



Appeal Decisions

Site visit made on 17 June 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Refs: APP/L3245/C/25/3359522 (Appeal A) & 3359523 (Appeal B) The Grange, Brownhill, Ruyton XI Towns SY4 1LR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mrs Jane Trask (Appeal A) and Mr Stephen Trask (Appeal B) against an enforcement notice issued by Shropshire Council.
- The notice was issued on 11 December 2024.
- The breach of planning control as alleged in the notice is "Without planning permission: Operational development in the form of ground engineering works and remodelling of the hillside to the front of the property and adjacent to the B4397 Highway in the location marked with an 'X' on the attached plan.
- The requirements of the notice are to:
 - (i) Remove engineered structures to include, but not limited to, concrete wall panels and cladding, steel joists and planted screening.
 - (ii) Remove any imported materials, soils etc utilised to alter the land form in association with the engineered structures.
 - (iii) Restore the land to its former condition
- The periods for compliance with the requirements are:
 - (i) 3 calendar months after this notice takes effect to comply with 5(i) and (ii) and
 - (ii) 6 calendar months after this notice takes effect to comply with 5 (iii).
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Decisions

1. The enforcement notice is quashed.

Applications for costs

2. Applications for costs have been made by Mrs Jane Trask and Mr Stephen Trask against Shropshire Council. These applications are the subject of separate decisions.

Matters concerning the Notice

3. The enforcement notice alleges 'Without planning permission: Operational development in the form of ground engineering works and remodelling of the hillside to the front of the property and adjacent to the B4397 Highway in the location marked with an 'X' on the attached plan.' The land to which the Notice relates includes a substantial area, within which a red cross is drawn, which is intended to show the location of the alleged ground engineering works and remodelling of the hillside.
4. The appellants suggest that there are fundamental defects in the notice and that as such it should be quashed. In support of their case, the appellants have drawn my attention to a number of appeal decisions, APP/R4408/C/22/3303097, APP/M3645/C/22/3303297 and APP/P1045/C/20/3256995. While each of these

appeals turned on its own facts, each Inspector applied the general principle that an enforcement notice should specify with sufficient clarity the alleged breach and the steps required for compliance.

5. Within the reasons for issuing the Notice, the Council advise it is unable to conclude, based on the information provided that the walls that have been constructed are suitable for the ground conditions...'. Section 5 of the Notice requires the recipient to, amongst other things, 'Remove engineered structures to include, but not limited to, concrete wall panels and cladding, steel joists and planted screening.'
6. The Council advises, in its statement of case, that in October 2022, an engineering operation was undertaken which included removal of all vegetation, removal of substantial parts of the bank, insertion of steel supports and approx. 2m high concrete walls and back filling of materials, creating a terraced garden and extended parking area. It also refers to 5m concrete retaining panels. The Council also refers to a retrospective planning application and has provided plans and photographs which show the works which have been carried out.
7. It is clear from the four corners of the Notice, that the Council's concerns include the erection of walls and steel joists, however, the allegation is 'ground engineering works and remodelling of the hillside', not the erection of walls or steel joists. In my view, the description does not adequately describe the works which have been carried out, particularly since some of the works would constitute the erection of a building for the purposes of the Act¹.
8. I have wide powers of correction under section 176(1) of the Act, so long as I am satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority. While it would be possible to correct the allegation to refer to the erection of walls and steel joists, this would expand the scope of the allegation, which would cause the appellants injustice.
9. The Council refers to the creation of an extended parking and amenity area within its reasons for issuing the notice. Within its expediency report, the Council refers to the need to remove 'any imported materials and or hardstandings created as a consequence of the engineered structures'². However, if the allegation is intended to capture the 'extended parking and amenity area', it is not clear from the four corners of the notice what this comprises, nor is it clear whether this extended parking and amenity area is to be removed.
10. The appellants suggest the requirements do not require the parking area to be reduced to any extent. However, the notice requires 'any imported materials' to be removed. This could include the hardcore which has been laid to the driveway (and other materials used). As the appellants point out, there was previously a parking area within the site and so it is important that the appellants understand exactly what works the Council is concerned with.
11. Rather than identify the location of the works using a polygon, the Council has used a red 'X'. The use of a cross to indicate the location of a breach may be appropriate when it identifies the approximate position of a building or works, however, the allegation is ground engineering works (notwithstanding the Council

¹ The erection of a wall is generally held to be a building operation.

² Paragraph 2.65 of the Council's Expediency Report.

is also concerned with walls, which are linear features) and does not include the word 'approximate'. The extent of the alleged works is, in my judgement, therefore limited to the location marked with an 'X'.

12. As the appellants point out, the plan does not specify the extent of what is required to be removed: the requirements apply to the whole of the appeal site (i.e., the land shown edged red on the plan attached to the enforcement notice). It is clearly not the Council's intention that the requirements should extend to the entirety of the appeal site, or that they should be confined to the extent of land beneath the 'X'. While it would be possible to correct the plan attached to the notice to show an area, rather than an 'X', this would most likely include a larger part of the site and so would expand the scope of the allegation, causing the appellants injustice.
13. The requirements are ambiguous, containing the term 'to include, but not limited to'. It is not clear what other 'engineered structures' the Council would like to be removed. While it would be possible to delete this phrase, this may cause the Council injustice. I also have concerns regarding requirement (ii), which requires the removal of any imported materials, soils etc utilised to alter the land form in association with the engineered structures. It is not clear exactly what this means and could include soils arising from within the site, making compliance with requirement (iii) impossible. This could potentially be addressed by deleting reference to 'soils etc'. However, given the other issues raised regarding the notice, I consider there is no merit in going back to the parties on these matters.
14. The allegation is not sufficiently clear, and the requirements are inconsistent with it. Although the allegation and the requirements are broadly stated, and so, in my view, the notice is not a nullity, it is invalid beyond correction, since injustice would be caused were I to correct it.

Conclusions

15. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control or the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
16. In these circumstances, the appeals on the grounds set out in section 174(2)(b), (c), (e), (f) and (g) of the 1990 Act as amended do not fall to be considered.

M Savage

INSPECTOR