Site visit made on 22 April 2026

by **Ms S Watson**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2026

Appeal A Ref: APP/F0114/C/24/3349091

Appeal B Ref: APP/F0114/C/24/3349092

Norton Lane Barn, Norton Lane, Wellow, Bath, BA2 8QR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Alexander West and Appeal B is made by Ms Gabriella Pintscher against an enforcement notice issued by Bath and North East Somerset Council.
- The notice was issued on 2 July 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a building for residential and storage purposes and the erection of gates and fencing.
- The requirements of the notice are: 1. Remove the unauthorised building (highlighted in red on the attached plan) from the land; 2. Restore the land to its original condition prior to the erection of the building; 2. Remove the gates and fencing (in the area marked with an A on the attached plan).
- The periods for compliance with the requirements are: 9 months.
- The appeals are proceeding on the grounds set out in section 174(2) (a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by: the deletion of the words "in red" in Requirement 1 of paragraph 5.
2. Subject to the correction, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Enforcement Notice

3. The Appellants claim that the notice is a nullity as they say it is not clear which building the notice refers to. Section 173(2) of the 1990 Town and Country Planning Act (the Act) says that an enforcement notice complies with s173(1)(a) if it 'enables any person on whom a copy of it is served to know what those matters are', being the matters alleged to constitute the breach. The test is as described in *Miller Mead v MHLG* [1963] 1 A11 ER 459, namely whether the notice tells the recipient fairly what they have done wrong and what they must do to remedy it.
4. Requirement 1 of the notice refers to the building "highlighted in red on the attached plan". The building is highlighted but not in red. There is only one building on the attached plan and therefore, it is obvious which building the notice refers to. It is also clear from the Appellants' evidence that they know which building it is. To

amend the notice to remove specification of the colour of the highlighting would not lead to any injustice.

Reasons

The appeals on ground (b)

5. An appeal under ground (b) is that those matters have not occurred. When making an appeal on ground (b) the onus, on the balance of probability, falls upon the appellant to demonstrate that the alleged breach has not occurred.
6. The Appellants' case is that no building was erected for residential and storage purposes. They say that the building was erected and used for agricultural purposes and it was not until 2 years later that it was converted to a mixed use of agricultural storage and residential. They say, therefore, that the allegation is wrong.
7. The Appellants say that the building was erected "on the basis of a prior approval" but acknowledge that the built structure is different to the approved plans. They have not made any case that the appeal building is the approved building.
8. The appeal building looks completely different to the plans for the approved building. It is materially different in size, appearance and construction. For example, the approved plans show an open sided barn with a flat roof which bear no resemblance to the constructed barn which has a dual pitched roof and four walls. There are other differences between the approved and constructed building such as a roller shutter, windows, and solar panels but the two main differences of the roof and walls are enough to determine that the approved building was never constructed. Therefore, the existing building never had planning permission.
9. Mr West's statutory declaration (SD) says that the construction of the building commenced in February 2020 and was completed in May 2020. He says that it was built as an agricultural building and since then it has been in agricultural use. He says that he stores farm machinery and farm vehicles which are used in connection with his 11.33 hectare agricultural holding around the building on which he says he fattens sheep, produces hay and keeps chickens. He says that the vehicles and machinery are also used off-site in connection with his agricultural contracting business.
10. However, his SD does not describe the scale of the farming activities in comparison to the contracting business. In order for me to conclude that the storage is agricultural it would be necessary to know whether the storage element is primarily agricultural, i.e., used by Mr West on his smallholding, or not. The email from Mr West, dated 28 June 2023, to the Council says "*I work within agriculture and forestry providing contract services to the local area. The site is primarily used to store and maintain machinery related to the industry and the storage of products in relation to these operations*". This sounds like the storage use is primarily for contractual services.
11. Whilst I note the Council's comments that, on their site visit, they observed areas used by grazing sheep and a small number of chickens, I have no detailed evidence about the farming activities on the smallholding. For example, no information is provided in relation to its scale e.g., the number of animals the smallholding has or how often animals are kept on the land. There is no evidence

of the amount of hay produced, although I note that the Council say it is produced for the Appellants' sheep. That said, I have little information about the sheep.

12. The Appellants' appeal statement also says that the building stores hay bales and is a workshop for repairs to agricultural machinery. Again, there is little detail about this. It is not clear whether the machinery repairs are connected with the appellants' "smallholding" or whether they are to machines which are brought to the site for repair.
13. As it stands, the appellants have produced very little evidence about the claimed agricultural operation. Therefore, an agricultural enterprise on the Appellants' land, which genuinely requires the stored machinery and vehicles, has not been demonstrated.
14. In addition, the Council says that according to the Land Registry, the Appellant bought the property in July 2021. Mr West claims the barn was completed in May 2020 and has been in agricultural use since then. However, there is no explanation in his SD how he knows how the barn was used before he owned it. Furthermore, there are no details of what the claimed previous agricultural use actually consisted of, so it is unclear whether the claimed "agricultural" use actually fell within the legal definition of agriculture. Overall, there is no substantive evidence about what went on in the barn before the Appellants bought it.
15. The Appellants have not claimed that the matters in relation to the gates and fence have not occurred.
16. In summary, the Appellants have neither substantiated their claim that the building is in agricultural use now nor that it was in agricultural use when it was built. Their evidence is unclear and ambiguous. Therefore, on the balance of probability, the breach, as described in the enforcement notice, has occurred as a matter of fact. It follows that the appeals on ground (b) must fail.

The appeals on ground (d)

17. The relevant date for substantial completion is 2 July 2020. The appeal has failed on ground (b) and I have found that the allegation is correct that the building has been erected for residential and storage purposes. The question, therefore, is whether the residential and storage building has gained immunity through the passage of time.
18. The appellants provided an aerial image of the building in May 2020. However, whilst it is obvious that the building was standing and had a roof at that point, this does not mean that it was substantially completed for its intended use. There are no details on that photograph of any internal fittings or of any elevational detailing such as doors and windows. On the PCN, Mr West has indicated that a roller shutter door and open side cladding were installed in July 2021 and that an office was installed in August 2021. These operations were after the relevant date.
19. Furthermore, the appellants' evidence is that the office was repurposed as a dwelling in 2022. It is undisputed that works to form the dwelling were not even begun until after the appellants bought the property in 2021. Therefore, the building cannot have been substantially completed within the 4-year immunity period.
20. The appellants have not claimed that the gates and fence are immune from enforcement action.

21. The appeals fail on ground (d).

The appeals on ground (a)

22. A ground (a) appeal is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted, or as the case may be, the condition or limitation concerned ought to be discharged.
23. The appellants' ground (a) case is based on their position that the building was constructed and used for agricultural purposes and has subsequently changed to a mixed use of agriculture and residential. However, their ground (b) appeal has already failed on this basis. I have found the allegation to be correct, this means that I must consider whether to grant planning permission for what is contained in the allegation on the notice, i.e., the erection of a building for residential and storage purposes and the erection of gates and fencing. Therefore, the main issues are as follows:
- Whether the development is inappropriate development in the Green Belt;
 - The effect of the development upon the openness of the Green Belt;
 - The effect of the development on the character and appearance of the countryside;
 - If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Whether or not it would be inappropriate

24. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
25. Substantial weight should be given to any harm to the Green Belt, including harm to its openness, unless the land is previously developed land or grey belt land. There is no claim that the land is previously developed or grey belt.
26. Paragraph 154 of the National Planning Policy Framework (the Framework) advises that development in the Green Belt is inappropriate unless one of several exceptions apply. In respect of the residential and storage building, the exception the appellants rely on is (h)iv which is the "re-use of buildings provided that the buildings are of permanent and substantial construction". Whilst I accept that the building is of permanent and substantial construction, I have found that the unauthorised development is not a change of use. Therefore, it does not meet the exception of 154(h)iv.
27. The Appellants have not made any case that the residential and storage building falls into any other exception and I have no reason to find otherwise.
28. In respect of the fence and gate, the Appellants rely on the exception in Paragraph 154(a) which is "buildings for agriculture and forestry". However, I have already found that the allegation is correct for residential and storage. Therefore, as the

gate and fence is associated with non-agricultural storage and residential uses, it is not agricultural development.

29. The building, gates and fence are therefore inappropriate development which is, by definition, harmful to the green belt.

Effect on openness

30. Openness is a lack of built development. The building is not insubstantial as it is large enough to accommodate a variety of machinery, vehicles and a dwelling. Together with the tall solid gates and the fencing, there has been an introduction of very noticeable built development into an otherwise undeveloped area surrounded by fields. For these reasons, I find significant harm to the openness of the green belt. Therefore, it conflicts with CS Policy CP8 of the Bath and North East Somerset Core Strategy (CS) which seeks to protect the openness of the Green Belt.

Character and appearance

31. The site is in the open countryside and within the Cotswolds National Landscape. The Framework indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes, which have the highest status of protection.
32. The immediate vicinity of the site is characterised by farm buildings, farmhouses, fields and Norton Lane, which is single track and enclosed by hedgerow. The building has a somewhat barn-like appearance but it is very much visible from Norton Lane and presents as a large mass of development within an otherwise undeveloped area, the nearest building being over 100m away. Bulky buildings for commercial and residential use in the open countryside and in the National Landscape cannot be justified simply because they have an agriculturally influenced design. Buildings remove and obscure natural landscape.
33. The solid fence and gates are urban in character and they erode the green rural nature of the lane and fields. Overall, the built development impinges on the open and verdant landscape character of the area.
34. I conclude that the development harms the character and appearance of the countryside. It conflicts with CS Policy CP6, Policies GB1, D1, D2, and NE2A of the Bath and North East Somerset Placemaking Plan (PP), and Policy NE2 of the Local Plan Partial Update which, in combination, seek to protect landscape character.
35. The Council has referred to PP Policy D3 in its reasons for taking enforcement action but this policy is entitled "Urban Fabric" and is therefore not directly relevant in the countryside. It has also referred to PP Policies D4 and D5 but these have not been supplied.

The Green Belt Balance

36. The proposal would constitute inappropriate development in the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed

by other considerations. In addition to this harm, there is harm to the character and appearance of the countryside.

37. Benefits of the scheme are the building's contribution to the rural economy and the provision of a single dwelling to the housing supply but these do not clearly outweigh the totality of the substantial harm that arises as a result of the development. The very special circumstances necessary to justify the proposed development do not exist and it would conflict with the Framework.
38. The appellants have suggested under their ground (f) appeals that I should grant planning permission for the building as an agricultural building as an alternative to the demolition of the whole of the development. I will deal with this point here because S177(1)(a) provides that planning permission may be granted in respect of the matters stated in the enforcement notice as constituting a breach of planning control. However, for me to consider this alternative, it must have been part of the matters alleged in the notice. The erection of an agricultural building is not part of the matters alleged so I cannot consider this as an alternative.
39. Even if permitted development rights still existed for the Prior Approval scheme, this would not be a realistic fallback position for the appellant because the building approved was of a different use and appearance.
40. There is clear conflict with the development plan as a whole and the Framework. I conclude that permission should not be granted for the residential and storage building or the gates and fencing. The appeals on ground (a) are dismissed.

The appeals on ground (f)

41. An appeal on ground (f) requires consideration of whether the steps required by the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The steps required by this notice are to remove the building, gates and fencing. The purpose of the notice, therefore, clearly comes under S173(4)(a) of the 1990 Act which is remedying the breach by restoring the land to its condition before the breach took place.
42. I cannot require the cessation of the non-agricultural uses under ground (f) because that would leave an unauthorised building with no lawful use. The breach would not be remedied.
43. The Appellants say that restoring the land to its original condition is too vague and therefore, the Appellants are not sure whether the requirement goes beyond what is necessary. They claim not to know what was there before. However, it is established law that this requirement is sufficient to comply with s173. Regardless of not owning the site immediately before the breach, the appellants are well placed to know or find out what the condition of the land was.
44. The requirements are not excessive. Accordingly, the appeals on ground (f) fail.

The appeals on ground (g)

45. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
46. The requirement is 9 months. The appellants have not explained why 9 months is insufficient for the family to move out to alternative accommodation and to demolish the unauthorised development. It is important to remedy the harm without any undue delay, therefore, the appeals on ground (g) fail.

Other Matters

47. Upholding the notice will interfere with the occupants' rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life and their home. This is a qualified right, whereby interference may be justified if in the public interest, but proportionality is crucial.
48. I have also had regard to the best interests of the child occupant as a primary consideration. Being a primary consideration does not equate to being determinative of the planning issues.
49. I have found planning harm in respect of the Green Belt and the character and appearance of the countryside. Upholding the notice would require the cessation of the use of the site for residential purposes. The best interests of the child include to remain with its family and to have a safe and suitable home. No information has been presented to indicate that the best interests of the child would be harmed. A period of 9 months is allowed to comply with the notice which I consider will allow sufficient time to find another home. I must balance the occupants' human rights and the best interests of the child with the public interest and I find that their rights do not outweigh the planning harm.

Conclusions

50. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with the correction and refuse to grant planning permission on the deemed application.

S. Watson

INSPECTOR