Planning Inspectorate

Appeal Decision

Site visit made on 3 November 2026

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2026

Appeal Ref: APP/P1615/C/25/3373377
Herridges Orchards, Ketford Road, Pool Hill, Newent, Gloucestershire GL18 ILW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr Ian Greenwood against an enforcement notice issued by Forest of Dean District Council.
- The notice was issued on 8 August 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building within the area shown yellow edged and cross hatched within the redline area on the attached plan at Appendix A.
- The requirements of the notice are to:
  1) Permanently remove the unauthorised building as shown in the photographs in Appendix B and within the area shown yellow edged and cross hatched within the redline area on the attached plan at Appendix A.
  2) Disconnect all services (electric, gas, water and sewage) from the unauthorised building, as shown in the photographs in Appendix B and within the area shown yellow edged and cross hatched within the redline area on the plan at Appendix A, and cut off any associated cables and pipework to a depth of 300mm below existing ground levels.
  3) Permanently remove all resulting waste and debris produced through the removal of the unauthorised building as shown in the photographs in Appendix B and within the area shown yellow edged and cross hatched within the redline area on the plan at Appendix A.
  4) Restore the Land within the area shown yellow edged and cross hatched in Appendix A to its former condition (grassed field) and fill in any excavations within this yellow hatched area to the height of the adjacent land levels.
- The period for compliance with the requirements is: 6 calendar months
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).

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

The Enforcement Notice

1. Article 4 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (Article 4) sets out matters that should be specified in an enforcement notice issued under section 172 of the Act. These include (a) the reasons why the local planning authority consider it expedient to issue the notice and (b) all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice.

2. Section 4 of the enforcement notice subject of this appeal (the Notice) sets out this required information. It refers to and summarises a planning appeal decision made under section 78 of the Act relating to the erection of a general purpose agricultural building on the land to which the Notice relates[1] (the section 78 appeal). This appeal was dismissed on 3 December 2024.

[1] Appeal reference number APP/P1615/W/24/3347827

3. The appellant refers to “the lack of validity” of the reasons given in the Notice. It would appear that this criticism is the appellant’s response to the Council’s views on the planning merits of the development subject of the Notice rather than a concern that the Notice does not accord with Article 4.

4. I note the appellant’s submissions on why they consider planning permission should be granted for the alleged breach of planning control. However, no appeal made under grounds set out in section 174(2)(a) of the Act is before me for consideration. Accordingly, the issue as to whether planning permission ought to be granted for the matters subject of the Notice is not assessed as part of this appeal. Also, it would be inappropriate to comment on the appellant’s objections to comments made in the section 78 appeal decision.

5. The appellant is also critical of the explanatory notes attached to the Notice as they indicate that an appeal under ground (a) of section 174(2) of the Act could be made. However, the relevant note is clear in saying that not all of the listed grounds may be relevant. Moreover, the notes accord with Article 5 of the aforementioned Regulations as this requires an enforcement notice to include the grounds on which an appeal may be brought under section 174 of the Act.

The appeal made under ground (b)

6. An appeal on ground (b) is made on the basis that the matters stated as a breach of planning control in the Notice have not occurred. The alleged breach of planning control in this case is the erection of a building. Photographs are included as appendix B to the Notice that show the building from various viewpoints. The appellant has also submitted photographs of the building and they refer to it as constructed or built. On my site visit I also saw the building subject of the Notice still on the land. The building is not complete but nonetheless it exists as shown in the photographs attached to the Notice.

7. The appellant’s case under ground (b) is that full planning permission was not required for the erection of the building. However, this is a factor pertaining more to an appeal made under ground (c) of section 174(2) of the Act.

8. Therefore, I conclude the matters set out under section 3 of the Notice have indeed occurred. Accordingly, the appeal made under ground (b) should fail.

The appeal made under ground (c)

9. An appeal under ground (c) is that the matter alleged, if it has occurred, does not constitute a breach of planning control. It is for the appellant to demonstrate, on the balance of probabilities, that the erection of the building subject of the Notice is not a breach of planning control as defined under section 171A(1)(a) of the Act.

10. External doors and windows have not been fitted to the building and the upper parts of the walls and the roof are unfinished. Even so, blockwork walls have been erected on all sides with a timber structural frame on top. The construction of the building as it exists would have required a builder or someone with a similar skillset and so it represents a building operation. The erection of the building does not fall within any of the exceptions set out under section 55(2) of the Act and so it constitutes development as defined under section 55(1) of the Act. Planning permission is required for the development under the provisions of section 57 of

the Act when read as a whole. There is no evidence to show the alleged breach of planning control is the subject of a lawful development certificate.

11. Planning permission is granted under Article 3(1) of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO) for the categories of development set out in Schedule 2. Class A of Part 6 to Schedule 2 of the GPDO (hereafter referred to as Class A) defines as "permitted development" the erection of a building on agricultural land which is reasonably necessary for the purposes of agriculture within the associated agricultural unit.

12. Class A is subject to various limitations and conditions. These include at sub-paragraph A.2 (2)(i) a requirement for a developer to apply to the local planning authority before beginning the development as to whether prior approval of the authority will be required as to the siting, design and external appearance of the building. Under A.2(2)(v) the development must, except to the extent that the local planning authority agree otherwise in writing, be carried out in accordance with the details submitted with the application or as approved where prior approval is required.

13. I am referred to an application made by the appellant under the provisions of Class A and dated 16 April 2020 (the Class A application). The Council's decision notice for that application approves the proposed erection of a general purpose agricultural building at the land to which the Notice relates. It also states the proposal would comply with the limitations under Class A.

14. However, the evidence at appendix 5 of the Council's appeal statement includes aerial images that demonstrate the building subject of the Notice has not been erected in the same position as the building proposed under the Class A application. Instead, it has been erected approximately 90m to the south.

15. The Council's evidence in these respects is not disputed by the appellant. Indeed, they accept that the position of the building has been adjusted compared to the details provided with the Class A application. It is suggested that this is a minor variation or a technicality and that in all other respects the building as constructed aligns with the approved details. However, it is apparent that there is a significant and material locational difference between the details approved under the Class A application and the building subject of the Notice.

16. I am advised of correspondence from the Council highlighting concerns from Pauntley Parish Council to the elevated position of the building approved under the Class A application. Also, the appellant refers to an email dated 4 July 2023 from a Council officer advising that, following a site investigation, no breach of planning control was occurring at that time on the land. However, these communications cannot be reasonably treated as expressed agreement in writing from the Council to allow the development subject of the Class A application to be constructed in a different position to that as shown within the approved details.

17. As such, the erection of the building subject of the Notice does not accord with the condition at sub-paragraph A.2(2)(v) under Class A. Therefore, it is not permitted development within the terms of Class A when read as a whole. There is no contention that the construction of the building falls within any of the other classes of permitted development as set out under Schedule 2 of the GPDO. As such, I

find the matters outlined in section 3 of the Notice do not benefit from planning permission under Article 3(1) of the GPDO.

18. The appellant acknowledges in their appeal submissions that a formal planning application should have been made to vary the position of the agricultural building compared to that approved under the Class A application. The planning application leading to the aforementioned section 78 appeal decision seems to have been an attempt to obtain planning permission for the building subject of the Notice, albeit in an altered form. However, that appeal was dismissed. As such, there is no evidence to indicate the erection of the building has been expressly granted planning permission by the local planning authority or the Secretary of State.

19. The appellant considers the building as constructed is in a less prominent position compared to the building approved under the Class A application. It is explained the building has been constructed on lower land in good faith and in response to the Pauntley Parish Council concerns. However, these factors have no bearing on whether the matters subject of the Notice represent a breach of planning control.

20. For the above reasons, and as a matter of fact and degree, I conclude the matters subject of the Notice constitute development that requires planning permission. I also find the appellant has not discharged the necessary burden of proof to demonstrate on the balance of probabilities that the required planning permission has been granted for the development subject of the Notice. Therefore, the matters outlined in section 3 of the Notice represent the carrying out of development without the required planning permission and so they constitute a breach of planning control as defined under section 171A(1)(a) of the Act. Therefore, I conclude the appeal on ground (c) should fail.

The appeal made under ground (f)

21. An appeal on ground (f) is that the steps required by the Notice to be taken, or the activities required by the Notice to cease, 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. With such an appeal, it is necessary to understand the purpose of the Notice having regard to section 173(4) of the Act. In this case, it is clear the aim of the Notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place.

22. The appellant is concerned that the demolition of the existing building and the erection of a replacement building approved under the Class A application would exceed what is reasonably necessary to remedy the breach of planning control. However, the Notice does not require the construction of any new building. Instead, it requires the removal of the existing building and associated works. In these regards, the requirements of the Notice are not excessive as they would simply remedy the breach and restore the land to its previous condition.

23. The appellant's suggested alternative approach is for the Council to concede the position of the building as constructed is preferrable to the location of the building approved under the Class A application. However, there is no planning permission granted for a building in this location and in the absence of an appeal on ground (a) of section 174(2) of the Act, there is no deemed planning application before me for consideration.

24. The appellant refers to discussions with the Council over altering the building so as to reduce its length and its visibility. However, there is no evidence that planning permission has been sought or granted for any altered building to be constructed on the land. As such, there are no means by which retention of the building in its current location and in its existing or a modified form could remedy the breach of planning control.

25. The appellant also mentions the possibility of applying under the terms of Class A to, in effect, approve the construction of the building subject of the Notice. However, sub-paragraph A.2 (2)(i) requires an application to be made under the terms of Class A before the beginning of development. As such, an application cannot legitimately be submitted under the provisions of Class A to retrospectively approve the retention of the existing building. In any event, there is no evidence of such an application being submitted.

26. As such, the alternative steps suggested by the appellant are not obvious alternatives that would remedy the breach of planning control at less costs and disruption to the appellant. Therefore, I find the remedial steps required by the Notice are reasonable and that they do not exceed what is necessary to remedy the breach of planning control. Accordingly, I conclude the ground (f) appeal should fail.

Conclusion

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

Formal Decision

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

Jonathan Edwards

INSPECTOR