



Appeal Decision

Site visit made on 28 October 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/V2255/C/24/3344377

Spade Lane, Hartlip, Sittingbourne, Kent, ME9 7TT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Owen Maughan against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 16 April 2024.
- The breach of planning control as alleged in the notice is Non-Compliance with Condition 3 of Planning permission 19/503694/FULL (allowed on Appeal APP/V2255/W/20/3254539 dated 8th June 2022).
- Condition 3 states:
"There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan".
- The requirements of the notice are:
 - (i) Remove from the Land all unauthorised static caravans, touring caravans and associated vehicles in accordance with condition 3 of planning permission 19/503694/FULL (allowed on appeal ref. APP/V2255/W/20/3254539 – a copy of which is enclosed).
 - (ii) Reduce the number of plots within the caravan site to 8 in accordance with condition 3 planning permission 19/503693/FULL (allowed on appeal APP/V2255/W/20/3254539) in accordance with the attached Layout Plan 2014.01
 - (iii) Reinstate the Land to its original condition before the breach took place - this includes removing the fencing that has been erected to 'sub-divide' the unauthorised plots.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) 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.

Decision

1. It is directed that the enforcement notice is corrected in Section 5(ii) by removing the word "plots" and replacing it with "pitches".
2. Subject to the correction the appeal is dismissed on ground (b) and the enforcement notice is upheld. No further action is taken in respect of the appeals made on grounds (a), (f) and (g).

Appeal site and background

3. The appeal site is a relatively flat area of land within the countryside approximately 1km away from the village of Hartlip with access off Spade Lane. There are a small number of dwelling houses nearby, the nearest opposite the site and a few to the rear on South Bush Lane.

4. The relevant background to this appeal is that conditional planning permission was granted on appeal (Ref: APP/V2255/W/20/3254539) for a temporary period of 3 years for use of the site as an 8 pitch gypsy traveller site, with associated day rooms, new access, driveway, hard standing, package treatment plants, boundary fencing and landscaping.
5. The word “plots” in Section 5(ii) of the notice is erroneous. However, that it should instead say “pitches” is patently obvious to any reasonable observer from the wording of Condition 3 (C3) of the appeal permission, also referred to in full in the notice. As such, there is no significant ambiguity or confusion and the notice can be corrected to refer to “pitches” without prejudice to any party.

Appeal on ground (b)

6. An appeal on ground (b) is a claim that the matters alleged in the enforcement notice have not occurred as a matter of fact. The onus of providing evidence rests with the appellant and is tested on the balance of probabilities.
7. Contrary to the appellant’s contention, the alleged breach of planning control at Section 3 of the notice is very clearly stated as non-compliance with C3 which itself is also set out in full. As such, the notice is clear in describing the breach as non-compliance with the limitations on the number of pitches and caravans in C3. Any arguments the appellant might have wanted to make as to the merits of varying the condition under ground (a) were not prejudiced given the appellant knew the level of use/number of caravans on site in order to make such arguments. As such the alleged breach as drafted does not require any correction.
8. As stated earlier, the onus is on the appellant to show the alleged matters have not occurred. Therefore, he needs to show that prior to the notice being issued there were no more than 8 pitches on site, with no more than 2 caravans on each pitch, of which no more than 1 of those was a static caravan.
9. In this regard the appellant has not provided any evidence that the number of pitches and caravans have not exceeded the limitations set out in C3. In contrast, the Council’s evidence is that when the notice was issued they recorded that 11 pitches had been created with 72 caravans stationed on the land, of which 56 were static caravans. Aerial photographs of the site before and after the notice was issued also show significantly more pitches and caravans in excess of that permitted by C3.
10. Having regard to all of the evidence before me, and on the balance of probability, it is clear that the matters alleged in the notice had occurred.
11. The appeal on ground (b) therefore fails.

Appeals on grounds (a), (f) and (g)

12. The ground (a)/deemed planning application (DPA) flows directly from the breach of planning control. Hence the DPA before me, validly made when it was lodged, was limited to carrying on the development authorised by the planning permission granted on appeal, APP/V2255/W/20/3254539, but without complying with C3 which limited the number of pitches and caravans.

13. As such, the DPA mirrors a retrospective application made under s73A(2)(c) of the Act, including that it is not open to me to review any other conditions imposed on the original permission; doing so would widen the scope of the enforcement notice.
14. Moreover, the appeal permission granted was for a limited period of time by Condition 2 (C2) to 3 years and hence the permission expired on 8 June 2025. It is no longer extant. No separate application or appeal was made in respect of C2 of the appeal permission.
15. Since the appeal permission has expired and is no longer extant I have no jurisdiction over any DPA related to C3; only C2 of the expired appeal permission remains 'alive' and for enforcement purposes only. Hence all of the development and use of the site is now in breach of C2.
16. C2 requires the permitted use to cease, removal of all caravans on the land and the land restored to its condition before the development took place. The enforcement of C2 is now a matter for the Council as local planning authority. It is of course open to the appellant to re-apply for planning permission.
17. Consequently, no further action can be taken with regard to these grounds of appeal.

Thomas Shields

INSPECTOR