



Appeal Decision

Site visit made on 8 December 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/R1845/C/24/3350371

Land at Wyre Mill House, Mill Lane, Wolverley, Worcestershire DY11 5TR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Alec Evans against an enforcement notice issued by Wyre Forest District Council.
 - The notice was issued on 1 August 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agricultural to a mixed-use comprising agriculture and:
 - i) The stationing of storage containers
 - ii) Storage of caravans
 - iii) Storage of pallets of building materials
 - iv) General storage of miscellaneous items including IBC containers and heras fencing.
 - The requirements of the notice are to:
 - 1. Permanently remove from the Land all storage containers not associated with the authorised agricultural use of the Land.
 - 2. Permanently remove from the Land caravan(s) not associated with the authorised agricultural use of the Land.
 - 3. Permanently remove from the Land the pallets of building materials (i.e slabs and bricks) and permanently cease the use of the Land for the storage of building materials not associated with the authorised agricultural use of the Land.
 - 4. Permanently remove from the Land all items including IBC containers and heras fencing not associated with the authorised agricultural use of the Land.
 - 5. Reinstate the land to a solely agricultural use.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 (as amended).
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Matters Concerning the Enforcement Notice

1. The breach of planning control alleged in the enforcement notice is 'the material change of use of the land from agricultural to a mixed-use comprising agriculture and: i) The stationing of storage containers ii) Storage of caravans iii) Storage of pallets of building materials iv) General storage of miscellaneous items including IBC containers and heras fencing'. It is abundantly clear the alleged breach of planning control is a material change of use.
2. Section 173(11) of the Town and Country Planning Act 1990 (the Act), states *'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.'*

3. Although the requirements under section 5 of the notice seek the removal of certain items that may be associated with the alleged material change of use of the land to the mixed use, none of them require the cessation of the mixed use. Consequently, having regard to s173(11), as the notice could require the mixed use to cease but does not do so, planning permission shall have been treated to be granted for the mixed use by virtue of s73A of the Act. Within the four corners of the notice, this is clearly not the intention of the Council, and therefore the notice is deemed to be invalid.
4. Under s176(1) of the Act, I have the power to vary the terms of the notice, if I am satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority. Were I to vary the notice to include a requirement to cease the mixed use, this would remove the planning permission that the notice would currently grant for the mixed use by virtue of s173(11). Consequently, this would cause significant injustice to the appellant as the requirements of the notice would be more onerous.
5. I note the Council's argument that requirements 1-4 under section 5 of the notice require the removal of items associated with the alleged mixed use and therefore they would, in effect, result in the cessation of the use. However, these requirements would be at odds with the planning permission that would nevertheless be granted for the mixed use by virtue of s173(11). They would unreasonably prevent the appellant from carrying out the use for which he would have lawfully obtained planning permission for, in doing so causing them significant injustice.
6. I have also had regard to requirement 5 under section 5 of the notice, which the Council argues would have the same effect as a requirement to cease the mixed use because it requires the reinstatement of the land to a solely agricultural use. However, a notice cannot require reversion to the lawful use or that another activity takes place. Accordingly, notwithstanding the appellant's argument under ground (f), that the lawful use of the land is not agricultural, the notice cannot require an alternative use to the alleged material change of use is reinstated, whether lawful or not. To do so would go beyond what is reasonably necessary to remedy the alleged breach of planning control. Therefore, were the appeal not to be found invalid, the notice would be varied to remove requirement 5 on the basis that it is not reasonably necessary to remedy the breach of planning control.

Conclusion

7. For the reasons given above, I conclude that the enforcement notice does not specify what the Council intend it to.
8. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
9. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (c) and (f) of the 1990 Act (as amended) do not fall to be considered.

A Walker

INSPECTOR