

Proof of Evidence
Stephen J Willcox

Introduction

I am Stephen Wilcox and am the Appellant in respect of the four enforcement notices currently before this Inquiry. I refer to the Appeals following the same references given to them by the Inspector during the CMC namely – Appeals A-D.

I left school at 15 and was initially a farm worker on land around the former colliery site.

In 1995 I purchased Fry's Bottom Wood and the attached former Fry's Bottom Colliery Site to the east of this wooded valley area. My only intention was to own and establish land on which I could create a couple of small-scale businesses to supplement my income in retirement.

In 2003 I was elected as District councillor on Bath and North East Somerset Council for the Clutton Ward. This continued until 2011, when elected I was asked to be on the Planning Committee, before accepting I had as the council's monitoring officer if there was a conflict of interest as I owned land in Clutton. At his suggestion I invited a Senior planning Officer to look around my property, this he did spending time and made comment in a letter to me. I was then on the committee for the 8 years and took my responsibility seriously, I read every committee report and arrange my holidays not to coincide with meetings. I was on occasions Chair of the Committee and was well respected by my colleagues from all parties of the committee.

I have known this area from my childhood days; on purchasing the land I had, within a couple of days, set up Fry's Bottom Timber to sell harvested mature trees and logs for the local households and in the past 30 years I have had no fewer than five felling licences approved by the Forestry Commission (FC).

These felling licences for mature trees have to be approved by the FC and strict checking procedures apply to only fell selected mature trees, about 50% of felled trees have limbs and branches which have to be cleared and collected and make additional income, tracks are created by the harvesting machines used by the tree fellers and provide level and a stable surface.

All tracks from the Fry's Bottom lane in the northern section to the main lake crossing have been there from winter 1995-6, the lake crossing was constructed in 1997 to provide access to areas further up the valley, track maintenance material was being imported and laid when I asked the machine driver if he could continue the forestry track through to the colliery site.

This was in 1998 and whilst the driver was on site, I had already cleared the top of the coal spoil tip of trees and vegetation, the driver was able in a short time level this and this was hard cored over with lorry loads of demolition bricks, other tracks throughout the valley were constructed and surfaced with Environmentally Agency approved material in the following years.

The Tracks are essential for the latest FC licence approved (FL-018-2022 Expire 07th June 2027) which is to fell 1,200 dead and dying trees affected with ash die back, including in this licence is to restock with 10,000 mixed variety trees starting 30th June 2029 when the land is suitably prepared.

The planned future is to harvest the 30 mature oak trees that are remaining from the abandoned 2013-2018 felling licence, (2030-2035) then future planned harvesting of mature trees will be for the now sizable grown sweet chestnuts left to grow on from those felled 1995-1996 (30 trees) these are in the northern section.

Further planned harvesting of mature trees throughout the woodland are the sycamore of which there is a good stand of about 50 mature trees, these to be harvested in or around 2035-2040.

Forestry work is ongoing and daily attention to tree and vegetation growth have to be dealt with throughout the year.

Appeal A

1. Weigh Bridge House (WBH) was constructed when the site first became the Clutton Coal Works in the eighteenth century. Somerset's historic record records that [ST 631604] Fry's Bottom Colliery lies in a wooded area beside the road. The offices lay on the other side of the road and are now a dwelling. Before entering the wood a derelict structure stands nearby, this was once the weighbridge. Inside the wood all the building foundations can be seen, including the capped shaft. The railway sidings are prominent, appearing as a cutting. Fry's Bottom colliery is named as one of a number of coal mines in production at some time between 1700 and 1850.
2. In the first year of 1995 I removed the tin roof and replaced it with a waterproof pan tile one and started using the WBH for an office for Fry's Bottom Timber and equipment storage for the hand tools needed for forestry work.
3. In the same year, I erected a wooden structure on what was existing walling from a previous building attached to the WBH, this with a mono pitch tin roof to cut up and store logs for sale as firewood to locals.
4. The coal yard pit pony shed attached to the rear of the WBH was strengthened and my daughter purchased her first horse. Over the past 30 years she has either singly or in pairs stabled 6 horses in this former pit pony shed first constructed in

1756 including the two that are now in residence [see photographs and dates within the statement of case].

5. The nearest section of the log store (which I refer to above) was then taken over for my daughter's horse equipment, rugs and riding clothing. This section was then made more secure with double internal walls and clad in timber with a tiled roof to match the roof on the WBH [see photos and timeline within statement of case].
6. The Upper story of the WBH was constructed to replicate what could well have been built in 1756; evidence of this was the outside stairway and inside where floor joists were fitted for the upper story floor and a chimney extending inside of the back wall [see photos within statement of case].
7. It was then decided to add additional storage above the tack room by making access from the upper story of the constructed WBH. This was clad in wood again to replicate the lower tack room [see photos within statement of case]. This was completed in 2019.
8. The only addition not completed prior to the 4 years period before the E/N were issued was an addition over the feed store and hay storage area, this was to be used as a dry horse feed store simply because rats were a major problem and getting into the bags of feed.

Appeal B

9. The forestry building's steel frame was erected in December 2021 and retrospective permission was given on 13/01/2023 following its first refusal on 21/01/2022.
10. The building was for the storage and drying of upwards of 9,000 tons of ash die back trees from the woodland, felled under licence FL-08-507-20 which was applied for in August 2021 and later approved on 08/06/2022; the purpose was always to store and dry the logs inside and undercover ready for marketing in the local area.
11. This storage and drying ready to market the logs will possibly take several years as more ash comes on to the local market. It is imperative that these are stored inside as they will deteriorate if left out in the open.

12. The building is not currently substantially complete for the following reasons:
- 12.1. The cost of satisfying the planning conditions is excessive given it's purpose is for storage of logs to dry inside. When I started the build, I didn't realise what would be required in terms of the finished structure, with most of the expensive items/ requirements relating to ecological considerations including bats.
 - 12.2. When the work to complete this building continued the Case Officer then stated that to process logs in the building it would require a B8 change of use.
 - 12.3. The Case officer said that its removal was because to generate income I had allowed the temporary storage of non- forestry equipment.
 - 12.4. The building so far has cost £40,000.00 and to complete it to the requirements of the approved planning permission cost to achieve this stand today at £31,000.00 flooring, £7,000.00 electricity, side cladding £6,000.00 and front roller doors and enclosing the front end £12,000.00 totaling £56,000.00.
13. It is presently being used for forestry and storage whilst I try to generate enough income to finish the work.

Appeal C -

14. The woodland, when purchased in 1995, had no woodland tree extraction tracks; as discussed earlier in this proof, these were constructed when the first felling licence was issued in 1995 and the felling operator used their harvesting equipment to obtain the best routes into the areas to extract trees out to road side.
15. For the upkeep and maintenance of these tracks I have always used the approved Environmental Agency U1 Exemptions, firstly the R M Penny exemption which he had held then when the issuing of permits changed I was the holder of the U1 permit.
16. Over the past 30 years the EA has visited the land five times following complaints from the public that frequently walk over the land.
17. On each occasion they have made recommendations but no findings to warrant a prosecution, their reports to me are adhered to and usually a follow up visit to check any progress identified.

18. The valley crossing was constructed by John Kenny Plant hire in winter 1997-1998 and this was investigated in 2005 by the Rivers Authority, the council's enforcement officer and the council's flood prevention manager, no breach was identified.
19. In 1997-1998 R M Penny was resurfacing the northern tracks up to the main lake, I spoke the machine driver if it was possible to continue the woodland track up to the Former Colliery site he simply put the blade down and followed the tree marking I had painted to indicate where to go, he did this in less than three hours, this is the main track from Fry's Bottom to the colliery site.
20. The top of the colliery spoil heap had been cleared of wind damaged trees and the machine operator leveled the top as it is today, they also hard-cored the level surface with demolition bricks in line with the U1 exemption.
21. Other tracks that were in use were resurfaced to make a better access, these were all those in use today.
22. The only track established within the last 4 years was a link track for access and storage of trees linking the western loop so as to afford an easier and safer working area for the fellers to operate from.
23. The conservation ponds were constructed as follows:
 - 23.1. C 1 on the PCN explaining notes were in 1997 to access the coppicing of hazel nuts under the 1995 felling annual maintenance plan.
 - 23.2. 1E crossing to construct the second pond was completed winter 2019-2020 (PCN Plan and Notes)
 - 23.3. 1F was completed winter 2002-2021.(PCN Plan and Notes)
24. 450 Xmas trees have been planted for wildlife cover on the western side of these conservation ponds with a further 200 trees to be planted this coming winter.

Appeal D

25. I have throughout the past 30 years kept the two main areas of the land in separate uses but they on occasions overlap.
26. The woodland as a forestry operation and the former colliery site as a brown field previously developed site.

27. I have also been using the site for hosting trial bike practice and events under my permitted development rights. Prior to my ownership, I was aware from my work in the area that since about 1978 the two previous owners allowed scrambler bikes to use it, with access from the open colliery site and two access points off Fry's Bottom Lane in the north. I allowed those bike enthusiasts to use the land to continue the recreational hobby. This use continued until COVID when I was forced to close. It's worth a mention that there are only two complaints of noise from bikes, 2012 when Bath Classic bikes had an event and 2017 when North Somerset trial bikes had an event. After COVID the council investigated the use by trial bike practicing and issued an enforcement notice to stop. This was appealed and dismissed due to consistency of use before 2013.
28. So far as I am aware, the enforcement notice hasn't removed permitted development rights to use the land, which I could use for motorbike use if I wished to do so.
29. Equestrian use has been the stabling of my daughter's horses with the former pit pony shed for their stables, the track and equipment adjacent to the former WBH and the feed and hay store all on existing former colliery foundations. West of the stables is an excavated horse yard from winter outdoor keep and the former trial bike camp site (Dismissed at appeal as a camp site is now used for occasional grass feed for the horses)
30. The horses have been allowed to use the forestry tracks as off-road exercising although they are also exercised on the local road network and they spend time in an adjacent field that it rented for that purpose.
31. The storage and distribution started once the spoil heap was leveled by R M Penny in 1997-1998, its use has been numerous from local builders store of equipment, materials, container and skip storage, vehicle storage, boat and caravans, farm and plant hire equipment, lorries and horse boxes to name but a few. This has continued to the present day, the EA carried out a six-month investigation into the alleged storage of unauthorised items this was in 2005-6 and any findings were to be pursued to any prosecution.
32. Timber and firewood products have all been approved by the Forestry Commission, and I have run Fry's Bottom Timber from the site for decades. Tree branches that cannot be used for board are almost always sold for firewood from forestry such as this and my operation is no different to any other in this country. The firewood is generated in bulk at the point that trees are felled, processed and stacked. Logs being sold now are from trees felled in 2023. People order the logs and they are delivered to them at their homes. People don't come to the site and load up their cars with chopped firewood.

33. Trees cannot be left to stand once they have stopped growing as they will die and rot in place. Nor can they be left felled on the ground for the same reason. The firewood from Fry's Bottom is only generated at the rate at which I am felling the trees, which needs to be carried out in a timeline consistent with the need, under a licence, to replant.
34. Allegation of operating a waste transfer station was investigated by the EA and a possible breach was found and under their recommendations was cleared and dismissed as soon as possible under the circumstances..