



Appeal Decisions

Site visit made on 15 September 2025

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2025

Appeal A Ref: APP/J3720/C/23/3329159

Appeal B Ref: APP/J3720/C/23/3329160

Land at and adjoining Wood View, 177 Binton, Stratford-Upon-Avon, Warwickshire CV37 9TF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr. Adrian Fisher (Appeal A) and Mrs Kate Fisher (Appeal B) against an enforcement notice issued by Stratford-on-Avon District Council.
- The notice was issued on 4 August 2023.
- The breach of planning control as alleged in the notice is without planning permission, the following changes of use resulting in a new single planning unit with a mixed use comprising dwelling with associated garden, unauthorised landscape gardening business, and unauthorised extension of domestic garden:
 - 1) change of use of the Land (as indicated by the approximate location marked 'A' on the Plan) from agricultural to domestic garden use in connection with residential use of dwelling known as Wood View;
 - 2) the change of use of the Land (as indicated by the approximate location marked 'B' on the Plan) from agricultural use to mixed use of domestic garden use and use in connection with a landscape gardening business;
 - 3) the change of use of the Land (as indicated by the approximate location marked 'C' on the Plan) from domestic garden use (in connection with the dwelling known as Wood View), to a mixed use of domestic garden and use in connection with a landscape gardening business.Without planning permission, the erection of a building (in the approximate location marked 'D' on the Plan) for use as an office in connection with the unauthorised landscape gardening business and for private homeworking purposes.
- The requirements of the notice are:
 - a) Remove all materials being stored on the Land in connection with the landscape gardening business and remove the storage container from the Land.
 - b) Cease the use of the land marked 'A' on the Plan for domestic garden purposes and thereafter only use this parcel of land for agricultural purposes.
 - c) Cease the use of the land marked 'B' on the Plan for domestic garden purposes in connection with the landscape gardening business; and thereafter only use this parcel of land for agricultural purposes.
 - d) Cease the use of the land marked 'C' on the Plan for use in connection with the landscape gardening business; and thereafter only use this parcel of land for domestic purposes associated with the residential use of the dwelling known as Wood View.
 - e) Demolish the building shown in the approximate location of 'D' on the Plan and remove all associated materials from the Land.
- The periods for compliance with the requirements are:
 - a) Within 4 months from the date this Notice takes effect.
 - b) Within 4 months from the date this Notice takes effect.
 - c) Within 4 months from the date this Notice takes effect.
 - d) Within 4 months from the date this Notice takes effect.
 - e) Within 4 months from the date this Notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(c), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Decisions

1. The enforcement notice is quashed.

Procedural Matters

2. Following my site visit and review of all the submissions, I wrote to both parties with a number of questions regarding the notice. Both parties responded and I have taken their responses into account in making my decision.
3. In their final comments the appellants indicate that they have not been provided with several appendices referred to in the Council's statement. Appendix 1 refers to the enforcement notice, appendix 2 refers to correspondence between the Council and the appellants regarding their application (Ref: 21/03419/FUL) which was subsequently withdrawn. Appendices 9 and 10 relate to photographs taken of the appeal site in 2022 and appendix 11 refers to communication between the Council and the appellants agent in 2022. A quote from this communication is provided in the Council's statement (page 14). Appendix 12 refers to information obtained from the appellants' landscape gardening business website. I acknowledge that the appellants should have been provided with copies of these appendices, however, I do not consider injustice has been caused given that, apart from the Council's photographs, the appellants would have previously been aware of this information. In any event, I am quashing the enforcement notice.
4. The allegation in the enforcement notice refers to changes of use to a mixed use of the appeal site for domestic garden and a landscape gardening business. The allegation should state "material change of use" as this is the correct act of development as defined by statute. I could correct this aspect of the allegation without causing injustice to the parties.

Reasons

5. The appeal site is a detached residential property with associated garden. The land to which the notice relates is shown edged in red on the plan attached to the notice. The Council has identified different parts of the land as A, B, C and D. The appeal site is bordered to the west by agricultural land. It is alleged that some of this agricultural land has been incorporated into the appeal site (areas identified as A and B).
6. From what I saw at my site visit and the submitted evidence, the area of land identified as A is mostly laid to lawn and used as garden. The area B is used as garden and in connection with the landscape gardening business. The land identified as C is used for storing materials in connection with a house extension and the landscape gardening business. There is a chicken shed, outbuildings and a container which according to the appellants is used for domestic storage. The area of land identified as D includes the appellants' home and garden with a building which is used as a home office and an office in connection with the landscape gardening business.
7. Whilst the majority of equipment and associated goods of the landscape gardening business are stored at a commercial yard, there is no dispute between the parties that the appeal site has been used in connection with the appellants' landscape gardening business. It is evident that this use in terms of activity and the nature/amount of storage has evolved and fluctuated over time.
8. The enforcement notice alleges a 'mixed use comprising dwelling with associated garden, unauthorised landscape gardening business and unauthorised extension of

domestic garden.’ It appears that what the notice is actually alleging is a mixed use of residential and landscape gardening business. While an enforcement notice alleging a material change of use does not need to recite the previous use (or uses), this can be helpful to make it clear why the Council considers there has been a material change.

9. The notice goes on to describe the changes of use that it considers have occurred. These are: in relation to the land marked ‘A’, the notice alleges that there has been a change of use from agricultural land to domestic garden; in relation to the land marked ‘B’, a change of use from agricultural land to a mixed use of domestic garden and landscape gardening business; and in relation to the land marked ‘C’, a change of use from domestic garden to a mixed use of domestic garden and landscaping business.
10. Whilst the Council has described the different changes of use that it considers have taken place on different parts of the site, because it is alleging the appeal site comprises a single planning unit in mixed use, the whole of the site is in a mixed use. Thus, whilst the notice alleges the erection of a building for use as an office in connection with the landscaping business and homeworking in relation to the land marked ‘D’, this land forms part of the overall site and therefore it is in a mixed use comprising dwelling with associated garden, unauthorised landscape gardening business and unauthorised extension of domestic garden.
11. An enforcement notice must be drafted to tell the recipient fairly what they have done wrong and what they must do to remedy it. However, in this case, the alleged changes of use set out under sub-paragraphs 1), 2) and 3) appear to contradict the alleged mixed use which comprises the breach. For example, 1) alleges a change of use of the Land from agricultural to domestic garden use in connection with residential use of dwelling known as Wood View. There is no mention of the landscaping business. If that forms part of the mixed use, as alleged, then it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities. Sub-paragraphs 2) and 3) refer to domestic garden use and landscape gardening business but make no reference to the dwelling.
12. I have a duty to get a notice in order if I can. Pursuant to section 176 of the 1990 Act I have the power to “(a) correct any defect, error or misdescription in the enforcement notice; or (b) vary the terms of the enforcement notice”, if I am satisfied that the correction or variation will not cause injustice to the appellants or the Council.
13. Given that an enforcement notice does not need to recite the previous use, it would be possible to delete sub-paragraphs 1), 2) and 3). The Council states that it is satisfied with the simplified description and considers that there would be no injustice caused were I to correct the notice to refer to the material change of use to a mixed use comprising residential and landscape gardening business. However, the appellants raise concern with such a correction because, they say, the area denoted by ‘A’ has not been used for the landscaping business.
14. While the enforcement notice alleges a new single planning unit, it is not clear from the appellants’ response that they have understood or based their submissions on this, given the allegations contained in sub-paragraphs 1), 2) and 3) of the notice. In response to my queries regarding the notice, for example, the appellants refer to the area of land marked ‘A’ as being used as a garden as part of the residential

property and refer to it being defined by both boundary and internal fencing. I have concerns that correcting the notice in this way would deprive the appellants from making arguments under other grounds of appeal.

15. Furthermore, were I to correct the allegation, it would be necessary to consider whether the requirements would need correcting. Although the requirements of the notice require the appellants to cease the use specified in the areas of land marked 'A', 'B' and 'C', there is no requirement to cease the use in the land marked 'D'. The requirements of the notice do not, therefore, require the mixed use to cease over the whole planning unit.
16. Section 173(11) of the 1990 Act states that:- Where— (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
17. Having regard to section 173(11) of the 1990 Act, if the notice was upheld, planning permission would be granted for the mixed use within the area of the land on which the building marked D is located, because the enforcement notice could have required the mixed use to cease, but does not do so in this part of the site. It appears from the reasons for issuing the notice and subsequent submissions by the Council, that it was not its intention to grant planning permission for the landscape gardening business in this part of the site.
18. If I were to correct the notice so that the mixed use ceases across the whole of the appeal site, that would result in injustice to the appellants as it would make the requirements more onerous to comply with. Conversely, if I were to correct the allegation but not the requirements, that would cause an injustice to the Council because the use of this area of land would benefit from an unconditional deemed planning permission under section 173(11) of the 1990 Act. This would be the case regardless of any steps already carried out to comply with the notice and regardless of the appellants' current intentions not to use this part of the site for the landscape gardening business.
19. Accordingly, I do not consider that correcting the notice is possible without causing injustice. Therefore, it must be quashed as inaccurate and incapable of correction without causing injustice to the Council or the appellants.

Conclusion

20. 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 for me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act since I cannot be satisfied that no injustice would be caused were I to do so.
21. The enforcement notice is invalid and will be quashed. In these circumstances the appeals under grounds (c), (f) and (g) as set out in section 174(2) of the 1990 Act as amended do not fall to be considered.

Elizabeth Jones INSPECTOR