



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: 07th January 2026

Appeal Ref: APP/D3450/C/25/3362522

Land south of Waybutt Lane, Balterley, Crewe, CW2 5QB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr M Oulton against an enforcement notice issued by Staffordshire County Council.
- The notice was issued on 17 February 2025.
- The breach of planning control as alleged in the notice is 'Without the benefit of planning permission the material change of use of the Land to a mix of agriculture and the importation, storage and deposit of waste materials, including (but not limited to) soils, construction, demolition and mixed shredded wastes, including metals and plastics.'
- The requirements of the notice are to: a) Cease the use of the Land for the importation and deposit of waste material. b) Remove all baled waste materials as referred to in Paragraph 3 of this Notice, stored in the area edged green on attached plan SCC/25/001/ENF Plan 1, from the Land. c) Remove all waste materials as referred to in Paragraph 3 of this Notice, deposited in the areas edged blue on the attached plan SCC/25/001/ENF Plan 1, from the Land.
- The periods for compliance with the requirements are: a) 1 day, b) 4 weeks and c) 12 weeks respectively after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended) (the Act).

Decision

1. The enforcement notice is quashed.

Procedural Matter

2. A ground (a) appeal was originally submitted. However, the site exceeds the 0.5ha threshold for waste installations set out in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (category 11(b)). This invokes a requirement to provide environmental information. Insufficient information was provided by the appellant to enable a screening opinion to be undertaken. It was not therefore possible to determine whether or not the alleged development constitutes EIA development for the purpose of the Regulations. Accordingly, the ground (a) appeal and the deemed application for planning permission lapsed because, pursuant to Regulation 3 of Part 1 of the Regulations, an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.

The Notice

3. Inspectors have a duty to try to get notices in order. If I consider the Notice is defective, I have broad powers under the provisions of s176(1)(a) of the Act to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellant or the Council. If the Notice cannot be corrected, I must quash the Notice.

4. The Notice alleges a material change of use of the land to a mixed use of agriculture and the importation, storage and deposit of waste materials. Where a mixed use is alleged, unless under-enforcement is intended, the requirement in the enforcement notice should match that allegation. Cessation of a mixed use which includes a lawful use within the mix does not prevent a return to the last lawful use by reason of s57(4).
5. Under s173(11) of the Act, where an enforcement notice could have required any activity to cease, but it does not do so, and 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 s73A in respect of development consisting in the carrying out of the activities.
6. As paragraph 5a of the Notice omits any requirement to cease the land for storage, and paragraph 5b) only requires the removal of baled storage from one of two defined sub-areas of the Land, as a minimum, the effect of s173(11) of the Act would be to grant planning permission for the use of the Land for a mix of agriculture and the storage of (non-baled) waste materials if the Notices requirements were met.
7. As storage of imported non-baled waste was observed to be taking place in areas of the site other than that defined in the Notice and in potential conflict with the development plan policies for protecting the Green Belt and the character of the countryside, the comments of the main parties were sought to establish whether any under-enforcement was intended and, if not, whether or not the Notice could be corrected to remedy the breach of planning control without injustice.
8. The Council confirmed that there was no intention to under-enforce. However, any subsequent correction of the Notice to prevent that occurring would necessitate an extension of the requirements in the Notice. This would inevitably leave the appellant in a worse position such that injustice would arise. Although the Council effectively sought a ruling on the matter so that they could consider potential withdrawal of the Notice, in the interests of transparency, I have proceeded to determine the appeal.

Conclusion

9. For the reasons above, I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance to remedy the alleged breach. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the Act since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
10. In these circumstances, the appeal on the grounds set out in section 174(2)(c) of the Act does not fall to be considered.

R Hitchcock

INSPECTOR