



Appeal Decisions

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2025

Appeal Refs: APP/J2210/C/25/3365501 & APP/J2210/C/25/3365502

Land at Anvil Green, Canterbury

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr A Chapman (APP/J2210/C/25/3365501) and Ms S Chapman (APP/J2210/C/25/3365502) against an enforcement notice issued by Canterbury City Council.
 - The notice was issued on 17 April 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the change of use of the Land for the stationing of residential caravans, the unauthorised removal and work to trees in a Conservation Area, and the laying of hardstanding on the Land.
 - The requirements of the notice are:
 1. Cease the residential use of the Land.
 2. Permanently remove caravans stationed on the Land.
 3. Permanently remove any paraphernalia on the Land associated with the caravans described in Requirement 2 above.
 4. Break up the hardstanding on the Land.
 5. Remove all resultant material and debris from the Land.
 6. Restore the Land to a grassed area by spreading with topsoil and re-seeding with grass seed.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the words 'the stationing of residential caravans' and their replacement with the words 'the stationing of caravans for residential occupation' in section 3 of the notice;
 - at Requirement 1 of section 5 of the notice, the deletion of the words 'Cease the residential use of the Land' and their replacement with the words 'Cease the use of the land for the stationing of caravans for residential occupation';
 - at Requirement 2 of section 5 of the notice, the addition of the word 'the' before the word 'caravans'.
2. Subject to those changes, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Since there is no deemed planning application before me, and bearing in mind that the dispute on grounds (b) and (d) centres on when the hardstanding was created, rather than the site's current character, I did not consider a site visit to be necessary in this case, and was able to decide the appeals on the basis of the written evidence, photographs and other documents before me.
4. I have noted the appellants' argument that the notice is a nullity due to issues relating to the Stodmarsh Nature Reserve, which is cited in the reasons for issuing

the notice. However, it appears to me that this is actually an argument relating to the planning merits of the development. Accordingly, since there is no appeal on ground (a) and no deemed planning application, those matters do not fall to be considered.

The Enforcement Notice

5. The matters alleged in the notice include 'the stationing of residential caravans'. Caravans are, by their nature and design, residential items, but are sometimes put to other, non residential uses. It is therefore important that an enforcement notice concerning caravans states specifically how the caravans/site are being used. In my view, the wording used in the notice is not as clear as it could be in that regard.
6. Nevertheless, when the notice is read as a whole, there is no doubt that the caravans are being put to a residential use and there is no doubt about the matter the appellants needed to respond to. Indeed, the notice includes a requirement to 'Cease the residential use of the Land'. Accordingly, I can adjust the wording of the notice to reflect the residential use of the site, without causing injustice to any party.
7. In addition to the above, I will modify the wording of the first requirement of the notice to reflect the revised allegation. It also appears to me that the second requirement of the notice should refer to removing the caravans from the site. These are both matters of clarity, rather than changing the substance and effect of the notice, and I can make those changes without causing injustice to either party.

Ground (b)

8. An appeal on ground (b) amounts to a claim that the breach of planning control alleged in the notice has not occurred. Here, it is common ground that the change of use has occurred, and the dispute relates solely to the hardstanding. The burden of proof on this ground, and on ground (d), falls on the appellant, and the standard of proof is the balance of probability.
9. The appellant states 'There has been no laying of hardstanding. The hardstanding was already present'. However, there can be no doubt that a hardstanding was laid as alleged in the notice. Local residents have provided photographs of the completed hardstanding at around the time the notice was issued. It is evident from the photographs that the loose material making up the hardstanding was fairly new at the time. Additionally, I have been provided with photographs of the hardstanding being constructed during August and September 2024. These show that a fresh, levelled surface had been created, ready for the finishing layer of chippings. A pile of chippings can be seen on the site. There have evidently been recent works to trees, quite possibly as part of the same site project.
10. The appellants argue that there was already a hardstanding present before the 2024 works were carried out, associated with a woodyard use. However, there is no firm evidence to support that claim. The best evidence I have of the condition of the site prior to August 2024 is a Streetview image from 2009, in which the site appears free from operational development. There is only limited greenery in the image and there are signs of lighter material which might, perhaps, be the remnants of some previous loose surfacing. Nevertheless, the overall impression is of a site which has either never been surfaced or one where any previous surfacing is so old that the site has now reverted back into an undeveloped state.

11. I have no evidence to show that the site had a materially different appearance immediately prior to the 2024 works compared to how it appeared in 2009. Indeed, the evidence of local people is consistent in saying that it had an undeveloped appearance. Various aerial images dating from January 2006 to March 2021 show only limited detail of the site but appear generally consistent with the 2009 image.
12. For these reasons I find that the 2024 works amounted to the creation of a new hardstanding and did not relate to any remaining preexisting hardstanding. Accordingly, the notice correctly characterised those works and the appeal on ground (b) fails.

Ground (d)

13. The appellants' claim under ground (d) is that it was too late to take enforcement action because the hardstanding had been present for many years beforehand. However, as I have already found in respect of ground (b), the evidence does not support that claim. The hardstanding enforced against was created in August/September 2024, less than a year before the notice was issued. Consequently, the time limits for enforcement action, as set out in S171B of the 1990 Act, were not exceeded, and the appeal on ground (d) therefore fails.

Ground (f)

14. Ground (f) is concerned with whether the requirements of the notice are excessive.
15. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In this case, the allegation in the notice includes the change of use of the land and the construction of the hardstanding. Consequently, the cessation of the use and the removal of the hardstanding is consistent with remedying the breach of planning control in accordance with s173(4)(a), and I do not regard the requirements as excessive.
16. The appellants state 'If the enforcement notice should be upheld it would revert to a forestry use. There are a range of permitted development rights'. However, that does not show that the requirements of the notice are excessive. The notice cannot, and does not purport to, remove established rights. Rather, it is clear that it simply seeks to secure the cessation of the unauthorised use and the removal of the unauthorised operational development.
17. As I outlined earlier, I will make two minor corrections to the requirements of the notice, unrelated to the matters raised by the appellants. Those changes aside, the appeal on ground (f) fails.

Ground (g)

18. The enforcement notice has a 6 month compliance period. The appellants say that additional time is needed to look for alternative accommodation and suggest a period of a year.
19. The site is occupied by 7 people, comprised of the appellants and their 5 children, two of whom are now adults. The youngest child attends a local school. No

planning issue is inherently more important than the best interests of a child. It appears to me that the best interests of the children here will lie in remaining at the site for the longer period that would be allowed by the compliance period proposed by the appellants.

20. The appellants say they are ethnic Romany Gypsies who have maintained the travelling lifestyle. I am told they were homeless prior to moving onto the appeal site and currently have no alternative accommodation available.
21. I am told that one of the appellants is under medical supervision in respect of a rare genetic disorder, although I have no evidence to suggest that any need for a longer compliance period arises from this.
22. I have borne in mind the concern that it could prove difficult to find alternative accommodation in the area. On the other hand, it is desirable that the breach of planning control is addressed without undue delay and there is no detailed explanation of why a 12 month compliance period is necessary.
23. I have no doubt of the important implications of upholding the notice for the occupiers of the property. Loss of their home would represent a serious interference with their right to respect for their private and family life and home in accordance with Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998.
24. However, that is a qualified right. The interference in this case is in accordance with the law, given the provisions of the Town and Country Planning Act 1990. The disruption that compliance with the notice within the 6 month timescale would cause must be weighed against the public interest of ensuring that the breach of planning control is addressed without unnecessary delay. An appropriate balance must be struck to ensure that the notice does not have a disproportionately negative effect on the occupiers. In my judgement, the 6 months specified in the notice strikes an appropriate balance, in all the circumstances of the case, such that there is no violation of any rights of the individuals concerned.
25. For these reasons, I conclude that the period for compliance should remain unchanged. Accordingly, the appeal on ground (g) fails.

Conclusion

26. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections.

Peter Willows

INSPECTOR