



Appeal Decisions

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an Inspector appointed by the Secretary of State

Decision date: 22 DECEMBER 2025

Appeal A Ref: APP/F0935/C/25/3372288

The north and west of Oak Meadows and Sunday's Stables, south and west of Lough Butts Wood and east of the M6, Carlisle, CA1 3GT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr William Hutchinson against an enforcement notice issued by Cumberland Council.
 - The notice was issued on 6 August 2025.
 - The breach of planning control as alleged in the notice is a) Unauthorised change of use of the land from agricultural to a mixed use of residential and open storage; b) Placing of approximately 24 caravans within the red line area on the attached plan; c) Bringing on to the Land and storing and depositing construction materials and equipment; d) Erection of fencing on the Land. e) Operational development relating to the mixed residential and storage use by creating hardstandings on the Land. f) Installation of electricity, septic tank and drainage services to facilitate the unauthorised use of the Land for residential occupation; g) Unauthorised engineering operations on the Land through the creation of a soil mound from imported materials and the laying of hardcore.
 - The requirements of the notice are to: a) Discontinue the unauthorised mixed residential and open storage use of the Land; b) Remove all property and vehicles not ancillary to agricultural use and reinstate the Land to its original use as agricultural; c) Remove all caravans from the Land; d) Remove all construction waste and equipment from the Land and cease bringing onto the Land and depositing construction waste and equipment; e) Remove all unauthorised fencing from the Land; f) Remove all hardstanding from the Land; g) Disconnect and remove all installation of electricity services, septic tank, drainage services and all other unauthorised services from the Land; h) Cease all engineering operations, including the altering of land levels and laying of hardcore on the Land and reinstate the Land to its original state; i) Remove from the Land all rubbish, building materials and rubble arising from compliance with requirements b – h.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e) and (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.
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Appeal B Ref: APP/F0935/C/25/3372539

Appeal C Ref: APP/F0935/C/25/3372541

The south-west of Thistle Stables, West of Washback and south and east of the M6 alongside bridleway 129016/138037, (also known as land including but not exclusively Mannora and Scotby Oaks), Scotby, Cumbria, CA4 8FT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal B is made by Mr James Lowe and Appeal C is made by Mr David Stewart against an enforcement notice issued by Cumberland Council.
- The notice was issued on 6 August 2025.
- The breach of planning control as alleged in the notice is without planning permission the :a) Unauthorised change of use of the Land from agricultural to a mixed use of residential and open storage; b) Placing of at least 24 caravans within the Land on the attached plan; c) Bringing onto the land and storing and depositing construction materials and equipment; d) Erection of fencing on the Land; e) Operational development relating to the mixed residential and storage use by creating hardstandings on the Land; f) Installation of electricity, septic tank and drainage services to facilitate the unauthorised use of the Land for residential occupation; g) Unauthorised engineering operations

of laying of hardcore on the Land relating to the unauthorised mixed residential and storage use or the Land.

- The requirements of the notice are to: a) Discontinue the unauthorised mixed residential and open storage use of the Land; b) Remove all property and vehicles not ancillary to agricultural use and reinstate the Land to its original use as agricultural; c) Remove all caravans and other units being used for residential occupation from the Land; d) Remove all construction waste and equipment from the Land and cease bringing onto the Land and depositing construction waste and equipment; e) Remove all unauthorised fencing from the Land; f) Remove all hardstanding from the Land; g) Disconnect and remove all installation of electricity services, septic tank, drainage services and all other unauthorised services from the Land; h) Cease all engineering operations, including the altering of land levels and laying of hardcore on the Land and reinstate the Land to its original state; i) Remove from the Land all rubbish, building materials and rubble arising from compliance with requirements b – h.
 - The period for compliance with the requirements is 2 months.
 - Appeal B is proceeding on the grounds set out in section 174(2)(a), (b) and (g), and Appeal C is proceeding on the grounds set out on the grounds set out in section 174(2)(a), (b), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A

1. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

Appeals B and C

2. Since the notice is found to be a nullity, no further action will be taken in connection with the appeals. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

Procedural and Preliminary Matters

3. Case Management Conferences were held on 17 and 20 November 2025. It was evident, from the discussions during these meetings and the submissions already received from the parties, that issues regarding potential defects in the enforcement notices in each appeal had been raised by the respective appellants. It was therefore directed that a preliminary ruling regarding the notice and whether there were any defects, and if so whether such defects could be corrected without causing injustice to the main parties should be determined initially in order to deal with the appeals most effectively and efficiently.
4. Section 319A of the Town and Country Planning Act 1990 (“the 1990 Act”) as amended provides that determination of enforcement appeals can be considered by one or more types of procedure as appropriate. In this case the parties would not be prejudiced by the issues regarding the notice being dealt with by way of the written representations procedure, with the remainder of issues including the grounds of appeal being dealt with by way of Inquiry as necessary.
5. The parties were therefore given until 1 December in order to make any further submissions related solely to the issue of whether or not the notices are a nullity, and this decision is the written ruling regarding this issue.

The notices

6. In these appeals, there are two notices. The notices allege similar development but relate to different sites, and there are different appellants. The notice in Appeal A relates to land to the north and west of Oak Meadows and Sunday's Stables, south and west of Lough Butts Wood and east of the M6, Carlisle. The notice in Appeals B and C relates to land to the south-west of Thistle Stables, West of Washback and south and east of the M6 alongside bridleway 129016/138037, (also known as land including but not exclusively Mannora and Scotby Oaks).
7. Section 173 of the 1990 Act sets out the contents and effect of an enforcement notice. This includes a number of elements that "shall" be included. These include the matters which appear to the LPA to constitute the breach of planning control (Section 173(1)(a)) and the steps which the LPA require to be taken, or the activities which the LPA require to cease (Section 173(3)). These are the two elements which the case of *Miller-Mead v MHLG*¹ advises must be included to ensure that a notice is not "hopelessly ambiguous and uncertain", and which reflect the specific statutory requirements relevant in that case.
8. In *Miller-Mead*, the Court of Appeal considered whether the recital (i.e. the allegations) in the notice was correct, and variations made to the requirements by the Secretary of State. The Master of the Rolls noted the provisions set out in section 23(1) and (2) of the 1947 Act, and that an enforcement notice must specify whether the alleged breach comprises development without planning permission or a breach of condition, plus the steps to be taken to remedy the breach. In agreement, Upjohn LJ states that the recipient of the notice is entitled to "find out from within the four corners of the document exactly what he is required to do or abstain from doing...it is a question of construction of Section 23...if a notice does not comply exactly with those sections...it does not specify the steps, or the alleged failure...with proper and sufficient particularity, the notice will not be operative". The *Miller-Mead* case does not consider any matters other than the alleged breach and the requirements.
9. Section 173 of the 1990 Act, which post-dates the *Miller-Mead* case, goes on to specify other matters which "shall" be specified in a notice – and without which the notice must therefore be considered a nullity. Section 173(10) states that the notice shall specify such matters as may be prescribed in the regulations, and these are the Town and Country Planning (Enforcement Notices and Appeals) Regulations 2002 ("the 2002 Regulations") which require that the enforcement notice shall specify (a) the reasons why the LPA consider it expedient to issue the notice and (b) all relevant policies and proposals in the development plan.²
10. In both notices paragraph 4, "Reasons for Issuing this Notice", states: that the operational development has occurred within the last four years; and that the material change of use has occurred within the last 10 years and does not benefit from permitted development rights and is contrary to various development plan policies which are listed. The notices then go on to state that planning conditions could not overcome these objections and that the Council consider it expedient to issue the notices.

¹ [1963] 2 WLR 225

² Regulation 4(a) and (b)

11. Crucially the planning harm caused by the alleged development is not described in the notices. The policies set out in the notices from the "Carlisle District Local Plan 2015 – 2030" are wide-ranging in scope. They are entitled: *Sustainable Development, Strategic Growth and Distribution; Securing Good Design; Healthy and Thriving Communities; Rural Diversification; Gypsy, Traveller and Travelling Showperson Provision; Waste Minimisation and the Recycling of Waste; Foul Management and Development Management Sites; Surface Water Management and Sustainable Drainage Systems; and Environmental and Amenity Protection*. It is therefore not clear, without further details, as to which parts of these policies are relevant in these cases, or the nature of the actual planning harm alleged. Furthermore, it is only the material change of use of the land which is stated to be contrary to the policies, and not the multiple elements of the alleged operational development.
12. The appellants have stated that they had not understood the scope of the harm alleged by the Council in the notices, particularly in relation to noise and pollution arising from the proximity of the development to the M6 motorway. They have made submissions that because the planning harm alleged by the Council was vague and unclear this caused problems when preparing their appeals under ground (a) and the deemed planning application.
13. The case of *Koumis v SSCLG* [2014]³ held that the Miller-Mead approach to nullity should be confined to those cases where failure to comply with the statutory requirements in section 173 is apparent on the face of the enforcement notice itself; and *Silver v SSCLG & Camden LBC & Tankel* [2014]⁴ held that it is impermissible to look beyond the EN to determine the reasons for its issues.
14. Taking into account the relevant caselaw based on the facts as set out above, the required information regarding expediency was not included in the notices. The appellants' agents had sought further information from the Council to clarify the nature of the planning harm, and this supports the assertion that the failure to meet the statutory requirements was on the face of the notices. It would have been necessary to look beyond the notices in order to properly understand the issue of expediency and this is not in accordance with the caselaw.
15. It was held in the case of *Oates v SSCLG v Canterbury CC* [2018]⁵ that some degree of uncertainty or other defect in a notice does not mean that there is non-compliance with the statutory requirements; that is a matter of planning judgement and the defect must be viewed in context. However, in these cases the appellants did not know what case they had to answer. The notices are defective because of the omission of the reasons it was expedient to issue them, and this could not be resolved by deleting parts of the notices (as was possible in the *Oates* case). The notices would not be valid in the absence of the defect because the required expediency reasons would still be missing and the notices as a whole would not comply with the statutory requirements.
16. The enforcement notices do not accord with Regulation 4(a) of the 2002 Regulations or section 173(10) of the 1990 Act. The omission of reasons for why the Council considered it expedient to issue the notices has resulted in hopeless ambiguity and uncertainty for the appellants in respect of the planning harm.

³ EWCA Civ 1823

⁴ EWHC 2729 (Admin)

⁵ EWCA Civ 2229

Conclusion

17. I conclude that both notices are a nullity. In these circumstances, the appeals on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (g) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Zoë Frank

INSPECTOR