

Agenda 16 j)

Milly Southworth

COUNCIL  
21/11/24

**From:** Chris Cooper-Young <Chris.Cooper-Young@cornwall.gov.uk>  
**Sent:** 14 October 2024 12:16  
**To:** Steve Corbridge  
**Cc:** MyEmails DMS; Milly Southworth; Cllr John Tivnan  
**Subject:** EN24/00424 - Land at Fisgard Way  
**Attachments:** Enforcement investigation flowchart - V6.pdf

Information Classification: CONTROLLED

Dear Mr Corbridge,

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

Given the topography and the limited field of vision (between 37-38 & 39-40) I am surprised to learn that you have a view of these buildings from your drive, but it is not necessary to labour this point any further. Thank you for the advice regarding further vantage points, much appreciated, I did stop at a number of locations to gauge the visual impact of the development(s).

It is the norm for enforcement officers to not make prior appointments to unauthorised development sites for obvious reasons, and generally we do not inspect sites from the private living spaces of neighbours who are not immediately adjacent to a 'development' site. We often view the site from several public vantage points to understand the visual impact of a development as part of our planning assessment.

X I have ensured that you have been added to the contact detail for the additional cases (Scrap Yard - EN24/01033/Builder's Yard - EN24/01032) and the case officer for these investigations will notify you of their conclusion to each case, by email. Any future complaint regarding development in this regard can be reported direct to [planning.enforcement@cornwall.gov.uk](mailto:planning.enforcement@cornwall.gov.uk). You can also use this email address and the attached flowchart to understand which 'step' a case is at. X

I have asked my highways colleague for their comments relating to the builder's yard access, once I have these I will forward the advice to the current case officer so that these can form part of the overall assessment of the site.

'Boots on the ground' in this context is a direct reference to the number of area enforcement officers in my team being back to an almost near full complement. The actual term I understand from the literature I have read was coined during the Vietnam War, but has become normalised military parlance in the UK, since at least the Northern Ireland deployments of the 1970s.

In terms of any necessary correction, my email to you of 10 October 2024 stated: '*The reference to scrap yard and builders yard are as a result of my visits and researching the full planning history for that area of the industrial estate, given our exchanges.*' Our exchanges have included a number of other communication lines, generally I have taken note of all of these and incorporated any comments received to my understanding of the specifics of each area being assessed.

In terms of your final paragraph I am going to have to respectfully highlight that the interventions of my colleagues has brought about an attempt to regularise the shot-blasting site through the submission of a retrospective planning application, as did the issue of enforcement notices for the breach of conditions and the requirement of the cessation of the external use of particular plant at the site. My case for prosecution proceedings for non-compliance with the requirements of the enforcement notice(s) failed the public interest considerations as outlined by the Crown Prosecution Service.

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Any necessary remedial works to comply with the requirements of the planning conditions will involve significant expenditure. It is apparent that the current company in ownership lacks the requisite funds to do so. At every step of every planning enforcement investigation officers are duty bound to review the facts and exercise reasonableness. In this regard of note is the case of *Associated Provincial Picture Houses Limited v Wednesbury Corporation [1948] 1 K.B. 22*, in which Lord Greene expounded the following classic public law principle:

'... a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider'. And if 'he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably"'.

Forgive the expression but 'flogging a dead horse' serves the best interests on no one. Conversely, it is entirely reasonable in the **Wednesbury** sense to allow the liquidator time to 'wind up' the Company, particularly as those actions may bring about a fresh chapter and resolution to the issues at the site.

With kind regards

Chris

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Postal Address: **Planning department, Cornwall Council, New County Hall, Treyew Road, TR1 3AY**

**I work compressed hours, please note my working days are Monday, Tuesday, Thursday & Friday.**

Important Notice that may affect your planning application: From 1 January 2019, Cornwall Council will be a Community Infrastructure Levy (CIL) Charging Authority, and any new development could be liable to pay a CIL. Visit [www.cornwall.gov.uk/cil](http://www.cornwall.gov.uk/cil) now to find out how CIL may affect your development.

To keep up to date with changes in the Planning & Sustainable Development Service, please check [What's new in Planning](#)

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**From:** Steve Corbidge <steve.corbidge@outlook.com>

**Sent:** Sunday, October 13, 2024 10:29 AM

**To:** Chris Cooper-Young <Chris.Cooper-Young@cornwall.gov.uk>

**Cc:** MyEmails DMS <MyEmails.DMS@cornwall.gov.uk>; Milly Southworth <clerk@torpointtowncouncil.gov.uk>; Cllr John Tivnan <cllr.john.tivnan@cornwall.gov.uk>

**Subject:** RE: EN24/00424 - Land at Fisgard Way

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Information Classification: CONTROLLED

**CAUTION:** This is an **EXTERNAL** email which was sent from outside of Cornwall Council's network. Do not click links, open attachments, or reply unless you recognise the sender and know the content is safe. Do not provide any login or password details if requested.

Dear Mr Cooper-Young,

Thank you for your response, which provides more questions than answers.

Whilst the occupant of the area, you have designated as a builders yard, has attempted to mask the recently constructed pre-fabricated buildings, if you know what you are looking for, they can be seen from my drive.

There are also other vantage points that provide a clear view of these buildings. These include:

- Area to the front of 12 to 16 Lamorna Park
- Area between 37 Goad Avenue and the bus stop on Goad Avenue

Both afford a good field of vision across the Spickernell Sports Field to the builders yard.

In addition, with your site visit thwarted by being unable to gain access to the builders yard (I am genuinely surprised you did not make prior contact with the occupant to facilitate entry), you subsequently took the time to visit Lamorna Park. I am assuming this was to

gain a view of the site. Had you knocked on the doors of 36 to 40 Lamorna Park inclusive, you would have received a warm welcome from all the residents of these properties. All whom have been the primary victims of this rogue site and the open view from their rear gardens across Spickernell Sports Field, would have enabled you to establish the scale of the situation within the area of the builders yard. An opportunity missed.

Your use of military parlance, boots on the ground and front line is intriguing, but a little vague. Could you please clarify if this means you are handing over the responsibility for the enforcement investigations of the builders yard (including the static caravans) and the scrap yard to other members of your team. If so could you also please confirm how, I will be informed of any decisions made when conducting these investigations (particularly and pertaining to closing of investigations) and whom I should communicate any/all further changes and irregular/unlawful activities on the site too. It is requested this includes the outcome of the collaboration you initiated with your Highways colleagues, to investigate the dangers/risks to pedestrians posed by the construction of the irregular track, which provides access to the builders yard.

I assume 'boots on the ground', literally means someone physically visiting the site and therefore not depending on the vagaries and inaccuracies of Google 'street view', something Mr Bassett has also previously fallen foul of. In the continued absence of a post visit site report, I also strongly suspect the junior case officer, who declared they made a site visit before incorrectly closing EN22/01149, at, an as yet undetermined point between September 2022 and March 2023, failed to undertake a physical site visit. Of course, this will all come out in the wash, when the current enforcement investigations are finally concluded.

With your withdrawal from the front line, there is a need to correct the following statement in your email:

- The reference to scrap yard and builders yard are as a result of my visits and researching the full planning history for that area of the industrial estate, given our exchanges.

This seems to ignore the information I passed to you with regards to making Davina Pritchard aware of the existence of the scrap yard in March 2021. As such, I have again attached the correspondence detailing this communication, which I forwarded to you earlier this week. Of course, Cornwall Council's Community Protection team were also informed, on a number of occasions of this matter.

Finally, could I also suggest 'free will', which results in unlawful actions and total non-compliance can be constrained by effective enforcement action. Regrettably this has been entirely absent from the multiple enforcement investigations (both planning and community protection), into this rogue site. As a consequence we are 'where we are', no further forward than we were more than six years ago and it appears Cornwall Council are

now dependent on the liquidator and associated court action to resolve 'matters'. An extraordinary situation, given the huge level of resource deployed by the Local Authority over many years, without achieving a single tangible outcome. Truly bizarre and inexplicable.

Kind regards,

Steve Corbidge