



Appeal Decision

Site visit made on 18 November 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08th December 2025

Appeal Ref: APP/R0660/C/25/3368589

Wood View, Ravens Lane, NANTWICH, CW5 8PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Brad Rushton against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 28 May 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the unauthorised material change of use of Land from an equestrian use to a mixed equestrian use and use as a residential caravan site for the stationing of a caravan for residential use shown in the approximate position hatched green on the attached Plan B and associated domestic paraphernalia.
- The requirements of the notice are to:
 - a) Cease the use of the caravan on the Land for residential use located in the approximate position hatched green on Plan B attached to this notice.
 - b) Remove the caravan located in the approximate position hatched green on Plan B attached to the notice from the Land, along with all connections to water, electricity and sanitation.
 - c) Remove all domestic paraphernalia from the Land and all development associated with the unauthorised residential use from the Land.
- The periods for compliance with the requirements are: a) Six months, b) seven months; c) seven months.
- 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).

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - the deletion of the words 'and all development associated with the unauthorised residential use from the Land.' in paragraph 5.c);
 - the deletion of six months in paragraph 6a) and its substitution with nine months as the initial time for compliance; and
 - the deletion of seven months in paragraphs 6b) and c), and its substitution with ten months as the subsequent times for compliance.
2. Subject to the correction and variations, the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

3. According to the appellant, the Council may have failed to meet requirements in the Local Government Act 1972 (as amended), and The Openness of Local Government Bodies Regulations 2014 to the extent that he considers procedural unfairness has occurred and that the enforcement notice was not lawfully issued. As 'residual' grounds¹ outside of s174, any allegation of illegality or procedural

¹ See *R v Wicks* [1998] AC 92

irregularity in relation to the standing of the Notice is a matter for the Courts. It was open to the appellant to seek judicial review of the standing of the Notice upon its service. He may also, if applicable, seek to rely on legal challenge to its standing should s179 of the Act be engaged.

4. Moreover, it is well established that a local planning authority's consideration of expediency is not a matter for Inspectors². For the avoidance of doubt, as the appellant has seen fit to challenge the Notice on grounds of appeal set out in s174 of the Town and Country Planning Act 1990 (as amended) (the Act), and a valid appeal has been deemed to be made, my remit extends only in relation to the grounds of appeal under s174. Nothing in this decision prevents any legal challenges should the appellant choose to pursue them, nor should it be seen to prejudice any separate proceedings on the matter of the Council's approach to decision-making.

The Notice

5. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
6. Section 173(3) of the Act requires that 'An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes'. Briefly, those purposes are remedying the breach or remedying any injury to amenity which has been caused by the breach.
7. In this case, paragraph 5c) of the Notice requires a recipient to 'remove all domestic paraphernalia from the Land and all development associated with the unauthorised residential use from the Land'. Although the removal of domestic paraphernalia is self-explanatory and reasonable, in the absence of clear specification within the requirement or the allegation of what 'development' is being referred to, I find the phrase 'all development associated with the unauthorised residential use of the Land' is uncertain.
8. I note reference within the Reasons for Issuing the Notice to concerns over the access, however, it is unclear in the Notice if this is the 'development' referred to, or whether it is something else. That ambiguity is a deficiency in the Notice. Accordingly, I have sought the further views of the main parties as to the standing of the Notice and whether injustice might arise if I were to correct that part.
9. In *Oates*³, the High Court helpfully set out relevant principles in respect of the matter of nullity. Some degree of uncertainty or other defect in the relevant section of the notice does not mean there is non-compliance with section 173(3). Whether a defect renders the notice null must be viewed in the context of: the importance or otherwise of that particular part of the enforcement notice; whether the defect is bound up with the remainder of that section; and, whether the enforcement notice would be valid in the absence of that defect. It is open to me to conclude that whilst part of the relevant section of the notice is uncertain, the notice as a whole complies with the statutory requirements, and the offending part can be deleted

² See *R. (Matthews) v SSCLG* [2014] EWHC 1299 (Admin) and *Gazelle Properties Ltd v Bath and NE Somerset Council* [2011] J.P.L. 702

³ *Oates v SSCLG v Canterbury CC* [2018] EWCA Civ 2229

without rendering the remainder of the notice null. Finally, *Oates* established that the Inspector should approach the exercise in a way which is not unduly technical or formalistic.

10. The Notice alleges and addresses a material change of use of the Land. The Notice does not refer to operational development in the allegation. Removal of the reference to 'all development associated with the unauthorised residential use' would remove any ambiguity and reduce the burden on the appellant such that no injustice would be caused to him.
11. For the Council's part, because no operational development is alleged, there would be no potential for s173(11) to engage with respect to such development in the event that the Notice was otherwise complied with. Furthermore, if it found it expedient to do so, it would be open to the Council to serve a further notice in regard to any unauthorised operational development that may have taken place. Accordingly, I find that correction by deletion of that requirement would not cause injustice to either of the main parties in the appeal.

Ground (f)

12. An appeal on this ground 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.
13. The Notice alleges a material change of use of the Land. It requires that use to cease and does not seek to underenforce. Accordingly, the primary purpose of the Notice is to remedy the breach of planning control.
14. I recognise the appellant's assertions with regard to the planning matters of the effect of the development on the character and appearance of the countryside. However, as no ground (a) appeal has been brought, it is not open to me to consider the planning merits of the development.
15. Ground (f) is only concerned with the question of whether the requirements of the Notice exceed what is necessary to remedy the breach of planning control. Any effects on the character and appearance, or the appellant's Human Rights, as justification to retain the caravan are not therefore relevant considerations under this ground.
16. The retention of the caravan on the site would not remedy the breach. Accordingly, I find the appeal on ground (f) must fail.

Ground (g)

17. A ground (g) appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. My role here is to balance the public interest in securing expeditious compliance with the enforcement notice against the private interest bound up in the development subject to the notice. In so doing, I must assume that the use of the Land subject to the enforcement notice for the mixed use causes the harm alleged in the reasons for issuing the Notice and that the requirements of the Notice are justified and proportionate.

18. The enforcement notice, which will be upheld, will interfere with the appellant's and his family's rights under Article 8 of the Human Rights Act 1998 (HRA), including his children, whose best interests must be given primary consideration. Article 8 of the HRA states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, subject to the concept of proportionality. The Notice identifies the harm caused by the development to the well-established national planning policy aims and principles for protecting the character and appearance of the countryside and achieving the most sustainable spatial distribution of development.
19. Furthermore, because age is a protected characteristic under the Equality Act 2010, I must also have regard to the Public Sector Equality Duty (PSED). Section 149 of the Equality Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have therefore kept these interests at the forefront of my mind.
20. The appellant highlights that compliance with the Notice would leave him and his family, including two children, homeless. He also refers me to the Children Act of 1989 and that by requiring children to vacate their home, or remove them from the school they attend, the Notice would impose harm on them. He proposes a period of 12 months would be more appropriate to allow time to find alternative housing.
21. The Council asserts that the appellant owns another property at 3 Melbourne Grove, Haslington; which, at the time of submission of the Council's statement of case, remained available for residential use. While there is little substantive evidence to that effect, this is not disputed by the appellant. On the evidence therefore, the appellant may have the ability to rehouse his family.
22. However, if that is not the case, the appellant contends that the Council would have a legal responsibility to house him and his family. In an area of high housing competition, which the appellant considers to be elevated by the Government's reported preference to house immigrants before UK nationals, it is asserted that this could take some time to achieve. I accept that securing alternative accommodation for a family unit may give rise to challenges that could take more time to resolve than for an individual, for example.
23. Furthermore, the best interests of the children would be to live or remain living in a stable environment. Moving away from the site could cause them stress and could disrupt their education, health and care. However, it may also result in all occupants living together in superior accommodation which also meets the needs of the children. This would not result in discrimination.
24. Given the timing of the appeal, the six-month period for compliance in the Notice would potentially be during a school term. This could cause a disproportionate effect on the children's education.
25. Taking the above matters together, I find that the 6-month period for compliance with requirement 5a) of the Notice falls short of what is reasonable. A period of 9 months would be reasonable and provide a proportionate balance between any adverse effects that upholding the Notice would have on the appellant and the best interests of the children, and the protection of the public interests. It would also

coincide with the main school break. The subsequent requirements to remove the caravan and domestic items from the Land are also amended to reflect the time sequence of requirements in the original Notice.

Conclusion

26. For the reasons given above, I conclude that the periods for compliance with the Notice fall short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

R Hitchcock

INSPECTOR