



Appeal Decision

Site visit made on 5 August 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2026

Appeal Ref: APP/K1128/C/24/3352131

6 Broomborough Drive, Totnes, Devon TQ9 5LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Katherine Trenshaw against an enforcement notice issued by South Hams District Council.
 - The notice was issued on 16 September 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection on the Land of a building shown outlined in blue on the plan with a height from the original ground level to the eaves of 2.9 metres, contrary to paragraph E1 of Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 - The requirements of the notice are to: "You must EITHER (i) remove the unauthorised building and any associated paraphernalia from the Land; OR (ii) reduce the height of the building to 2.5 metres from the original ground level to the eaves."
 - The period for compliance with the requirements is within 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Preliminary Matters

2. Many of the letters of support submitted in relation to the development as alleged and also the appellant's own representations, put forward matters concerning the planning merits of the building. There is no appeal however under ground (a), no fee has been paid and the deemed planning application therefore does not fall for consideration by me. It is not for me therefore to consider whether or not the built height is more harmful in comparison with the 2.5m height that the alternative, second requirement of the notice would allow the building to be reduced to.

The Appeal on ground (c)

3. The appeal against the notice on ground (c) is that what is alleged does not constitute a breach of planning control.
4. The notice refers to paragraph Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). That class grants planning permission ('permitted development' or 'PD') within the curtilage of a dwellinghouse including for, amongst other things, any building required for a purpose incidental to the enjoyment of the dwellinghouse. This is granted subject to conditions and limitations also within the GPDO.
5. It is not disputed that the building is used as an art studio which the parties agree falls within the scope of Class E by reason of it being incidental to the enjoyment of

the dwellinghouse. I have no evidence about the use to lead me to a different conclusion.

6. Inside the building, a timber floor above the level of the ground floor windows has been constructed. The Council have considered whether this would constitute a further storey within the building because paragraph E.1.(d) rules out Class E PD rights when the building would have more than a single storey. They reached the conclusion that it would constitute a gallery having considered legislation and advice concerning fire safety and following correspondence from Devon Building Control. Whilst it may be reasonable to consider non-planning documents to partly inform a judgement on these matters, they are not decisive in planning decisions. In the absence of any definition in planning law, I need to reach a judgement as a matter of fact and degree.
7. The structure provides additional floor-space across a substantial part of the building. In the 2022 Lawful Development Certificate appeal (Ref APP/K1128/X/21/3282827) the inspector asked a specific question about whether the proposed building would include more than one storey and the certificate was issued on the basis that it would not. The appellant is quoted in the decision as saying “the proposed building is split-level internally (to accommodate the site levels)” and that does tally with the drawings submitted at that time which appear to show part of the building on top of the rising land and part on lower land. That is not how the current building has been constructed. It has been built on an area of land that has been cut-out of the hillside and levelled. I am not provided with any measurements nor any internal survey drawings to know the precise size but I saw the structure for myself.
8. The solid timber steps leading up to the substantial timber floor with robust supporting joists, is illuminated on one side by a high-level window in the southern elevation as well as by the roof-lights. There is a guard rail along the front edge, facing towards the main doors into the building. The platform provides a significant amount of additional useable floor area within the building and also a ceiling for some rooms towards the back of the ground floor of the building. Even if the structure only covers 39% of the ground floor area as stated, as a matter of fact and degree, I consider that this raised decked area is an additional storey which is more significant than just a small gallery or mezzanine which I would expect to be minor, less significant features. The photographs submitted with the appeal show that this was built during the construction process of the building as one operation.
9. The development therefore exceeds the limitations of Class E, Part 1 of Schedule 2 of the GPDO due to paragraph E.1.(d) as the building has more than a single storey. Planning permission is required and consequently, the appeal under ground (c) fails.

Conclusion

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

Andy Harwood

INSPECTOR