



Appeal Decision

Site visit made on 26 August 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/Q3115/C/24/3340854

**Land adjoining Orchard Cottage, Warpsgrove Lane, Chalgrove, Oxfordshire
OX44 7RW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Toby Hitchcox against an enforcement notice issued by South Oxfordshire District Council.
 - The notice was issued on 7 February 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of land from agricultural use to residential use including the siting of three static mobile homes and associated facilitating development.
 - The requirements of the notice are: (i) Cease the use of the land for residential purposes and stationing of static mobile homes. (ii) Remove from the land all mobile homes. (iii) Remove from the land all associated development including but not limited to parking areas, access paths, domestic paraphernalia, garden areas, post boxes and fences. (iv) Dig up and remove from the land any hardstanding or other materials that have been put down to facilitate the siting of the mobile homes, any garden areas, parking areas, access paths and fences. (v) Remove from the land all resultant debris and materials associated with undertaking steps (ii), (iii) and (iv) above. (vi) Return all areas of land disturbed by steps (ii), (iii) and (iv) above to grass by laying topsoil commensurate with surrounding land levels and seed with grass.
 - The period for compliance with the requirements is twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (e) of the Town and Country Planning Act 1990 (as amended). 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 appeal is allowed and the enforcement notice is quashed.

Ground (e) appeal

2. The ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. This states that a copy of an enforcement notice shall be served on the owner and on the occupier of the land to which it relates; and on any other person having an interest in the land, being an interest which, in the opinion of the Local Planning Authority, is materially affected by the notice. It is for the appellant to show why their ground (e) appeal should succeed, the relevant test of the evidence being on the balance of probability.
3. The appeal property is a roughly rectangular parcel of land, upon which three static mobile homes have been stationed and are in use for residential purposes. Each mobile home has a separate garden area enclosed by low timber fencing. A hard surfaced shared parking area is situated between the mobile homes and the lane.
4. Copies of the enforcement notice were served on the appellant, along with a number of other persons who the Council considered had an interest in the property, including a mortgagee and the occupiers of the mobile homes. Additional

notice copies addressed to 'any owner/any occupier' were served in relation to each mobile home, with other copies served addressed to 'any owner' and 'any occupier' of the property. The Council ascertained the ownership details along with those of the occupiers of the mobile homes from a Planning Contravention Notice (PCN), completed by the appellant on 5 May 2019. The Council explained that the names of other persons served with copies of the notice were ascertained as having an interest in the property following a search of the Land Registry.

5. The appellant claimed that the occupiers of two of the mobile homes, as well as a freehold owner of the property and a mortgagee, had not been served with copies of the notice, but persons who no longer had any interest in the property had been served. In this respect, I note that the PCN response pre-dates the issuing of the notice by almost five years. As the mobile homes are occupied on a tenancy basis, it is not unreasonable to expect that some or all of the occupiers could have changed in the intervening period. Had a further PCN been served prior to the issuing of the notice, it is entirely possible that more up-to-date details of the occupiers could have been established. Whilst s329(2) of the Act provides for serving an enforcement notice by addressing it to 'the owner' or 'the occupier', that applies where the name of the person required to be served cannot be ascertained after reasonable inquiry.
6. The appellant went on to explain that one of the persons served with a copy of the enforcement notice had passed away in 2020, after which the property had been remortgaged with a different provider. Although an office copy was not supplied, the appellant referred to a Land Registry entry for the property dated 14 November 2022. According to the appellant, this showed the details of the persons who had an interest in the property at that date and included the freehold owner and mortgagee who had not been served with a copy of the notice.
7. A copy of the Council's Land Registry search was not supplied. However, if that search, as seems likely, also dated from around the time of the PCN it would explain why persons who no longer had an interest in the property were served with copies of the notice, whilst persons with an interest since at least November 2022 were not served. On the other hand, a more up-to-date Land Registry search is likely to have disclosed the details of the other freehold owner and the current mortgagee, if those details had not already been obtained following the serving of a further PCN. For this and the other reasons set out above, on the balance of probability, copies of the notice were not served as required by s172.
8. At s176(5), the Act provides that where it would otherwise be a ground for determining an appeal under s174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, that fact may be disregarded if neither the appellant nor that person has been substantially prejudiced by the failure to serve them.
9. The appellant did not explain how they or the persons not served with copies of the notice have been substantially prejudiced as a result. Nevertheless, upholding the notice would have significant consequences for the occupiers and for other persons with an interest in the property. In particular, the occupiers would face losing their homes. Although an appeal has been made on ground (a), I cannot reasonably be assured that the occupiers and/or other persons affected by the failure of service would not have made additional arguments at appeal, had there been the opportunity to do so. For example, the occupiers might well have made reference to

their personal and/or family circumstances, which cannot be introduced at this stage in the appeal. Also, the occupiers and/or other persons not served could have submitted appeals on additional grounds, including for example ground (g)- that the time for complying with the notice requirements falls short of what should reasonably be allowed.

10. Consequently, based on the available evidence and in the individual circumstances of this case, I consider that there would be substantial prejudice if the appeal were to proceed without giving the occupiers and other persons with an interest in the property affected by the failure of service an opportunity to take part in these proceedings. It follows that it would not be appropriate for me to disregard the failure of service.
11. It is open to the Council to issue a fresh enforcement notice using the second-bite provisions if it is deemed expedient to do so, with copies served on all the owners and occupiers of the property.

Conclusion

12. I conclude that persons with an interest in the property have been substantially prejudiced by the non-service of the enforcement notice and this is not a case when I can exercise the power to disregard that non-service in accordance with section 176(5) of the 1990 Act as amended. The appeal on ground (e) succeeds and the enforcement notice will be quashed. In these circumstances, the appeal on the grounds set out in section 174(2)(a) to the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) does not fall to be considered.

Stephen Hawkins

INSPECTOR