



Appeal Decisions

Site visit made on 29 November 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 30th December 2025

Appeal Refs A and B: APP/D0840/C/23/3326929 and 3326930

Land known as Willow Lake, Besore, Threemilestone TR3 6BL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act").
- Appeal A is made by Mr Jack Lindsay and Appeal B by Ms Charlotte Lindsay against an enforcement notice issued by Cornwall Council.
- The enforcement notice was issued on 28 June 2023.
- The breach of planning control as alleged in the notice is described as follows: "...the material change of use of agricultural land to recreational leisure/residential use. Through the stationing of two caravans for occasional residential use indicated by a blue 'B' and blue 'E' on the attached plan, creation of a wooden cabin for occasional residential purposes indicated by a blue 'A' on the attached plan and associated operational development including a toilet/shower building and shed indicated by a blue 'D' and a blue 'C' on the attached plan respectively. Also, the siting of play equipment on the land. The land has been outlined in red on the attached plan 'The Plan'".
- The requirements of the enforcement notice are to:
 - (1) Cease the recreation leisure/residential use of the land outlined in red on the notice plan.
 - (2) Remove the mobile caravans from the land, shown in the approximate locations by a blue 'B' and a blue 'E' on the notice plan.
 - (3) Demolish and remove the wooden cabin shown in the approximate location by a blue 'A' on the notice plan.
 - (4) Demolish and remove the wooden structure shown in the approximate location by a blue 'C' on the notice plan.
 - (5) Demolish and remove the building and outdoor shower shown in the approximate location by a blue 'D' on the notice plan.
 - (6) Remove from the land the play equipment shown in the approximate location by a blue 'X' on the notice plan.
 - (7) Remove from the land all materials, paraphernalia and debris resulting from the recreational leisure/residential use of the land, including but not limited to outdoor furniture, wooden decking and solar panels, and
 - (8) remove from the land all materials and debris resulting from the above works and reinstate the land to its former condition and use.
- The period for compliance with the requirements is 6 months.
- The appeals are proceeding on the grounds set out in section 174(2) (c), (d), (a), (f) and (g) of the Act.

Summary of Decisions: No further action is taken as set out in the formal decision below.

Matters concerning the issued notice

1. My initial step is to consider, by way of rhetorical question, whether the Council has accurately described the alleged breach of planning control¹. Additionally, there are several aspects which require careful consideration to ensure that the notice is correct. Corrections can be made by utilising the powers available under the Act, provided the notice is not null or that any amendment satisfy the essential test of avoiding injustice to the parties concerned². If

¹ Applying the principles established in the following cases: *Hammersmith LBC v SSE and Sandral* [1975] 30 P and CR19 and *R v SSE and LB Tower Hamlets, ex parte Ahern* [1989] JPL 757. I must get the notice in order if I can and there is no statutory requirement to seek the appeal parties' comments before I address the notice.

² Section 176(1)(a)(b) of the Act – On an appeal under section 174 the Secretary of State may correct any defect, error or misdescription in the notice, or vary its terms, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

corrections risk injustice, the power cannot be safely exercised just to save a notice: in such cases, it will be quashed.

2. A notice could be invalid or a nullity. The current approach to the question of nullity is to be found in the *Oates* judgment of the High Court³. This explains the previous legal authorities on the topic. Several principles emerge from this judgment, including that the test in relation to nullity is best understood not as one of hopeless ambiguity, but rather as a failure to tell the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. Overall, the judgment in *Oates* indicates that the question of nullity should not be approached in a way which is unduly technical or formalistic.
3. The first principle identified in *Oates* is that if an enforcement notice does not comply with s173(1) or (3) and (4) of the Act, described as the statutory requirements, then it is a nullity and cannot be saved by the curative powers contained in s176(1) of that Act. In summary, the law requires a notice to state the breach, if it is development without planning permission or breach of condition, and to specify the steps. Sub-section (2) of s173 explains that a notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are. In the context of this appeal, the substantive point is the description of the alleged breach of planning controls and the requirements. In the context of describing a breach of planning control, there can be no room for doubt. Plain English is better than overly complicated or legalistic terminology and, for reasons that will become clearer later, getting the grammar right is essential.
4. The alleged breach of planning control is described in the banner above. I have italicised the text. The notice seems to allege a material change in use of the land to “...*recreational leisure/residential use*...” The chosen phraseology is highly problematic due to the use of oblique stroke punctuation (also known as a “slash”) between recreational and residential uses. In this context, the alleged breach of planning control does not fairly tell the recipient what has gone wrong because the phraseology is misleading.
5. Describing the alleged breach as a ‘*recreational leisure/residential use*’ could be interpreted as meaning recreational ‘and’ residential use, which implies a single mixed-use but that raises the issue as to whether agriculture is part of that mixed-use. Alternatively, the slash could equally mean a recreational ‘or’ residential use. Additionally, the notice lists several structures, but it is unclear as to whether these are used in connection with a mixed use or either recreation or residential use. The use of the full stop between recreational/residential use and the word “through” is also misleading.
6. To my mind, the use of the terminology and grammar used in describing the alleged breach of planning controls creates significant confusion as to what exactly is the unauthorised use and whether the operational development is ancillary to the latter. If I am confused as to the exact meaning of the alleged breach of planning control, it is highly likely that a recipient of the notice will be muddled.
7. The problem with the notice is further compounded by the way in which the reasons for issuing the notice are explained in section 4. For example, it describes the breach as occurring within the last 4-and-10 years, but both the header and the allegation are indicative of a material change of use facilitated by operational development. For instance, the use of terminology like “...and associated...” is suggestive of ancillary or facilitative operational development. The reasons for issuing describe the change of use as recreational leisure/residential use, but also focus on a purely residential use and refer to *domestic/leisure paraphernalia*.

³ *Oates v SoCLG and Canterbury* [2017] EWHC 2716 (*Oates*).

8. The final issue affecting the quality of the issued notice is the framing of the steps required. Again, the use of oblique stroke punctuation mark creates significant doubt as to what is required by the notice. For example, step 1) to section 5 requires the recipient to “cease the recreation leisure/residential use”. Apart from the fact that the allegation describes the unauthorised use as “recreational leisure/residential use,” [my emphasis] the use of the slash renders this step meaningless – should the recreational use cease or residential use or both? Again, step 7) requires removal of “...all materials, paraphernalia and debris resulting from the recreational leisure/residential use of the land...” [emphasis added]. Given the potential liability that comes with a failure to comply with an enforcement notice, there is no room for complacency or errors in the steps required because they must be clear.
9. The judgment in *Oates* indicates that a degree of uncertainty does not necessarily render a notice non-compliant with statute and that the notice should be read as a whole. I have also taken a benevolent approach notwithstanding the time it has taken for this appeal to progress. Be that as it may, in the facts and circumstances of this case, the issued notice is fundamentally defective because the degree of uncertainty resulting from the description of the alleged breach of planning control, reasons for issuing the notice and steps required to comply with the notice go beyond that envisaged in *Oates* or *Miller-Mead*⁴. As the notice is a nullity, it is not necessary for me to consider the notice against the other principles identified in *Oates*. A notice found to be a nullity is incapable of being corrected or varied. I therefore have no option other than to quash the notice.

Conclusions

10. Perhaps the lesson here is to be alive to the use of correct grammar and terminology when framing the whole notice document using plain English avoiding unnecessary punctuation marks, thus opening the door to nullity or invalidity beyond correction. The allegation must be clearly stated and the requirement flow from the breach, and the reasons for issuing setting out the harm caused by the alleged breach as stated in the notice. Flip-flopping from one description to another adds to the confusion.
11. My findings might be disappointing, but I must get the notice in order if I can and, clearly, on this occasion, I cannot exercise correction powers given the significance of the drafting errors and, in my planning judgment, inviting further comment on the matters prior to issuing this decision was unnecessary. Having considered all other matters raised, the resolution is to quash the issued notice, and the Council can go back to the drawing board and reconsider its enforcement strategy⁵.
12. For all the above reasons and having considered all other matters raised, I conclude that the notice is a nullity. In these circumstances, the appeals on the grounds set out in section 174(2) (a), (c), (d), (f) and (g) of the Act, and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.

Formal decision

13. 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.

A U Ghafoor

INSPECTOR

⁴ Applied: *Oates and Miller Mead v MHLG* [1963] 1 A11 ER 459 (*Miller-Mead*).

⁵ For completeness, I draw attention to second-bite provisions set out in s171B(4)(b).