

Agenda 7a)

CORRESPONDENCE

COUNCIL  
18/04/24

BETWEEN MR CORBRIDGE + CORNWALL COUNCIL

Milly Southworth

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**From:** Chris Cooper-Young <Chris.Cooper-Young@cornwall.gov.uk>  
**Sent:** 11 April 2024 17:13  
**To:** Steve Corbridge  
**Cc:** Milly Southworth; kabeats@btinternet.com; MyEmails DMS  
**Subject:** EN23/00336 - Land At Fisgard Way

Information Classification: CONTROLLED

Dear Mr Corbridge,

Thank you for your email, the content of which is noted.

Whilst I accept your analysis of the scenario as a layperson, your focus on the planning enforcement investigation being the Achillies Heel in this matter is misguided. Please let me explain.

The Code for Crown Prosecutors is a public document, issued by the Director of Public Prosecutions, that sets out the general principles Crown Prosecutors should follow when they make decisions on cases. When deciding whether there is enough evidence to charge, Crown Prosecutors must consider whether evidence can be used in court and is reliable and credible, and there is no other material that might affect the sufficiency of evidence. Crown Prosecutors must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each defendant. The Full Code Test has two stages: (i) the evidential stage; followed by (ii) the public interest stage.

In respect of the above, commonly referred to as the 'evidential stage', this is fundamentally the piece of work I carry out as the Council's expert witness. In this regard I can advise that the evidential stage was met following my 'investigation' which was carried out in accordance with the Police and Criminal Evidence Act 1984. For information, I hold a Masters level, Advanced Professional Certificate in Investigative Practice, as well as a Masters with distinction in Planning, I have given evidence in numerous Crown and Magistrates Court prosecution and Injunction (Court Order) hearings, as well as at Planning Public Inquiries and Hearings.

The second 'stage' is that of Public Interest. This exercise is carried out by the Council's legal team. In this instance a senior lawyer with advocate powers of higher court audience, a competence standard framework set out by the Solicitors Regulation Authority. As previously offered due to technical issues the case could not meet the bar for Public Interest. In most cases prosecutors should only consider whether a prosecution is in the public interest after considering whether there is sufficient evidence to prosecute. In some instances, prosecutors may decide that the case should not proceed further. It has never

been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour, which is the case here.

In response to your bullet points:

- It is NOT illegal to carry out development without the requisite planning permission, it is NOT a criminal offence to do so. The works are 'unauthorised' in planning parlance.
- As you are aware the Council have issued breach of condition notices to require a number of those conditions attached to the planning permission to be complied with. That the necessary detail and subsequent works have not been forthcoming is disappointing.

For the main, members of the public, like you or I comply with the law. In some cases, particularly in what appears to the casual observer to be very tepid 'law', planning contraveners will continually maintain a stance of non-compliance. Again, using my cases as a petri-dish of examples, in the recent past I have inherited cases that have been ongoing for many years, one of my enforcement notices for a case that had been ongoing for nine years was upheld by a Planning Inspector (independently appointed by the Secretary of State). That site is now cleared. Another, I sought and was granted a Court Order (Injunction) ordering compliance with a historic enforcement notice, that site too is now cleared. The original notice for that case was issued in 2013.

The Public Interest Stage is comprised of the following determinative factors:

- a) How serious is the offence committed?
- b) What is the level of culpability of the suspect?
- c) What are the circumstances of and the harm caused to the victim?
- d) What was the suspect's age and maturity at the time of the offence?
- e) What is the impact on the community?
- f) Is prosecution a proportionate response?
- g) Do sources of information require protecting?

So in response to your question, no, a Public Interest decision is not based on financial standing.

Per my last email, I have asked for a new case to be set up which will look at the land-use holistically, however in response to your focus on technical breaches of planning control, the National Planning Policy Framework (i.e., the Governments Planning Policy Document) states: '...Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.' Again, here you

seem to confuse the Public Interest in terms of prosecution proceedings and the expediency of pursuing formal planning enforcement action for a suspected breach of planning control that results in planning harm. They are two entirely separate considerations used at different stages of the lifetime of enforcement considerations, again, I do not expect a layperson to fully grasp this technical information.

I am acutely aware of the issues at the site, the title of the case encapsulates the criminal case I dealt with, i.e., non-compliance with the requirements of the enforcement notice issued by the Cornwall Council. It is agreed that there are more issues at play on the site but to mix a criminal investigation with a breach of planning control investigation would not comply with the requirements to secure 'relevant' evidence in accordance with PACE 1984. If you have ever acted as an expert witness in the Courts or are tuned into Police fiasco's, you will understand that cases fall on such irregularities. My comment in regard to the efficacy of the BCN was resolved through a discussion with the Council's solicitor, as this is legal privilege information I cannot discuss this with you, as a complainant.

Where you refer to prima facie evidence (rather than prema facie), I take it you mean the evidence secured to prove at the evidential stage that non-compliance with the requirements of the enforcement notice had been witnessed? My summary of evidence was shared with my line manager and further with legal. The planning history would have been part of the evidence 'bundle' had the case met to two stage requirements. It would not have included the Community Protection cases as they have the powers to take action under their legislation.

In terms of your summary, which I do appreciate, my case was not flawed, nor were the Public Interest considerations by my colleague in legal. There is very much a point to the planning process and for the reasons set out and as stated, a new case will be set up and the matters investigated 'in the round'.

For information Louise Wood is not my service Director, the Development Management Service now sits within the Regulatory Services Directorate, the service directors are Carol Maclellan and Sophie Hoskins. I will forward this response to them, my Head of Service and my Line Manager for information, should you wish me to do so.

With kind regards

Chris

**Chris Cooper-Young MSc AssocRTPI | Principal Development Officer**  
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## Milly Southworth

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**From:** Steve Corbidge <steve.corbidge@outlook.com>  
**Sent:** 11 April 2024 13:22  
**To:** Chris Cooper-Young  
**Cc:** Milly Southworth; kabeats@btinternet.com  
**Subject:** RE: EN23/00336 - Land At Fisgard Way  
**Attachments:** ufm2.pdf

Dear Mr Cooper-Young,

Whilst the news EN23/00336 has been closed on the basis of legal advice due to technical issues (not deemed to be in the public interest) is bitterly disappointing however, from my extensive experience with the Cornwall Council Planning department over the past six years, the decision was depressingly predictable. As such your enforcement investigation despite showing initial promise and a level of professional competence, not hitherto witnessed in the previous and multiple enforcement investigations into this site, has ultimately achieved a new nadir. Please let me explain.

Mr Walcroft, the owner of the site is a repeat offender, who has consistently demonstrated his total disregard for the lawful planning process and contempt for local residents. His behaviour has been emboldened by Cornwall Council's failure to take the necessary measures to hold him to account for his actions. These failings have enabled to act with complete impunity.

Could you please explain why a local authority would allow the following:

- a business owner to illegally erect three large commercial buildings without planning consent or permission in 2019.
- When retrospective conditional planning permission was subsequently granted with eleven conditions in August 2021 (these were drafted by your colleague Davina Pritchard and signed off by your service director Louise Wood). However, despite of a number of breaches and subsequent enforcement investigations and more than 2.5 years later, Mr Walcroft has failed to comply with a single condition.

To the layman these conditions seemed to be designed to protect both the local community and the environment. Refusal to comply with these conditions has as a consequence had a significant and detrimental impact on both the local community and the environment. To understand a legal decision predicated on public interest, it is necessary to know what the public interest threshold is and how it is measured. It surely cannot be based on financials.

In addition to failing to comply with a single planning conditions, Mr Walcroft over the intervening years has completely mismanaged his site, which is a complete shambles and chaotic. It certainly does not resemble the plans submitted with his retrospective planning application. There are genuine concerns this site poses a risk to local residents and the environment and raises the serious question "why have Cornwall Council allowed this situation to be reached?" There is also the matter of a blatant land grab in 2020, which has enabled Mr Walcroft to expand his site. This was investigated by your colleague Ben Bassett, who, based on an interpretation of a Google Earth image (PDF attached), decided no formal action was required to correct a technical breach. Sounds familiar, because it is a consistent theme and outcome of the multiple enforcement investigations undertaken by Cornwall Council's Planning Department.

Could you please explain why the numerous enforcement investigations appear to be treated in isolation, with no apparent consideration for the accumulative impact of the multiple breaches of conditions and other unlawful behaviour. This should be a fundamental principle when deciding what is the public interest, not unintelligently basing a decision on a single investigation. Without considering or appreciating previous enforcement investigations and reviewing evidence, the very credibility of investigations is questionable.



There is also the matter of an apparent culture within Cornwall Council to dilute or obfuscate the serious of the situation. An example of this (I have numerous others should you require further evidence) is your subject header on the email below, where you state conditions, 6, 7 and 10 not being complied with. As previously stated and which you are acutely aware of, eleven conditions were placed on Mr Walcroft's retrospective planning permission and he has failed to comply with any of them. You also stated in a previous email "you have some concerns over the efficacy of the BCN issued by the LPA". Could you please explain if this has been resolved and in what way.

Could you please explain if when considering the prema facie evidence were all parties involved in the decision making process, made aware of the multiple enforcement investigations undertaken by both the Planning department and your colleagues in Community Protection over the past 6+ years.

In summary, I find the decision to close EN21/01553 for technical reasons, in this instance public interest to be both flawed and given the accumulation of breaches of planning conditions committed over the past 2.5 years by Mr Walcroft to be deeply troubling. Quite simply there appears to be absolutely no point to a planning process, if the conditions signed off by the service director on the Grant of Conditional Planning Permission, are not complied with; it is simply nonsense. As such, I implore you to reconsider your decision and also to bring my concerns to the attention of your service director, Louise Wood.

Kind Regards,

Steve Corbidge MBE

**From:** Steve Corbidge <stevecorbidge512@icloud.com>  
**Sent:** 10 April 2024 12:12,  
**To:** Steve Corbidge <steve.corbidge@outlook.com>  
**Subject:** Fwd: EN23/00336 - Land At Fisgard Way

**From:** Chris Cooper-Young <[Chris.Cooper-Young@cornwall.gov.uk](mailto:Chris.Cooper-Young@cornwall.gov.uk)>  
**Date:** 9 April 2024 at 16:26:01 BST  
**To:** [stevecorbidge512@icloud.com](mailto:stevecorbidge512@icloud.com)  
**Cc:** MyEmails DMS <[MyEmails.DMS@cornwall.gov.uk](mailto:MyEmails.DMS@cornwall.gov.uk)>  
**Subject:** EN23/00336 - Land At Fisgard Way

Information Classification: CONTROLLED

Dear Mr Corbidge,

**Compliance check for Breach of Condition Notice dated 11.05.2022 served under reference EN21/01553; namely conditions 6 (hours of operation), 7 (UHP hours of operation) and 10 (landscaping) of PA20/02211 not being complied with.**

Further to previous correspondence I have now had legal advice regarding brining prosecution proceedings for the above continued breach of planning control.

