IN THE COUNTY COURT AT EXETER

Case No. F00BP183

Southernhay Gardens
Exeter
EX1 1UH

Tuesday, 24th March 2026

Before:
HIS HONOUR JUDGE WALSH

B E T W E E N:

NORTH DEVON DISTRICT COUNCIL

and

BRAUND & THORNE

MR JUKES appeared on behalf of the Claimant
THE DEFENDANTS appeared In Person

JUDGMENT
(Approved)

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HHJ WALSH:

1. These are my *ex tempore* sentencing remarks in the contempt application relating to Mr Garry Braund and Ms Tina Thorne, brought by Devon District Council.

2. In the sentencing that follows, I will deal with Mr Braund and Ms Thorne (hereafter "the Defendants") in identical terms because there is nothing to distinguish the way in which their contempt should be treated.

3. I start by setting out the relevant background.

4. On 17 November 2016 the Claimant Local Authority issued an enforcement notice, effective from 19 December 2016, requiring that steps were taken in respect of the Defendants' land at Collard Bridge, known as "Fanny Hill".

5. Specifically, paragraph 6 of that enforcement notice first required that the Defendants close access to the land by restoring it within 25m of [the metalled surface] of the classified road, to its condition before prohibited development had taken place. Secondly, the Defendants were to remove three sheds which were marked by way of location on an accompanying plan. Thirdly, they were to remove two caravans, which were again identified on the accompanying plan. Fourthly, and perhaps most importantly, they were to cease residential occupation of the land.

6. The fifth provision of the enforcement notice required that the Defendants were to cease to use the land in question for the siting of any caravan. Finally, there was a sixth provision which required the clearance of debris and rubbish in connection with the removal of the sheds and the caravans.

7. On 17 October 2019, Deputy District Judge Davy made an injunction order requiring compliance with the enforcement notice. Almost exactly two years later, on 26 October 2021, the same deputy district judge made a repeat injunction to the same effect. In the absence of compliance contempt applications were eventually made in April 2025.

8. I note that there were some procedural back and forth because of the way in which the contempt applications were initially framed and because of the level of judge before whom the various applications were listed. However, it is my understanding, and this has been confirmed through Mr Jukes who acts as counsel for the Local Authority today, that the first time it came before a Circuit Judge (or at least a judge who was prepared to accept they had jurisdiction) was on 9 September 2025; that was intended the trial of the contempt applications.

9. My order on that date records that the Defendants admitted four breaches. First, that contrary to paragraph one of the Order of District Judge Davy made on 5 December 2019, one shed remained and had not been removed. Secondly, contrary to paragraph 2 of the injunction order, the two caravans were not removed until April 2021. Thirdly, contrary to paragraph 4 of the injunction order, residential use of the land had continued until April 2025. Fourthly, contrary to paragraph 5 of the injunction order, residential use of the caravans did not cease until April 2021.

10. The Local Authority also maintained that the Defendants continued to be in breach of the injunction in relation to access to the land that had been created; at the trial, however, they made the perfectly sensible decision not to pursue the contempt application in that respect.

11. It was against that background that I adjourned sentence in September 2025 to allow the Defendants an opportunity to comply with the injunction; on that occasion it is important to record that I indicated that they would not be given an immediate custodial sentence if they could demonstrate full compliance with the injunction by the date of the sentencing hearing.

12. That sentencing hearing was fixed for 18 December 2025, but the Defendants failed to attend; I was not satisfied that they had provided adequate reasons for not doing so. It is also right to note that on that occasion the Local Authority maintained the Defendants still had not adequately complied with the terms of the injunction. Namely, with regard to the restoration of access. Although not an admitted breach, that was an issue which was certainly relevant to the possible terms of any sentence.

13. I issued a bench warrant in December 2025 but following an application by the Defendants, which I heard on 11 February 2026, I set aside the warrant upon them giving an informal undertaking to voluntarily attend sentencing, which they have now done.

14. The position today, is that I have had the benefit of a statement filed on behalf of the Local Authority that, in effect, states that the outstanding issues of compliance have been addressed (at least substantially). The shed has been removed and works in relation to the access have included removing a corrugated wall and gate, regrading works to a former bank, and new planting. Whilst the Local Authority says that the work is not fully compliant with their expectations, they accept that it would not be in the public interest to pursue orders in connection with the outstanding residual non-compliance. As I have already indicated during the course of the hearing today, I therefore proceed on the basis that there is, to all intents and purposes, now practical full compliance with the injunction order(s).

15. Of course it follows from the chronology that I have already outlined, that it has taken over nine years to secure compliance with the enforcement notice and six years for the Defendants to comply with the initial injunction order in the County Court.

16. That is, in my assessment, an inexcusable delay and, whilst I have carefully read the statement filed in support of the Defendants' position today, it does not provide anything like an adequate explanation for that prolonged non-compliance.

17. That statement did also, though, set out some of the personal challenges that both Mr Braund and Ms Thorne have had to deal with over the course of the last six years. Mr Braund suffers from Post-Traumatic Stress Disorder following the traumatic loss of a friend. I also understand that his father has been diagnosed with Alzheimer's Disease, whilst Ms Thorne's son has had mental health issues and reacted badly to the loss of Ms Thorne's father. In addition, Mr Braund and Ms Thorne described how they found life at the relevant land to provide an escape and a degree of security or a feeling of a safe environment.

18. Turning, though, to the principles that I must apply, there is limited sentencing guidance in the authorities that the Court can draw upon. I have not been specifically referred to a great

many authorities today, although invariably my attention is always drawn to the decision of *Lovett v Wigan Borough Council* [2022] EWCA Civ 1631. That case specifically dealt with sentencing for antisocial behaviour following breaches of injunctions to restrain such conduct. In my assessment it is, however, a useful guide and provides an approach that can be used by analogy.

19. It is also right to observe that, at a very high level, the approach in *Lovett v Wigan* has been endorsed as an appropriate yardstick capable of wider application. As was said in *Lovett*, at paragraph 39:

> "The objectives of sentencing are ensuring future compliance with the order, punishment, and rehabilitation, and the options for the Court are an immediate order for committal to prison, a suspended order for committal to prison with conditions, adjourning the consideration of a penalty, fine, or indeed, no order."

20. I remind myself that the maximum sentence is two years' imprisonment, but that any custodial sentence should be reserved for the most serious breaches and should never be imposed if an alternative course is sufficient and appropriate.

21. It is generally regarded as good practice to sentence each breach separately, although the Court of Appeal in *Turner & Anor v Coates* [2025] EWCA Civ 782 indicated that it is equally reasonable to sentence conduct as a whole and to reach a single sentence in the round. In any event, the Court must have regard to the principle of totality.

22. In my view, with the breaches of the injunction in this matter, it is appropriate to sentence all four breaches together. There is some overlap in relation to the breaches and arguably the most significant issue was the use of the land for residential purposes which was not permitted.

23. As to the appropriate categorisation of those breaches in totality, I again turn to the guidance in *Lovett*. There are three levels of culpability. A is high culpability, which is a very serious breach or persistent serious breaches. B is deliberate breach falling between the higher and lower categories. Finally, C is lower culpability, involving a minor breach or breaches.

24. As to levels of harm, there are three categories. Category 1 is where the breach causes very serious harm or distress. Category 2 is an intermediate category. Category 3 is for breaches which cause little or no harm or distress.

25. As to culpability, I take the view that this case is properly categorised as in the highest level of culpability, i.e. category A. The principal reason being that there have been persistent, sustained and longstanding breaches. There was effective refusal to comply with the enforcement notice, then an injunction, then a second injunction, and it has continued for years.

26. As to the level of harm, that is difficult to apply by analogy with *Lovett*. The Local Authority have been put to considerable expense in time and, no doubt, in resources, in dealing with the persistent and flagrant breach of building control, whilst there is a significant public interest in securing and ensuring that there is effective planning enforcement. Accordingly, in my view the proper category, by analogy, would be category 2.

27. In *Lovett*, there is a table for breaches falling in category A2. The starting point is a sentence of three months' custody, with a category range of adjourned consideration to six months.

28. Where one fixes a case within that range, of course, depends on the mitigation or aggravation in a given matter. Here, the principal aggravating feature is the duration of the deliberate breaches although I have, of course, factored that in when determining where this case falls in terms of category. As to mitigation, my view is that there is very limited mitigation here, save to acknowledge the personal challenges that I have already alluded to for both Mr Braund and Ms Thorne.

29. I do consider that the starting point should be somewhat lower than three months (or 12 weeks) because of the difference between the blight that is antisocial behaviour and contempt of the present type. As such, I have assumed a slightly lower starting point of nine weeks but I see no good reason, in terms of aggravation or mitigation, to significantly depart from that.

30. It is conventional to give credit of a third for an early plea, reducing to 10% or potentially nothing for a plea at the commencement of a trial. Because of the procedural issues that delayed disposal of the applications (which were not the Defendants' fault), I take the view that the proper course is to give them the benefit of full credit for a plea that they provided, albeit at trial, on the first occasion that they were before a judge who accepted he had jurisdiction. It follows that it should be a one-third discount. That reduces the sentence from nine weeks to six weeks.

31. The next issue that I must consider relates to suspension.

32. When considering whether to suspend a sentence, there are three factors which indicate that it may be appropriate to suspend. The first is a realistic prospect of rehabilitation; the second is strong personal mitigation; the third is where immediate custody will result in a significant harmful impact upon others.

33. Given that the Defendants have engaged (albeit very belatedly), there is a significant prospect of them rehabilitating in the sense of not further perpetrating similar breaches. As to their personal mitigation and the impact upon others, I am very much alive to the impact that custody would have on Mr Braund, given his PTSD, and upon Ms Thorne, given the challenges that her son has faced. In those circumstances, and having previously given an indication that I would suspend sentence if there had been compliance by December, I consider that the appropriate course here is plainly to suspend the sentence.

34. I shall suspend the sentence on terms that it is a sentence of six weeks, suspended for 12 months, on condition that the Defendants do not engage in further conduct that places them in breach of the injunction order dated 17 October 2019.

35. That concludes my sentencing remarks.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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This transcript is approved by the judge.