



Appeal Decision

Site visit made on 26 August 2026

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2026

Appeal Ref: APP/E3335/C/25/3361247

Swallows Rest, Brent Road, Brent Knoll, HIGHBRIDGE, TA9 4BL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Patricia Turner against an enforcement notice issued by Somerset Council.
- The notice was issued on 21 January 2025.
- The breach of planning control as alleged in the notice is Without planning permission, residential use and ancillary residential storage on the land outlined in red, residential occupation of the stable building shown on the land outlined in red and in the approximate position marked with a blue cross on the attached plan and siting of a shipping container being utilised for ancillary residential storage shown on the land outlined in red and in the approximate position marked with a green cross on the attached plan.
- The requirements of the notice are: i) Cease the residential use of the stable building and the associated residential use of the Land; ii) Cease the use of the stable building and shipping container for ancillary residential storage; iii) Remove any personal belongings and domestic paraphernalia from the stable building, the shipping container and the Land; iv) Remove the shipping container from the Land and; v) Return the stables and the Land to its permitted use.
- The period[s] for compliance with the requirements is 6 months.
- The appeal is proceeding on the ground[s] set out in section 174(2)(a) and (c) 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.

Decision

1. It is directed that the enforcement notice is corrected by the deletion of the description of the alleged breach of planning control at section 3 and its replacement by the following: Without planning permission, the making of a material change of use of the land outlined in red, and the stable building in the approximate position marked with a blue cross on the attached plan, to a use for the purposes of human habitation; and varied by the deletion, in section 5, of requirements iv) and v).
2. Subject to the correction and variation the appeal is 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.

Preliminary Matters

3. The appeal site is a parcel of land comprising paddocks and a yard area with a stable building, an incomplete agricultural building and a shipping container with a lean-to addition. At my site visit I could see a relatively new caravan which had the appearance of residential use, and another older caravan which I understand is used to house the appellant's dogs. The newer caravan was not present when the enforcement notice was issued. Two rheas could be seen, but I saw no agricultural animals and there did not appear to be signs of agricultural activity.

4. The site visit was arranged as an accompanied visit. Council representatives attended but there was no representation for the appellant and I was therefore unable to enter the appeal site. However, I am satisfied that I could see everything I needed to see from outside the site and from the Council's site visit photographs.
5. The description of the matters which appear to constitute the breach of planning control would benefit from correction. It is clear that the development¹ alleged is a material change of use of the building and land. The allegation could therefore be expressed as: "Without planning permission, the making of a material change of use of the land outlined in red, and the stable building in the approximate position marked with a blue cross on the attached plan, to a use for the purposes of human habitation, and the siting of a shipping container for the purpose of ancillary residential storage, shown on the land outlined in red and in the approximate position marked with a green cross on the attached plan." I am satisfied that this correction could be made without injustice to the parties, though I turn to a further aspect of the description under ground (c) below.
6. On the appeal form grounds (a) and (d) were ticked. In the ground (d) field it was stated that the facts were set out in the supporting statement. However, it is clear from that statement that an appeal on ground (c) was intended, and not ground (d). I have proceeded on that basis.
7. A revised version of the National Planning Policy Framework (the NPPF) was published on 17 August 2026. The December 2024 version was before the parties when submitting their evidence. I invited further comments on the implications of the revision for the appeal, but I have received no responses.

Ground (c)

8. This ground is that the matters alleged do not comprise a breach of planning control. The appeal on this ground concerns the siting of a shipping container on the land that is allegedly used for ancillary residential storage. Strictly speaking, the siting of a shipping container is a use of the land, but as alleged its use for ancillary residential storage purposes is not a separate use to the use of the Land for residential purposes. What is actually sought is the continued siting of the container on the land in accordance with planning permission 11/20/00123, approved 7th January 2021, which allowed "Continued use of land for combined agricultural and equestrian uses. Retention of stables, steel storage container, feed store and menage (sic) (completed). Retention of agricultural feed and machinery store (under construction)."
9. This permission, which it is not disputed was implemented, represents the last lawful use of the Land. Section 57(4) of the Act provides that planning permission is not required for the use of the land for the purpose for which it could lawfully have been used if development the subject of the enforcement notice had not been carried out. Where there is a right to revert to a particular use, the requirements of the enforcement notice should not purport to restrict that right.
10. In view of the 2021 permission, the Council now accepts that it should not have required the removal from the Land of the shipping container. The appropriate action then is to remove the relevant step from the requirements of the notice, which I will do. Since it is not actually the primary breach of planning control

¹ TCPA section 55(1)

enforced against, but rather an ancillary use, this could more appropriately have been achieved through an appeal on ground (f), which concerns the requirements. For clarity, however, I shall remove reference to the container in the description of the alleged breach and I shall also delete the relevant requirement. While the shipping container can remain, without planning permission for residential use of the land, which is sought under ground (a) below, it could not lawfully be used for residential storage.

11. One further correction is necessary to get the notice in order. Requirement (v) is a positively worded requirement to return the Land to its permitted use, but an enforcement notice cannot specify the use to which land should be put, the purposes of the requirements is simply to remedy the breach of planning control or the harm to amenity, as the case may be. I shall therefore delete Requirement (v).

Ground (a)

12. This ground is that planning permission should be granted for the matters comprising the breach of planning control. In brief, planning permission is sought for the change of use of the Land and part of the stables building to use for residential purposes. When the enforcement notice was issued the stables had been equipped with very basic residential facilities, and among the reasons for issuing the notice was that the development would result in substandard amenity for the occupier as a result of insufficient private amenity, insufficient services and proximity of the animals cohabiting the same space giving rise to health and safety and pollution concerns. In the course of the appeal the appellant submitted plans for a more appropriate layout and improved basic facilities. I am satisfied that the terms of the deemed planning application that arises from the appeal on ground (a) can encompass these proposed alterations, and I have therefore determined the appeal on the basis that the development proposed includes the conversion of part of the stable building to a dwellinghouse. This would satisfactorily address the matters of insufficient private amenity and services.
13. The proposal would therefore involve the provision of a new dwellinghouse in the countryside. The relevant local plan policy is Policy CO1 of the Sedgemoor Local Plan 2011-2023 (LP), which provides that development in the countryside will be supported where it accords with other relevant policies that provide for development in the countryside to enhance or maintain the vitality of rural communities and support a prosperous rural economy. Otherwise, new development must demonstrate that there are specific countryside needs, or where a countryside location is essential or more sustainable. No case has been made for the proposal on any of these grounds, hence the development conflicts with Policy CO1.
14. The appellant's case is essentially made on the basis of national policy support for the conversion of rural buildings to dwellings, and on personal circumstances. The site is in Flood Zone 3 (FZ3), hence local and national policies on flood risk are also relevant.
15. Outside of settlements, NPPF Policy S5 states that only certain forms of development should be approved. Among these is the reuse, extension, alteration or replacement of an existing building, provided that the existing building is of permanent and substantial construction and is lawful in planning terms. These provisions apply here, so that approval should be granted unless the benefits of

doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the NPPF. The development would also address an unmet housing need, but NPPF support in that respect is contingent on the location being physically well-related to an existing settlement, which this is not.

16. In applying this policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances. Policy SO5.1 states that development proposals comprising isolated homes, which are those lying outside settlements or groups of houses, should not be approved other than in accordance with policy HO11. The proposal is for an isolated home, hence policy HO11 applies.
17. Policy HO11 provides that isolated homes in the countryside should only be supported in specific circumstances. The only relevant circumstance here is where the development would reuse a redundant or disused building and enhance its immediate setting. Although the Council argue otherwise, I have proceeded on the basis that the relevant part of the stable building is at least disused, if not redundant, and the definition of a building for planning purposes includes part of a building. Nothing has been provided to show whether, or how, the immediate setting of the building might be enhanced, but I consider it at least possible that, for example, a scheme of landscaping could be devised, which could be secured by condition, that might enhance the immediate setting. I consider therefore that it is possible that the development could accord with policy HO11, though I do not have sufficient information to come to a firm conclusion on this matter. On the basis of the evidence before me, however, it does not. Had the development been otherwise acceptable, I could have sought further information on this matter.
18. Importantly, there remains the issue of its location within FZ3. NPPF Policy F4.1 requires that to inform the assessment of flood risk and, where relevant, appropriate mitigation, a site-specific flood risk assessment (FRA) should accompany all development proposals in FZ3. Site-specific FRAs should be appropriate to the scale, nature, and location of development and should, where relevant, support an assessment of whether a development proposal satisfies the sequential and exception tests set out in NPPF policies F5 and F6.
19. No site specific FRA has been provided in this case, so both the sequential and exception tests are required, having regard to the type and location of development. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development proposals should not be located in areas at risk of flooding where alternative sites, appropriate for the development, are reasonably available in areas with a lower risk of flooding. That the site is already occupied by the appellant without authorisation is not a factor that should be considered when carrying out a sequential test.
20. Buildings used for dwelling houses are classed as 'More Vulnerable' in the NPPF flood risk vulnerability classification. Had it been demonstrated that there were no reasonably available alternative sites in areas at lower risk of flooding in the appropriate catchment area, at the very least the exception test would have to demonstrate that (i) the development would provide wider sustainability benefits to

the community that outweigh the flood risk; (ii) be safe for its anticipated lifetime, and (iii) not increase flood risk elsewhere and, where possible, reduce flood risk overall. No exception test has been conducted. The development is thus contrary to LP Policy D1, which reflects the NPPF approach to flood risk and surface water management.

21. In the absence of sequential and exception testing, the NPPF indicates that the development should not be approved. However, the appellant submits that the actual risk from flooding can be overcome by mitigation measures. This includes flood resilience and adaptation measures such as installing floors at 600mm above ground level, subscribing to the Environment Agency flood warning service and the submission of a flood emergency plan. No predicted flood level information has been provided, so it cannot be determined whether occupants would be safe within the building in the event of flooding if the floor level was raised as proposed. But in any case, the proposed plans cast considerable doubt on the practicality of raising the floor by that amount while still providing sufficient headroom. Only an outline of the measures that might be included in a flood emergency plan have been suggested, which falls woefully short of providing assurance that the measures listed, if adhered to, might make the development safe for its lifetime. No wider sustainability benefits to the community that outweigh the flood risk have been suggested.
22. Overall, I consider that there is a real risk of occupants of the development being put at risk by flooding, and what has been suggested as mitigation does not provide good reasons for setting aside the presumption in the NPPF that the development should not be approved in these circumstances. Furthermore, the appellant's personal circumstances, even taken at face value, do not justify continued occupation of a site that has not been shown to be safe and which is contrary to the development plan for the area, read as a whole. I find that the benefits of approving the development proposal, which include the provision of a new dwelling in an area of acknowledged need, are likely to be substantially outweighed by adverse effects.
23. Accordingly, I consider that planning permission should not be granted. In coming to this view I have had regard to the appellant's human rights in the context of Article 8 of the First Protocol of the European Convention on Human Rights. However, I do not consider that the effect on the appellant of upholding the notice, that is the potential loss of her home, notwithstanding that her present living arrangements are unclear, would be disproportionate in the light of the legitimate aims of the national and local policies aimed at reducing the risk to life due to flooding and maintaining control over development in the countryside. I understand also that the Council has been seeking to engage and assist the appellant with her housing needs.
24. For these reasons, the appeal on this ground cannot succeed, and the deemed planning application is refused.

Paul Dignan

INSPECTOR

