
Appeal Decision

Site visit made on 25 November 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 08 December 2025

Appeal Ref: APP/Q9495/C/23/3331438

Land to the north of Waterhead Range, Lake Road, Ambleside LA22 0DS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr L Lakin of Cook and Lakin Properties Ltd against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice, numbered E/2021/0343, was issued on 23 August 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from agriculture to use for the storage of building materials, equipment and waste and associated importation of waste to raise ground levels.
 - The requirements of the notice are:
 1. Discontinue the use of the Land for the storage of building materials, equipment and waste.
 2. Remove all building materials, equipment, waste and other related items from the Land.
 3. Remove the imported waste material from the Land and restore the Land to its condition before the breach took place.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: the appeal is dismissed and the enforcement notice is upheld

Procedural Matters

1. Several representations have been received in relation to this appeal, including on the grounds of noise disturbance from the activities on the site. These are matters that properly fall to be considered under an appeal on ground (a) as set out in section 174(2) of the Town and Country Planning Act 1990 (1990 Act) namely that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. However, in the absence of an appeal on ground (a) in his case, I cannot take those matters into account, other than insofar as they relate to the other grounds of appeal on which the appeal has been made.

The appeal on ground (e)

2. The ground of appeal is that copies of the enforcement were not served as required by Section 172 of the 1990 Act. Section 172 of the 1990 Act requires that a copy of an enforcement notice shall be served: (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, *in the opinion of the authority*, is materially affected by the notice (emphasis added).

3. The appellant's case on this ground of appeal is that NW Electricity has major assets running through the site and has been responsible for the raising of the land level over those assets. The appellant questions whether NW Electricity should have been served with a copy of the Enforcement Notice, particularly as one of the requirements could (in the appellant's view) endanger those assets.
4. As the Authority points out, the notice alleges a material change of use of the Land and requires that the imported material placed on the original surface of the Land to be removed. The Authority therefore considered that the NW Electricity's interest in the Land would not be materially affected by the enforcement notice and so a copy was not served on them.
5. The background is that in 2023 NW Electricity traced a major fault to one of the cables that run across the land. In carrying out repairs, NW Electricity excavated the land surrounding the electricity cables. In order to protect the cables from future damage, NW Electricity then raised the land levels surrounding /over them when reinstating the land.
6. The salient point is that the electricity cables were beneath the surface of the land before the works alleged in the notice took place. The notice required the land to be restored to its original condition (including ground levels) before the works alleged in the notice took place. Consequently, the requirements of the notice had/have no effect on the interest in the land held by NW Electricity. It follows that there was no merit in serving a copy of the notice on NW Electricity.
7. In this case, NW Electricity is not materially affected by the notice. The notice has been served fully in accordance with the requirements of section 172 of the 1990 Act. In any event, it cannot be said that NW Electricity has been substantially prejudiced by not being served with a copy of the notice.
8. Accordingly, the appeal on ground (e) fails.

The appeal on ground (c)

9. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.
10. There are two aspects to the appellant's appeal on this ground: (i) the storage of building materials, equipment and waste, and (ii) the raising of ground levels. It is convenient to consider the latter in the first instance.

The raising of ground levels

11. The appellant maintains that the raising of ground levels is the result of the repair to the electricity cables carried out by NW Electricity, specifically the re-covering of those cables. However, the photographic evidence produced by the Authority and a local resident does not support that.
12. The evidence before me is that the repairs to the electricity cables took place during 2023. These photographs produced by the Authority and a local resident show the land being raised over a greater area and to a far greater

extent than required to simply recover the exposed cables. Moreover, at least two of these photographs were taken in March 2022, a year or so prior to the repairs to the electricity cables made by NW Electricity. The corollary is that the raising of the ground levels over the wider site cannot have been undertaken by NW Electricity.

13. The appellant has provided no evidence to counter the photographic evidence produced by the Authority and a local resident. The one photograph produced by the appellant only shows a small part of the site, limited to the area immediately surrounding the exposed electricity cables.
14. I also note the point in one representation that the raising of the site took place a couple of years ago when the appellant dumped many trailer loads of imported waste material on the site. This appellant has not challenged that point. It is less than probable that NW Electricity would invest in dumping many trailer loads of imported waste material on the site simply to cover a length of the exposed cable within a narrow trench. It is more likely that NW Electricity would simply refill the trench containing the exposed cables with the same material they excavated initially. The appellant has produced no evidence to the contrary.
15. I therefore find that, as a matter of fact and degree, land levels have been raised across the site not, as the appellant contends, by NW Electricity as the re-covering of exposed cables but more likely than not by the appellant. I therefore find that the raising of the ground level is not permitted by either Part 10 or Part 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
16. The meaning of development for the purposes of the 1990 Act is defined at Section 55(1) of that Act as meaning:

...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land.

17. The raising of ground levels is generally considered to be an engineering operation for the purposes of Section 55(1) of the 1990 Act. Section 57 of the 1990 Act states that planning permission is required for development. There is no planning permission in place, deemed or otherwise, for the development alleged in the notice (the raising of ground levels). I therefore conclude that this element of the development does constitute a breach of planning control.

The storage of building materials, equipment and waste

18. The appellant's case in respect of this element of the alleged breach of control is that the storage of building materials, equipment and waste is permitted by Part 4, Class A Schedule 2 of the GDPO, titled "temporary buildings and structures". Class A provides that the following is Permitted Development:

The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land (emphasis added)

19. The appellant maintains that the land is being used in connection with works being undertaken on the adjoining property, known as Waterhead Range

Cottage. The appellant explains that these works began as an extensive programme of renovations which included reroofing and the erections of extensions, pursuant to a planning permission (Authority Ref: 7/2022/5209). The appellant explain that these works are currently ongoing (as of October 2023) and that the appellant is using the site the subject of the enforcement notice for the storage of building materials, plant, and machinery being used for the work.

20. However, as the Authority point out, Waterhead Range Cottage does not adjoin the appeal site. Consequently, the use of the Land in connection with the development at Waterhead Range Cottage cannot be permitted development under Part 4, Class A, Schedule 2 of the GPDO. For that reason, it matters not whether the works at Waterhead Range Cottage are still ongoing at this time.
21. I am aware that on 23 October 2025, an appeal was lodged under section 78 of the 1990 Act against the refusal of the Authority to grant planning permission for the erection of a building containing 8 bedsit units and communal kitchen/lounge, for occupation by people working locally on the appeal site (APP/Q9495/W/25/3374958). At the time this Decision was issued, that appeal had not been determined.
22. The provisions of Class A1(b), Part 4, Schedule 2 of the GDPO apply to works to be carried out on land. However, Class A1(b), Part 4, Schedule 2 of the GDPO states that permission is not granted by Class A if planning permission is required for those operations but is not granted. Given that the appeal against the refusal of planning permission remains the subject of an appeal, planning permission for that development is not granted. In these circumstances, Class A1(b), Part 4, Schedule 2 of the GDPO applies, such that deemed planning permission for the storage of building materials, equipment and waste is not granted by Class A at this time.

Conclusion on ground (c)

23. I conclude that, on the balance of probability, the breach of planning control constituted by the matters stated in the notice does constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (f)

24. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach.
25. In this case, the requirements of notice include to discontinue the use of the Land for the storage of building materials, equipment and waste; to remove all building materials, equipment, waste and other related items from the Land,

and to remove the imported waste material from the Land and restore the Land to its condition before the breach took place. The purpose of the notice must therefore be to remedy the breach of planning control that has occurred.

26. At the time the appeal was initially submitted, the planning application for the erection of a block of units designed for local workers accommodation on the appeal site was being prepared. That application is now the subject of the aforementioned appeal (APP/Q9495/W/25/3374958). The appellant confirms that, in the event that the appeal is allowed, the site will once again be required for the storage of storage of building materials, plant, and machinery being used for the work. The appellant contends that this would be permitted by Class A, Part 4, Schedule 2 of the GDPO.
27. However, Class A1(b), Part 4, Schedule 2 of the GDPO states that permission is not granted by Class A if planning permission is required for those operations but is not granted. The difficulty is therefore that, with no planning permission in place, the storage of storage of building materials, plant, and machinery being used for the work would not benefit from the provisions within Class A at this time. Consequently, the appellant's argument in this respect cannot succeed.
28. The appellant has advanced no lesser steps to comply with the notice. I have considered whether there are any other suitable alternatives to the requirements stated in the notice which would achieve the purpose of the notice with less cost or disruption to the appellant, but none are obvious to me. Accordingly, I conclude that the steps required in the notice are not excessive and that the appeal on ground (f) must fail.

The appeal on ground (g)

29. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is four months. The appellant seeks a period of compliance of six months.
30. The appellant seeks an extension to the period for compliance in part to enable the works to Waterhead Grange Cottage to be completed. However, for the reasons set out above, the use of the appeal site for the storage of building materials, equipment and waste in connection with any works ongoing at Waterhead Range Cottage is not permitted by Class A, Part 4, Schedule 2 of the GDPO. It therefore cannot form a reason for extending the period for compliance specified in the notice.
31. Similarly, any works undertaken by NW Electricity to investigate and implement replacement measures to protect its underground cables are entirely separate from the breach of planning control alleged in the notice. Those works cannot provide any justification to extend the period for compliance.
32. I am not persuaded that there is any need to extend the period for compliance with the notice and am satisfied the period of compliance of four months specified in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeal on ground (g) fails.

Conclusion

33. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice. In the event that the appeal made under section 78 of the Act is allowed (APP/Q9495/W/25/3374958), the requirements of the notice will cease to have effect so far as inconsistent with that planning permission by virtue of section 180 of the 1990 Act.

Formal Decision

34. The appeal is dismissed and the enforcement notice is upheld.

Paul Freer

INSPECTOR