



Appeal Decision

Site visit made on 22 September 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2026

Appeal Ref: APP/X1118/C/24/3352593

The Woodpecker Bar and Kitchen, West Down, Ilfracombe, Devon EX34 8NU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Philip Milton against an enforcement notice issued by North Devon District Council.
- The notice was issued on 19 August 2024.
- The breach of planning control as alleged in the notice is: Within the last 4 years construction of structure on south and east elevations.
- The requirements of the notice are to:
 1. Demolish and remove the structure on the south and east elevations of the building in the approximate location shown shaded in purple on the attached plan¹.
 2. Remove all materials resulting from Step 1 from the Land and dispose of them in a responsible way.
- The period for compliance with the requirements is: Within 2 months of the date when the Notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The appeal is made on ground (c), that the matters alleged in the Notice do not constitute a breach of planning control. The evidence contains extensive submissions about why the proposal might be beneficial and acceptable in planning terms. However, in the absence of an appeal on ground (a), that planning permission should be granted for the matters alleged in the Notice, those issues are of no consequence to my decision.

Reasons

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("the GPDO"), Article 3 and Schedule 2, Part 2, Class G permits the provision of one moveable structure within the curtilage, and for the purposes, of a building used as a drinking establishment or premises for the sale of food and drink. There are size limitations that appear to be met. The appellant considers that the structure might be considered temporary, but the permitted development right is for structures that are moveable, rather than temporary.
3. The frame of the structure appears to have been formed from carefully shaped logs and timber that have been joined together, with no obvious evidence of nails, screws or other fixings. The seating area that it encloses is open to the elements and the structure is not fixed to the building or the ground.

¹ Reference here to an attached plan is reference to a plan attached to the enforcement notice.

4. However, it appears that corrugated sheet roofing has been fixed to the frame, and lights and heaters, connected to the main building, have been hung within it. All of these, together with the bespoke shape that wraps around the main building, the size and weight of the structure mean that it has a degree of permanence and is probably not readily moveable.
5. On ground (c), the onus is on the appellant to prove their case on the balance of probabilities. There is no particular evidence about how the structure could be moved, when or why that would happen. Insofar as it might be relevant, it has not, therefore been shown to be temporary and, on the evidence I have, it is more likely than not to be a building operation that is not moveable.
6. Accordingly, it has not been shown to be permitted by the GPDO and the appeal, which is only made on ground (c), fails.

Formal Decision

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

M Bale

INSPECTOR