

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/J3720/C/24/3345345

A. APPELLANT DETAILS

Name

Mr M P G Dill

Address

c/o agent
Stratford upon Avon
CV37 9NP

Preferred contact method

Email Post

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes No

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes No

Name

Mr Andrew Murphy

Company/Group Name

Stansgate Planning

Address

Stansgate Planning, Unit 4, The Courtyard
Timothys Bridge Road, Stratford Enterprise Park
STRATFORD-UPON-AVON
Warwickshire
CV37 9NP

Phone number

[REDACTED]

Email

[REDACTED]

Your reference

ADM/8880

Preferred contact method

Email Post

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority	Stratford-on-Avon District Council
LPA reference number (if applicable)	23/00506/DESB0C
Date of issue of enforcement notice	24/04/2024
Effective date of enforcement notice	31/05/2024

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address? Yes No

Does the appeal relate to an existing property? Yes No

Address

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? Yes No

What is your/the appellant's interest in the land/building?

Owner

Tenant

Mortgagee

None of the above

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? Yes No

(a) That planning permission should be granted for what is alleged in the notice.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

The facts are set out in the box below

GROUND B – THAT THE BREACH OF CONTROL ALLEGED IN THE ENFORCEMENT NOTICE HAS NOT OCCURRED AS A MATTER OF FACT.

The agricultural building has changed its use to a dwellinghouse, with associated operational development. However, change of use is not alleged by the Enforcement Notices. It alleges:

“the erection of a dwellinghouse through the rebuilding of a former agricultural building...”

A dwellinghouse has not been erected.

For context are two planning permissions:

20/00365/COUQ.
Prior approval notification for the change of use of agricultural building into one dwelling including

associated operational development under Class Q(b). Granted 1st April 2020.

21/01567/VARY.

Vary condition 1 of 20/00365/COUQ (date of Decision: 01/04/2020). The amendments are being sought to allow minor alterations to the external elevations and floorplan.

(Original Description of Development: Prior approval notification for the change of use of agricultural building into 1no. dwelling including associated operational development under Class Q(b))

21/01567/VARY was granted 26th July 2021. These alternative plans included a partial first floor to create an additional room, two new rooflights and additional glazing to the walls.

The agricultural building changed its use to a dwellinghouse as another alternative to the original approved plans ref 20/00365/COUQ. Compared with the approved plans ref 21/01567/VARY, the dwellinghouse subject to the Enforcement Notice involves:

- o "Replacement blockwork rendered" instead of "existing blockwork rendered".
- o Vertical timber cladding instead of vertical and horizontal "existing Yorkshire boarding".
- o Additional rooflight on west elevation.
- o Repositioning of an internal staircase.

During the conversion works, the building was standing at all times. The change of use left intact the key structural elements of the barn; the structural frame, comprising the roof trusses, purlins, and load-bearing vertical posts, plus the concrete floor which was retained under the final floor screed. The original blockwork, timber cladding and frame braces were not structural and were replaced in stages. Their replacement was necessary to meet building control standards and to deliver a safe, energy efficient, well insulated home.

A completion certificate was issued by Stratford-on-Avon DC Building Control on 16th November 2022. The certificate refers to "change of use of barn".

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



The facts are set out in

the box below

GROUND (C) - THAT THOSE MATTERS (IF THEY OCCURRED) DO NOT CONSTITUTE A BREACH OF PLANNING CONTROL.

The Enforcement Notice does not explain the alleged "external alterations" of Building B.

Furthermore, Building B has not been subject to "development" by virtue of external alterations. Building B has not been rendered. Painting of the original block walls and the substitution of its doors on a like-for-like basis has not materially altered its appearance.

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



The facts are set out in


the box below

GROUND (D) - THAT, AT THE DATE WHEN THE NOTICE WAS ISSUED, NO ENFORCEMENT ACTION COULD BE TAKEN IN RESPECT OF ANY BREACH OF PLANNING CONTROL WHICH MAY BE CONSTITUTED BY THOSE MATTERS


Notwithstanding the partial demolition of Building B within the last four years, the Enforcement Notice does not explain the alleged "external alterations" of the remaining part of Building B. Any such alterations occurred more than 4 years ago.

(e) The notice was not properly served on everyone with an interest in the land.



(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. 

The facts are set out in

 the box below

GROUND (F) - 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 TO REMEDY ANY INJURY TO AMENITY WHICH HAS BEEN CAUSED BY ANY SUCH BREACH.

Building A

The change of use of the barn to a dwellinghouse left intact the key structural elements of the barn; the structural frame, comprising the roof trusses, purlins, and load-bearing vertical posts, plus the concrete floor which was retained under the final floor screed. In other words, these original parts of the building were not "erected", "created" or "new".

The alleged breach of planning control is "a new dwellinghouse has been created in the open countryside". It is excessive to require the demolition of the entire building, which includes the original structural parts of the agricultural building.


There are two options to remedy the alleged breach of planning control:

1. Remove only the non-structural parts of the building, which are referred to by the Enforcement Notice as "its modern domestic aesthetic and fenestration details". The replacement roof covering remains. In accordance with 21/01567/VARY and associated discharge of conditions, the asbestos cement fibre roof covering was removed and replaced with metal roof cladding during the first stage of the approved barn conversion. These works to the roof are addressed by the Land Contamination Survey and the "Completion Report (December 2021)" pursuant to DISCE/00106/21. This approved metal roof has a utilitarian, agricultural character. Retaining the metal roof alongside the original structural parts of the barn does not constitute a dwellinghouse. The original parts of the agricultural building remain. The resultant building is used for agriculture.
2. The same as option 1 above. In addition, the block walls and the timber cladding remain. The resultant building constitutes a facsimile of the original barn, albeit with the structural elements of the original barn intact. The resultant building is used for agriculture.


Building B

The Enforcement Notice requires the demolition of Building B. This is excessive because:

1. The unauthorised partial demolition of Building B is remedied by rebuilding the demolished part.
2. The Enforcement Notice does not allege the erection of the smaller Building B (which was erected decades ago). Therefore requiring its demolition is excessive.
3. The alleged breach of planning control is "a new dwellinghouse has been created in the open countryside". An alternative remedy is to cease using Building B for domestic use.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why. 

The facts are set out in

 the box below

GROUND (G) - THAT ANY PERIOD SPECIFIED IN THE NOTICE IN ACCORDANCE WITH SECTION 173(9) FALLS SHORT OF WHAT SHOULD REASONABLY BE ALLOWED

The Enforcement Notice requires all 6 steps to be undertaken within 6 months, including the demolition of the dwellinghouse. The house is currently occupied. Demolition interferes with the occupier of English Barn's Article 8 Human Rights. A longer time period is required for the current occupant to be evicted and rehoused. An 18 month period is required.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

Examine the rear of the site and the inside of the building.

2. Hearing

3. Inquiry

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes No

the box below

There is no ground A appeal.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes No

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see '[Appeal Documents](#)' section

02. Plan (if applicable and not already attached)

see '[Appeal Documents](#)' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr Andrew Murphy

Date

30/05/2024 12:53:30

Name

Mr Andrew Murphy

On behalf of

Mr M P G Dill

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to

appeals@planninginspectorate.gov.uk. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: Enforcement_notice_24_4_24.pdf

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 02. The Plan.
File name: Plan.pdf

Completed by MR ANDREW MURPHY

Date 30/05/2024 12:53:30