



Appeal Decision

Site visit made on 10 June 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2025

Appeal Ref: APP/Y2430/C/24/3343530

Land lying to the north of East End, Long Clawson, Melton Mowbray

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Daniel Little against an enforcement notice ("EN") issued by Melton Borough Council.
 - The EN was issued on 10 April 2024.
 - The breach of planning control as alleged in the EN is: Without planning permission, the erection of a mobile home in the approximate position marked with a circle on the attached image 'Fig 1'.
 - The requirements of the EN are: The Council requires the removal of the caravan and all existing residents, individuals, and any other persons to cease residency within the mobile home, and for the land to be reinstated to its original form.
 - The period for compliance with the requirements is: No later than Monday 5th August 2024.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The EN is quashed.

Background

2. From the information before me and what I witnessed during my site visit, the mobile home is in residential use and comprises a static unit. Adjacent to the mobile home is an outbuilding used for ancillary domestic purposes including cooking and the cleaning/drying of clothes with an attached conservatory. While the gap between the outbuilding/conservatory and the mobile home has been infilled, the materials and method of attachment are rudimentary.
3. The area edged red on the plan attached to the EN encompasses a large parcel of land situated behind 15 to 35A East End. The reasons for issuing the EN state that the land was previously in agricultural use. The Council's appeal statement outlines that the land is being used for the siting of a mobile home, an associated garden area and storage, and lists various structures/buildings that have been erected which, at the time of my site visit, were used for domestic storage purposes and the keeping of chickens.

Matters Concerning the Notice

4. An EN should enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control, what steps the Council require to be taken to remedy the breach, and the time for compliance.

5. The EN alleges the erection of a mobile home. However, a mobile home cannot be “*erected*”, it is sited. Furthermore, the allegation fails to specify what use the caravan is sited for, or that a material change of use of the land has occurred, which is the act of development. Therefore, the EN does not allege something that amounts to development within the statutory definition contained within s55 of the 1990 Act.
6. The Council's appeal statement references ancillary operational development that has taken place on the land, but the alleged breach does not identify any. Furthermore, the reasons for issuing the EN state, “*the Council consider the structure to be both operational development, and a material change of use of the Land*”. However, the operational development and material change of use are not specifically identified in the alleged breach. As such, the appellant did not have the opportunity to appeal based on the proper description of the alleged breach.
7. I could correct the alleged breach to refer to the material change of use of the land for the siting of a mobile home for residential purposes. However, I cannot include the operational development as I do not have a definitive list of what this comprises. In any event, to correct the alleged breach in this manner would broaden the scope of the EN, thereby causing injustice to the appellant.
8. Furthermore, in the absence of a definitive description of the operational development, I could not vary the requirements with certainty. If the varied requirements were then complied with, deemed planning permission would be granted for any missed elements by virtue of s173(11) of the 1990 Act. This would cause injustice to the Council.
9. The EN's requirements seek to remove the caravan (not a mobile home as described in the alleged breach), but they do not seek to cease the material change of use of the land for the siting of the mobile home for residential purposes. Consequently, if the requirements of the EN were complied with, theoretically a mobile home could be returned to the land and inhabited for residential purposes. As such, the EN's requirements would not remedy the alleged breach of planning control.
10. If I varied the requirements to cease the material change of use of the land for the siting of the mobile home for residential purposes, this would be more onerous, thereby causing injustice to the appellant. However, if I did not vary the requirements in this manner, this would prejudice the Council as the EN would under-enforce the alleged breach of planning control.
11. The EN's requirements insist that the land is reinstated to its original form. As previously stated, the land encompasses a large area that, aside from the mobile home, also includes domestic garden, various structures/buildings and the external storage of items. However, the alleged breach solely refers to the mobile home. To reinstate the whole of the land to its original form would go beyond what is needed to remedy the alleged breach.
12. S173(9) of the 1990 Act states that a compliance period must be specified. The word “*period*” implies a start point and an end point with a period of time in between. The time for compliance within the EN is given as a specific date (which has since expired). However, injustice would not be caused to either party if I were to vary the compliance period, as it is possible to deduce the period of time from the gap between the date the EN took effect and the EN's date of compliance.

Conclusion

13. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breach of planning control and the steps required to be taken to remedy it.
14. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. Therefore, the EN is invalid and will be quashed.
15. In these circumstances, the appeal on the grounds set out in section 174(2)(a) and (d) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act does not fall to be considered.

A Berry

INSPECTOR