Planning Inspectorate

Appeal Decision

Site visit made on 6 October 2026

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date 23 November 2026

Appeal Ref: APP/D0840/C/25/3375217
Land east of High Winds, Trethevy, Tintagel, Cornwall, PL34 0BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Ryan Cathrae against an enforcement notice issued by Cornwall Council.
- The notice was issued on 1 October 2025.
- The breach of planning control as alleged in the notice is: "Without planning permission, engineering operations to level the land and the construction of retaining walls, raised flowerbeds, timber domestic style fencing, and raised timber decking."
- The requirements of the notice are to:
    1) Demolish and remove the raised timber decking shown in the approximate location by a blue polygon on the attached plan
    2) Demolish and remove the timber domestic style fencing
    3) Demolish and remove the retaining walls and raised flowerbeds along the eastern, southern and western boundaries of the site
    4) Restore the land to its former condition, including reinstating the original ground levels and natural contours of the site before the engineering operations took place
    5) Remove all materials arising from compliance with the requirements above from the land.
- The period for compliance with the requirements is eighteen months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

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

Background

2. In February 2020 the Council granted planning permission for the construction of a dwelling on Land North of The Quoit ("the Development Site") subject to various conditions[1]. In July 2021 the Council granted planning permission for the same development, but with a variation of condition 2 ("the 2021 Permission").[2] The Appellant has commenced building work on the Development Site.

3. In August 2022, on the land that is the subject of this current appeal ("the Appeal Site"), the Appellant stationed a mobile home. In January 2023 the Council issued an enforcement notice alleging the unauthorised change of use of land from agricultural to residential, with associated operational development ("the 2023 Notice").[3] The Appellant appealed against that notice, and was successful: in October 2023 the appointed Inspector issued an Appeal Decision[4] which quashed the 2023 Notice.

[1] Ref PA19/09603 dated 26 February 2020
[2] Ref PA21/04895 dated 8 July 2021
[3] Ref EN22/01395 dated 19 January 2023
[4] Ref APP/D0840/C/23/3317181 dated 26 October 2023

4. In summary, that Appeal Decision found that while the Development Site and Appeal Site are separate planning units, the Appeal Site "adjoins land on which building operations are being carried out". The use of the mobile home is "for the accommodation of a person employed in connection with the said operations", so the siting of the mobile home on the Appeal Site was permitted development under the terms of the General Permitted Development Order ("The GPDO").[5]

The appeal on ground (e)

5. The ground of appeal is that copies of the notice were not served on those with a relevant interest in the land. The Appellant's case on this ground is that it appears the notice may not have been served on the owner or occupier of the unregistered field to the south of the Appellant's land, part of which falls within the red line of the plan attached to the notice, or upon the owner or occupier of "High Winds", a property adjoining the Appeal Site.

6. The Council's response is that since the field to the south of the Appeal Site is unregistered, it was unable to serve a copy of the notice on a specific landowner, but instead correctly served the notice on the land by addressing it to "the Owner, Occupier, and any other person with a legal or equitable interest in the land known as Land east of High Winds, Trethevy, Tintagel, Cornwall PL34 0BG". This is not disputed by the Appellant, and I have no reason to doubt it was the case.

7. The Council contends that by reference to Land Registry Title Plans, the fence and wall erected on the boundary between the Appeal Site and High Winds is wholly on land owned by the Appellant. This is not disputed by the Appellant. The Council has confirmed in its Appeal Statement that while the owners of High Winds were not formally served a copy of the notice, they were made aware of the notice by the Council and informed about making representations to the Planning Inspectorate. I note that the list of recipients of the Council's Appeal Notification letter dated 10 December 2025 included "The Owner or Occupier, Highwinds". That letter set out the contents of the notice and the reasons for its issue, the grounds on which it had been appealed, and the address to which written representations about the appeal could be sent.

8. I also note that s.176(5) of the 1990 Act provides that *where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.*

9. The evidence currently before me indicates that the notice was duly served on those with a relevant interest in the land. Importantly, even if it were not, there is no indication (and no argument has been advanced) that this caused substantial prejudice to the Appellant, or to any person who was not notified. In short, the owner or occupier of the unregistered field to the south of the Appeal Site, and the owner or occupier of Highwinds, were made aware of the enforcement notice and the appeal against it and have had the opportunity to submit any comments they may have. The appeal on ground (e) therefore fails.

[5] The terms quoted are taken from the wording of Class A, Part 5 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015, and the Caravan Sites and Control of Development Act 1960 to which it refers.

The appeal on ground (c)

10. The ground of appeal is that the matters alleged by the notice do not constitute a breach of planning control.

11. The first point to address is the approach taken in the Appeal Decision concerning the 2023 Notice. The breach of planning control alleged by that notice had two strands. Firstly, it described an unauthorised change of use as having occurred "through the stationing of a caravan for residential purposes… along with associated operational development including [various works]". Secondly, it went on to reference "Also, the siting of metal containers." The Inspector who determined the appeal found that the residential use of the caravan was permitted development, and so was not a breach of planning control. He dealt with the containers separately, as that was how the alleged breach was worded, but as for the "associated operational development" alleged to have facilitated the change of use, he made it very clear that *Whether the decking, wall or other operational development at the site are separate breaches of planning control… is a matter for the Council. I am determining an appeal alleging a material change of use, rather than operational development.*[6]

12. That being the case, I do not share the Appellant's view that it was open to that Inspector to quash part of the notice only. Having established that both strands of the allegation (the change of use to residential, and the siting of the containers) were permitted development, there was no breach of planning control and so the notice was, quite properly, quashed in its entirety.

13. As to the Council's interpretation of that Appeal Decision, I cannot make any sense of its statement that "It is therefore evident that, although the Council considered the operational development to be associated with the residential use of the site, the Inspector determined that they constitute separate breaches of planning control." From the excerpt of his decision that I have quoted above, it is evident that the Inspector did no such thing. The Council's Appeal Statement also says that "the items referred to in the notice are directly associated with the residential use of the land and should be removed." It is important to be clear that whatever the original views of the Council might have been, the notice under consideration here does NOT attack the Appellant's temporary residential occupation of a caravan on the Appeal Site – quite rightly, because that has been established as lawful, being permitted development under the terms of the GPDO. Rather, the notice attacks specific incidences of alleged operational development. It will be helpful to consider each in turn.

Engineering operations to level the land and the construction of retaining walls

14. The Council's case is that retaining walls have been erected as part of wider engineering works to level the site. These works are engineering operations which constitute development, and therefore require planning permission. The Appellant acknowledges that before the mobile home was brought to the land, engineering works were carried out on the northern part of the Appeal Site (adjacent to Westley House) by digging down to lay hardcore for storage of materials used in the building works on the Development Site, but states that the land in this area has now been restored to its original condition. The Appellant also acknowledges that additional levelling works were carried out on the southern part of the Appeal Site

[6] Paragraph 31 of Appeal Decision ref APP/D0840/C/23/3317181

(adjacent to High Winds), in order to provide a flat surface on which to station the mobile home, but states that the wall constructed on this boundary is a decorative feature rather than a retaining wall.

15. The Appellant contends that this wall was built on top of an existing retaining wall, but is not itself a retaining wall: it was constructed on the boundary between the Appeal Site and High Winds "in order to disguise the levelling earthworks beyond where the Mobile Home is situated for the visual benefit of that residential neighbour." I appreciate that the stone facing may be more decorative than functional. However, the ground level adjacent to the top of the wall is higher than the ground level adjacent to its foot, and the evidence indicates that its formation was part and parcel of the substantial earthworks carried out to level the Appeal Site. It does not, therefore, qualify as permitted development under Class A, Part 2 of Schedule 2 of the GPDO.

16. There is no dispute that the engineering operations were completed in or around August 2022 in order to facilitate the stationing and use of the mobile home. While some of the uses described as permitted development in Schedule 2 of the GPDO include provision for associated operational development, that is not the case with Class A of Part 5. It simply makes provision for the *use* of land as a caravan site, in specified circumstances, and on condition that the use is discontinued (and all caravans are removed) when those circumstances cease to exist. That this permitted development right does not extend to other associated development (such as operational development required to facilitate the use) is made clear by the terms of Class B of Part 5, which makes separate provision for "Development required by the conditions of a site licence for the time being in force under the 1960 Act." In short, while the Appellant's use of the caravan is permitted development under part 5 of Schedule 2 of the GPDO, the engineering works carried out to level the land were not.

17. Class A of Part 4 of Schedule 2 covers temporary buildings and structures. It describes as permitted development "The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land." That description contains a number of qualifications that need to be met. The 2023 Appeal Decision established that the Development Site is "land adjoining" the Appeal Site, and I am satisfied that works to construct the new dwelling can properly be regarded as operations being carried out on the Development Site. The question that remains is whether the engineering operations here at issue were "required in connection with" those construction works.

18. The 2023 Appeal Decision established that the Appellant is employed in the construction of the dwelling on the Development Site, such that his occupation of a caravan on the Appeal Site qualifies as permitted development. The Appellant has a young family living with him, so a sizeable mobile home (as opposed, say, to a smaller touring caravan for single occupancy) is required. I appreciate that on sloping land, such as the Appeal Site, it is necessary to level the area on which a mobile home will stand: it could be argued that since the mobile home is required temporarily in connection with the construction work on the dwelling site, the creation of a flat and level space on which to site it was also required.

19. However, the engineering operations in this case extended further than providing a level base for the mobile home. Photographs taken by the Council during a site visit in October 2022 show that substantial earthworks, involving the use of a mechanical digger, have been undertaken to level the expanse of ground in front of the site of the mobile home and create a retaining wall along the western boundary of the Appeal Site, such that ground level at this western boundary is now higher than it was previously.

20. I understand that the Appellant wished to provide a safe and level garden space for his family, but it is important to be clear that the provisions of the GPDO that permit the temporary siting and occupation of the mobile home while the new dwelling is constructed do NOT alter the lawful use of the Appeal Site from agriculture to residential. The relevant test here is whether the engineering operations were "required in connection with" the construction of the new dwelling, rather than meeting the personal needs or convenience of the Appellant and his family. In my judgment, the extent of the earthworks carried out on the Appeal Site went considerably beyond what could reasonably be regarded as required in connection with the construction of the new dwelling on the Development Site, and do not constitute permitted development within the terms of Class A, Part 4 of Schedule 2 of the GPDO.

The raised timber decking

21. A large area of decking, reached by three shallow steps, has been constructed around two sides of the mobile home and provides access to its main doors. The Inspector who determined the 2023 Appeal found that the decking was not a part of the caravan but a separate structure in its own right, and I agree with that conclusion. The Appellant contends that the decking is required to facilitate safe emergency fire exits from the bedroom and bathroom windows of the mobile home, as without it, the drop to the ground would be significant and could pose a risk of harm to occupiers required to exit that way in an emergency.

22. I appreciate that since the floor level of the mobile home is higher than the level of the surrounding ground, some means of providing access – both to the main doors and the emergency exits – is required. However, the decking here goes well beyond what could be considered necessary for that purpose: its expanse provides space for a large outdoor sofa and table, and includes a set-in hot tub. I am not persuaded that this extent of decking is, as claimed, "essential to provide safe access"; no reason has been put forward as to why that could not be achieved by shallow steps or a ramp. I conclude that the construction of the decking could not reasonably be described as "required in connection with" the construction of the new dwelling on the Development Site, and so does not qualify as permitted development under Class A, Part 4 of Schedule 2 of the GPDO.

The raised flowerbeds

23. Raised flowerbeds have been constructed along the southern and eastern boundaries, using timber sleepers, bolted together with temporary fixings so that they can be easily removed. The Council has described what was constructed on the southern boundary as "flowerbed / retaining wall", but the Appellant has explained that these beds were in fact created by placing sleepers against the face of the pre-existing earth bank, which runs along the southern boundaries of High Winds and the Appeal Site and continues up to the field beyond.

24. I saw at my site visit that the flowerbeds utilise natural materials and are visually attractive; on the southern boundary, the retaining timbers continue the line of the stone wall that forms the side of the earthbank on the neighbouring property. However, for the reasons discussed above, while siting a caravan on the Appeal Site to provide accommodation for the Appellant is permitted development during his construction of the new dwelling, this does not change the lawful use of the land from agriculture to residential, and does not include provision for operational development associated with the use of the caravan. Provision is made for structures required in connection with the construction of the new dwelling, but flowerbeds cannot reasonably be considered to fall within that category.

25. I conclude that the construction of the raised flowerbeds amounted to operational development which required, but did not obtain, planning permission.

The timber domestic-style fencing

26. Class A, Part 2 of Schedule 2 of the GPDO describes as permitted development "The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure", subject to the provision that its height does not exceed two metres above ground level.

27. The Appellant drew my attention to Article 2(2) of the GPDO, which explains that any reference to the height of a building or of plant or machinery means height when measured from ground level, and goes on to define what "ground level" should be taken as for that purpose. However, the definition of "building" set out at Article 2(1) of the GPDO expressly excludes any gate, fence wall or other means of enclosure (aside from some exceptions which do not apply here). Since the means of enclosure here at issue is neither a "building" as defined in Article 2(1) nor plant or machinery, Article 2(2) does not apply. This means that height above ground level should be given its ordinary meaning. There is no prescribed method of measurement in such cases, but any breach of the two metre height limit would take the whole structure outside the permitted development right.

28. The Appellant built a timber fence around the mobile home and the area used as its garden, to provide privacy to and from neighbouring houses, and a safe space for his young children. The construction of the fencing was carried out at the same time as the earthworks undertaken to level the Appeal Site, which involved the formation of a retaining wall on the western boundary. The timber fence has been erected on the top of that wall. I share the Council's view that its height should be measured from the level of the ground adjacent to the bottom of the wall, rather than the top. The fence measures 1.65m and the wall (on the Appellant's figures) around 0.8m, so the height above ground level exceeds two metres. On the southern boundary, the fence stands on top of the earthbank (now incorporated into flowerbeds), and its addition to this pre-existing boundary treatment means that its height is considerably more than 2m above the adjoining ground level.

29. In summary, while no part of the timber fence itself exceeds two metres in height, two stretches have been built on top of a pre-existing means of enclosure (on the southern boundary) or a contemporaneous new wall (the western boundary), such that in these areas the top of the fence is more than 2 metres above ground level. Since parts of the fence exceed the height limit specified in Class A, Part 2 of Schedule 2 of the GPDO, the fence as a whole does not qualify as permitted development under this provision.

Conclusions on ground (c)

30. I understand that the Appellant carried out all of this operational development in good faith, believing it to fall within permitted development rights, and he cannot be criticised for wishing to provide his family with a safe and attractive living space while their new dwelling is being constructed. However, the permitted development right under which the mobile home is stationed on the Appeal Site covers the provision of temporary accommodation for construction workers while they are engaged in construction work: it does not extend to creating gardens, and other residential structures, to serve that temporary accommodation.

31. I conclude that the matters alleged by the notice to constitute a breach of planning control were operational development that required, but did not receive, planning permission. The appeal on ground (c) therefore fails.

The appeal on ground (f)

32. The ground of appeal 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 the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach. It is evident from the requirements of the notice that its purpose is to remedy the breach of planning control. All of the operational development discussed above was identified by the notice as being carried out in breach of planning control, and I have concluded that this was the case. The starting point, then, is that it is not unreasonable for the notice to require its removal in order to remedy the breach of planning control.

33. However, it is also necessary to consider whether there is any obvious alternative or lesser step that would achieve the purpose of the notice with less cost and disruption. Much of the Appellant's case on ground (f) is that it would be excessive to require the removal of structures and works that are permitted development, but for the reasons set out above I have concluded that none of the matters addressed by the notice qualify as permitted development. It is fair to note that the requirements of a notice cannot prevent a landowner from doing something they are entitled to do under the GPDO, or anything exempted from the definition of development under s.55(2) of the 1990 Act. But the fact that it remains open to the Appellant to (for example) erect fencing that complies with the height limit in the GPDO does not justify retaining fencing which does not.

34. The Appellant also contends that even if the operational development does not benefit from permitted development rights it is temporary in nature, and is only needed for the duration of the construction work on the new dwelling, so it would be more reasonable to require its removal (along with the mobile home) when construction is complete. I am not persuaded by that argument, as regards the decking, flowerbeds and fencing, because for the reasons set out above they are not "required… in connection with" the construction of the new dwelling; if they were, they would qualify as permitted development.

35. As regards the engineering operations, I am mindful that in order to meet the requirement to restore the land to its former condition, including reinstating the original ground levels and natural contours, the mobile home would first have to be removed. But since it is presence on the Appeal Site will be permitted development throughout the time that the Appellant is working on construction of the new dwelling, and the Appeal Site is sloped, such levelling works as are

required for its safe and secure siting could be undertaken as permitted development. These would cover a smaller area of ground and be less intrusive than those attacked by this notice, but it would be disruptive to require the Appellant to temporarily remove the mobile home, restore the land to its original contours, and then level part of it again before replacing the mobile home.

36. I have therefore given careful consideration to whether the requirement to restore the land to its former condition could be varied, so as to link it to the completion of the new dwelling and/or the date on which the mobile home ceased to be permitted development. The problem with this is the situation that would arise if, before the construction of the new dwelling were completed, the Appellant's use of the mobile home ceased to qualify as permitted development and it was removed from the land. If the restoration of the land was required on completion of the new dwelling, in this situation that restoration could be unreasonably delayed, by months or even years. On the other hand, if the restoration of the land was required when the mobile home ceased to qualify as permitted development, this could potentially occur well before the end of the 18 month compliance period specified by the notice. In that scenario, the variation would reduce the period for compliance rather than extend it, a course of action which is not open to me.

37. Taking all of this into account, I am not able to identify any obvious alternative or lesser step that would achieve the purposes of the notice with less cost and disruption. The appeal on ground (f) therefore fails.

The appeal on ground (g)

38. The ground of appeal is that the period given for compliance with the requirements of the notice falls short of what should reasonably be allowed. The Appellant contends that having to comply with the requirements of the notice before construction of the new dwelling is complete would divert resources away from its construction, and be likely to delay its completion. I would observe that carrying out the development attacked by the notice must also have diverted resources away from construction of the new dwelling, and removing it is likely to take less time than installing it. I am satisfied that the period of 18 months specified by the notice is a reasonable amount of time in which to achieve this. The appeal on ground (g) fails.

Conclusion

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

Jessica Graham

INSPECTOR