



Appeal Decisions

Site visit made on 14 April 2026

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

an Inspector appointed by the Secretary of State

Decision date: 13 May 2026

Appeal A Ref: APP/X1118/C/25/3371748

Appeal B Ref: APP/X1118/C/25/3371749

Land Lying to the South of, Greenacres Bratton Fleming, Barnstaple , EX31 4SG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr James Fielder against an enforcement notice ('the Notice') issued by North Devon District Council ('the Council').
Appeal B is made by Miss Kristyn MacDermott against an enforcement notice ('the Notice') issued by North Devon District Council ('the Council').
 - The notice was issued on 16 July 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, within the last 10 years, unauthorised development consisting of the following works: Operational development consisting of the construction of a building in the approximate location marked blue on the attached plan; and The laying of hardstanding and hardcore from the approximate location outlined in green from the attached plan.
 - The requirements of the notice are: 1. Remove the structure and foundation from the approximate area outlined in blue from the land edged red; 2. Remove the hardstanding and hardcore from the approximate location outlined in from the land outlined in red the attached plan from the land edged in red; 3. Remove all items including but not limited to: a. Couch, b. Garden furniture, c. Barbeque and d. ATV; and 4. On Steps 1-3 set out above, grade the land edged red so that the contours of the land are restored to their former natural levels and cultivate the land leaving it in a condition suitable for agricultural or forestry use.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. Appeals A and B are dismissed, and the enforcement notice is upheld.

Application for costs

2. An application for costs was made by the Appellants against the Council. This is the subject of a separate decision letter.

Preliminary Matters

3. In their appeal form and Questionnaire, neither the Appellant nor the Council, respectively, felt that I needed to visit the site. I did look to it from the public road, however, and was able to see part of the land and building. In the circumstances, given the nature of the sole ground of appeal, I did not need to enter the land.

The Notice

4. The Appellants say that the Notice is defective, as its requirements to remove other items from the land are "unreasonable and potentially unlawful". It is lawful for a Notice to require the removal of equipment and paraphernalia associated with

a breach of planning control, even if they are permitted development or do not require planning permission. This is the case, even when they might be brought back to the land thereafter in association with its lawful use. In this regard, the Notice is not defective.

Ground (c)

5. An appeal made under Ground (c) is that the matters alleged in the Notice do not constitute a breach of planning control. In this legal ground of appeal, it is for the Appellants to make their case on the balance of probability. The planning merits of the development have no role to play in the Ground (c) assessment, so I pay no heed to arguments made in this regard.
6. The Appellants' case is that the building that has been erected on the land is permitted development, by virtue of Class E of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (as amended) ('GPDO').
7. Class E sets out the permitted development rights for the development of land that is reasonably necessary for the purposes of forestry. It lists four forms of permitted development; amongst these is "(a) works for the erection, extension or alteration of a building".
8. Class E.1. describes the situations where these development rights would not apply. None of these are cited by the Council in its Notice, so I need not expand on them.
9. Class E.2. rehearses the conditions which developments need to meet to be classed as permitted development. Amongst these is "*(a) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building...*". It goes on to provide details of how such an application must be made and what information would be required to accompany it.
10. Should work commence on a building that is intended to be used for forestry purposes before the Class E process runs its course, whether or not the building is reasonably necessary, it cannot rely on Class E permitted development rights. The prior approval process in Class E.2. must be undertaken first.
11. As part of its enforcement investigation, the Council served a Planning Contravention Notice ('PCN') on 20 March 2025. The returned, completed PCN was signed by James Fielder and dated 8 April 2025. Question 5 of the PCN asked the recipient to "State the date the building outlined in blue on the attached plan first started construction (i.e., date, month, year)". Mr Fielder's answer to this was "I started building the timber barn towards the end of August 2024".
12. A Prior Approval application was made to the Council on 14 October 2024. Evidence within the submissions associated with the Appellants' costs application shows that, on the balance of probability, the Council wrote to the Appellants two days later to tell them that the application was invalid. The reason being that the development had commenced. It seems that they were, according to the Council, given the choice of withdrawing the application and getting a refund on the fee, or

using the fee and documents in an application for planning permission. It says that the Appellants requested their fee back.

13. It is unclear whether the fee was returned and whether the application was withdrawn, though the Appellant says that neither happened. For its part, the Council treated it as invalid and eventually withdrew the application in May 2025.
14. I find that the evidence shows, on the balance of probability, that this is an accurate summary of the sequence of events at that time.
15. Notwithstanding this, the terms of Class E are explicit; a developer must, before beginning the development, apply to the Council. Here, the evidence shows clearly that the development was begun before the application was made. Therefore, it could not benefit from the permitted development rights in Class E. Whether the building accords with the remaining criteria and conditions of Class E is immaterial.
16. Furthermore, though not strictly necessary given my finding above, Class E requires the Council to notify an applicant of its determination of a prior notification application within 28 days of the date of its submission. A failure to do so can lead to the development proposed in the application being undertaken. The form that the notification of a Council's decision should take is not defined by the GPDO, so the Council's email that the application was invalid would have sufficed and this was made within 28 days.
17. In reaching my findings, I have taken account of the reported mislabelling of photographs in the Council's Appendix 3. However, this has no bearing on the substantive issue in the Ground (c) appeal. Similarly, that it is reported that correspondence from the Council might name only one of the Appellants is not evidence that not all persons with an interest in the land were served with a copy of the Notice. Both Appellants made appeals in a timely manner and made representations within the statutory timetable so no injustice arose.
18. Planning permission is required for the erection of the building, but there is no such permission in place. Therefore, there has been a breach of planning control and so the Ground (c) case fails.

Conclusion

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

R Curnow

INSPECTOR