



Appeal Decision

No Site visit

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 OCTOBER 2025

Appeal Ref: APP/L3245/C/24/3354893

Land Northwest of B4364, Wheathill, Shropshire WV16 6QU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Sarah Odell against an enforcement notice issued by Shropshire Council.
- The notice was issued on 24 September 2024.
- The breach of planning control as alleged in the notice is without planning permission: i. A material change of use of agricultural land to a mixed use site of agriculture and residential, with associated erection of a building and siting of static caravan occupied for residential purposes.
- The requirements of the notice are to:
 - (i) Cease the use of the Land for residential purposes.
 - (ii) Remove entirely from the Land Northwest of B4364, Wheathill Land Registry Title Number SL 64393 marked 'X' on the attached plan the residential timber building incorporating a static caravan marked 'Y' on the attached plan and all residential paraphernalia.
 - (iii) Return the Land to its former condition as agricultural land.
- The periods for compliance with the requirements are: 24 weeks for requirement (i); 32 weeks for points (ii) and (iii).
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal succeeds in part, and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notice

1. Before considering the grounds of appeal, I have a duty to put the notice in order, if necessary. The powers transferred to Inspectors under section 176(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act) include to correct any defect, error or misdescription in the enforcement notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.
2. It is noted that the allegation in the Enforcement Notice (Notice) refers to the material change of use from agriculture to a mixed use of agriculture and residential. Although it is appreciated that the residential activities are the unlawful element of the mixed use, as the allegation has referred to a mixed use, it is necessary to require it to cease. In light of this, the words set out in requirement (i) can be deleted and substituted with the words 'Cease the mixed use, by discontinuing the residential activities on the Land.'
3. This variation does not change the nature of the breach or make the requirements more onerous. As such, the variation to the requirement would not cause injustice to the appellant or the Council's cases.

Preliminary Matters

4. Having considered the evidence submitted, the main considerations in this case and the particular matters in dispute, I am satisfied that I am able to determine the appeal without a site visit. The views of the main parties were sought on this matter before my determination of the appeal, and no objection was raised.
5. The address on the Notice does not include a postcode; however, the appellant confirmed the postcode on the Appeal Form. This postcode matches the address of the land in question, so for clarity, I have included it in the banner heading.

The Appeal on Ground (f)

6. For the appeal to succeed on this ground, I must be satisfied that the steps required to comply with the Notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
7. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is section 173(4)(a) of the 1990 Act, which is to remedy the breach of planning control that has occurred. The second, section 173(4)(b) of the 1990 Act, is to remedy any injury to amenity which has been caused by the breach.
8. In this case, the corrected Notice alleges an unauthorised mixed use of the land and requires it to cease, as well as the removal of the residential timber building and attached static caravan. Therefore, the purpose of the Notice is clearly to remedy the breach of planning control and return the land to its former condition. This is consistent with the purpose of remedying the breach of planning control in accordance with section 173(4)(a) of the 1990 Act.
9. In cases where the Notice targets a material change of use, it is permissible to require the removal of works integral to facilitating the unauthorised use, even if these details are not explicitly outlined in the allegation. This is to ensure that the land is restored to its condition before the breach took place. However, established case law also dictates that the requirements of the Notice must not infringe upon the exercise of lawful rights pertaining to the use and development of land. Therefore, the Notice should not compel the removal of items from the site historically associated with its lawful use, to which it can revert.
10. The appellant asserts that the static caravan is mobile, being positioned on wheels, and contends that the timber extension attached to it can be easily removed. They argue that the caravan should remain to facilitate the ongoing operation of the business and its connection to the lawful agricultural use of the land. Specifically, to store medicines, equipment and animal records. Therefore, the suggested lesser steps to rectify the breach include ceasing the residential activities on the Land, decoupling the timber building from the static caravan and removing the timber building.
11. In pleading ground (f), the onus is on the appellant to state the precise details of any lesser steps, otherwise it is not possible to judge whether the Council's requirements are excessive or not. If I were to allow the appeal on ground (f) then I would need to vary the requirements of the notice in a way that unambiguously sets out what needs to be done.

12. Despite consideration of the lesser steps proposed, in my judgement the requirement to remove the static caravan and attached timber building is justified, as both are fundamentally linked to enabling the unauthorised mixed-use and residential activities on site. While the Council does not oppose the request for a static caravan to remain, the appellant's evidence is limited in detail and falls short of establishing whether the modified static caravan would be defined as a caravan after detaching it from the timber building¹. Furthermore, it has not been adequately demonstrated that the static caravan was previously on-site and used in connection with the lawful agricultural use before being repurposed for a residential use.
13. Given the above, I am not satisfied that the lesser steps proposed would sufficiently address the breach of planning control. The requirement to remove the timber building and static caravan is not an excessive demand; it is a necessary measure to cease the unauthorised residential activities of the mixed-use and restore the land to its condition before the breach took place.
14. Accordingly, the appeal on ground (f) fails.

The Appeal on Ground (g)

15. An appeal on ground (g) is that the period specified in the Notice falls short of what should reasonably be allowed.
16. The appellant has requested an additional 6 months to requirement (i) and an additional 4 months to requirement (ii) and (iii). This would give the appellant 12 months or 52 weeks to cease the mixed use, remove the timber building and attached static caravan as well as other residential paraphernalia to return the land to its previous condition. The additional time requested is based on the need for the appellant to find alternative ways and arrangements of managing her business without being on site at all times.
17. Having regard to the loss of the appellant's home and the impact on the operations of her business, I consider that a period of time more than 24 weeks (6 months) and 32 weeks (8 months) can be justified. However, it is considered that a 10-month period to cease the use, and 12 months for requirements (ii) and (iii) would be sufficient. This time frame would strike an appropriate balance between having to minimise the conflict with the Council's development plan policies on rural enterprise dwellings and the impact on the character and appearance of the area, with the changes to how the business may operate without a 24 hour on-site presence. It also allows sufficient time for the appellant to find suitable alternative living accommodation.
18. To this limited extent, the appeal on ground (g) succeeds. I shall vary the terms of the Notice accordingly.

Conclusion

19. For the reasons given above, I conclude that the requirements of the Notice are not excessive to remedy the breach of planning control, but the period for compliance with the Notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) fails, but the ground (g) succeeds to that limited extent.

¹ A caravan is defined in section 29 Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 as amended

Formal Decision

20. It is directed that the Notice is varied by:

In paragraph 5, step (i), delete the words 'Cease the use of the Land for residential purposes' and substitute with the words 'Cease the mixed use, by discontinuing the residential activities on the Land.'

In paragraph 6 (1) delete the words and number 'twenty four (24) weeks' and substitute with the words and number 'ten (10) months.'

In paragraph 6 (2) delete the number and words 'thirty two (32) weeks' and substitute with the words and number 'twelve (12) months'

21. Subject to the variations, the enforcement notice is upheld.

M. P. Howell

INSPECTOR