



Appeal Decisions

Inquiry held on 9 December 2025

Site visit made on 9 December 2025

by **Peter Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2026

Appeal Refs: APP/W0530/C/25/3369305 & APP/W0530/C/25/3369306

Heron Farm, Long Drove, Waterbeach, Cambridgeshire CB25 9LR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mrs Christine Tilley (APP/W0530/C/25/3369305) and Mr Matthew Tilley (APP/W0530/C/25/3369306) against an enforcement notice issued by South Cambridgeshire District Council.
 - The notice was issued on 17 June 2025.
 - The breach of planning control as alleged in the notice is *the permanent material change of use from a mixed residential and agricultural use to a mixed residential and motorcycle track use at Heron Farm, Long Drove, Waterbeach, Cambridgeshire the alleged breach also relates to unauthorised engineering operations undertaken within 10 years of the date of this notice to facilitate the unauthorised use. These operations include the construction of an extensive formal track including several jumps and banked turns formed from compacted earth.*
 - The requirements of the notice are:
 - i) *Flatten the land and remove all engineered ramps, jumps and any other artificially created earth structures designed for motorcycle recreational purposes.*
 - ii) *Cease the use the land for any further motorcycle use for the 2025 calendar year.*
 - iii) *In the calendar year 2026 and subsequent calendar years the land is not to be used recreationally by motor vehicles other than as permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 4, Class B.*
 - The period for compliance with the requirements is 28 days.
 - The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:

- The deletion of the breach of planning control alleged at section 3 of the notice and its replacement with the following: *The material change of use of the land from a mixed residential and agricultural use to a mixed residential and motorcycle track use, together with unauthorised engineering operations to facilitate the unauthorised use. These operations include the construction of an extensive formal track including several jumps and banked turns formed from compacted earth.*
- The deletion of requirements (ii) and (iii) at section 5 of the notice and their replacement with the following new requirement (ii): *Cease the use of the land as a motorcycle track other than for such temporary periods as may be permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015, Article (3) and Schedule 2, Part 4, Class B.*

2. Subject to those changes, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. All evidence at the inquiry was taken on solemn affirmation.
4. The Council issued a letter giving notification of the inquiry on 14 November 2025. The details in the letter were incorrect in a number of respects, including the venue for the inquiry and the details of the matter being appealed. A revised letter with correct details of the appeal and inquiry was issued on 25 November 2025. A further letter dated 2 December pointed out that details in the earlier letter were wrong.
5. Notwithstanding the initial errors, I am satisfied that the subsequent letter, together with the clarification provided by the final letter, was sufficient to ensure that proper notification of the inquiry was given. While the incorrect details of the development in the initial letter were unfortunate, I do not see that it causes any injustice to the appellants, since the actual subject of the appeal is clear and my decision is made on the evidence relating to that matter only.

The Enforcement Notice

6. The breach of planning control alleged at section 3 of the enforcement notice includes some unnecessary information (such as repeating the address of the property) and some incorrect punctuation. I am able to adjust the wording to address these matters in the interests of clarity without changing the meaning of the allegation or causing injustice to any party.
7. The requirements set out at section 5 of the notice includes a specific requirement concerning the use of the site in 2025. Since the notice has not come into effect in 2025, I will remove that requirement.
8. Requirement (iii) does not entirely reflect the wording of the breach of planning control alleged in the notice. However, as discussed at the inquiry, the meaning is clear and it can be corrected without causing injustice to either party, a change I shall make.

Main Issue

9. The appeal is made on ground (d) only. The main issue is whether, at the time the enforcement notice was issued, it was too late to take enforcement action. The burden of proof to demonstrate this falls on the appellants and the required standard of proof is the balance of probability.

Reasons

The relevant time periods

10. Unauthorised development can become immune from enforcement action due to the passage of time. The relevant time periods for taking enforcement action in this case are agreed, but I set them out below for clarity.
11. The various time periods for taking enforcement action are set out at section 171B of the Town and Country Planning Act 1990 (as amended). There are two elements

to the breach of planning control in this case – the use of the land and the physical works (operational development) carried out to create the track.

12. The time limit for operational development is set out in section 171B(1) of the Act. The requirements in respect of operational development were changed in 2024 by the provisions of the Levelling Up and Regeneration Act 2023. The result of this is that, for development substantially completed before 25 April 2024, the time period is 4 years. For development substantially completed on or after that date, the period is 10 years.
13. Here, since neither party suggests that substantial completion of the track took place as late as April 2024, it is clear that the 4 year period set out in the previous iteration of the legislation applies, and not the later 10 year period. Thus, the appellants' task is to demonstrate, on the balance of probability, that the track was 'substantially completed' by 17 June 2021, 4 years before the enforcement notice was issued. The use of the phrase 'substantially completed' is important, because it establishes that the development must be finished in substance, and not merely underway, before the 4 year 'clock' is started.
14. The relevant time period in respect of the use is that set out at section 171B(3), which states 'In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach'. It is important to bear in mind that the use could have acquired immunity from enforcement action during any 10 year period prior to the issuing of the enforcement notice (not just the 10 year period immediately prior to it). But in any event, since the notice was issued on 17 June 2025, the appellants must demonstrate that the use alleged in the enforcement notice commenced not later than 17 June 2015.
15. The courts have established that a use must take place on a reasonably continuous basis in order to acquire immunity. Thus, if a new use ceases for a period, continuity may be broken and the 'clock' reset back to the beginning of the 10 year period. The question of whether a use has ceased to an extent that continuity is broken in any given case will be a matter of fact and degree, dependant on the circumstances of the case. It is relevant to consider whether the Council would have been able to take enforcement action throughout the relevant 10 year period. If there are periods when it would have been unable to take enforcement action because the use was not in evidence, it is unlikely that lawfulness would have been achieved¹.

The operational development (the creation of the track)

16. The track now at the site is a significant operational development. It has been created using a digger and other machinery and is of a good, consistent width, with a surface of churned-up earth. It twists and turns around the land and features a range of high jumps. Thus, it creates a challenging circuit of some considerable length. The track can be seen very clearly in a Google Earth image from June 2023.
17. The appellants' claim is that the track had existed, in one form or another at least, more than 4 years before the enforcement notice was issued. I am told that an initial track was created in 2014. A Google Earth image from April 2015 shows the

¹ See *Thurrock BC v SSETR & Holding* [2002] EWCA Civ 226

faint outline of a loop which, I am told, is this early track. However, while the loop may well be the result of motorbikes being ridden around that part of the land, it is not clear from the image that a proper track had been constructed. Indeed, the faintness and simple form of the loop suggest to me that this is unlikely. Certainly, there is nothing comparable to the current track, so clearly visible in the June 2023 image. In any event, I cannot see a track at all in a Google Earth image from July 2018. Thus, any track prior to that date appears to have been removed and therefore has no bearing on the lawfulness of the current track.

18. A new track is very clearly visible in a Google Earth image from May 2020. A track of a different layout then appears in an image from April 2021. However, these are both of an entirely different layout to the current track and cannot be regarded as the same development. In any event, there are no obvious signs of any track at all in images from March and April 2022. Consequently, whatever went before it, it appears that the current track was built at some time between the creation of the Google Earth images of April 2022 and June 2023.
19. At the inquiry, the appellants argued that the current track was an evolution of the earlier tracks. It was said that a track of some form remained on the ground throughout, even if not visible at times due to the regrowth of vegetation. However, it is stretching credibility to suggest that the current track, a significant engineering operation, existed in any meaningful form in April 2022, given that it is not visible at all in the aerial photograph of that date. I accept that features such as ramps and jumps may be difficult to pick out in aerial images. However, even vigorous vegetation regrowth and limited maintenance would not result in such a substantial track as this being entirely invisible in my judgement. Thus, even if some earthworks from earlier tracks remained, the current track did not exist, and was certainly not substantially complete, in April 2022.
20. I appreciate that the aerial images are limited in number and only show the site at specific points of time, but they are sufficient to fundamentally undermine the appellants' case regarding the length of time the current track has been in place. I have been referred to photographs attached to marketing details for the property from September 2022. I cannot see the track in those photographs but, since the date the photographs were taken is not clear, they are of little assistance. I cannot see any other reason to doubt what the aerial images show. At the inquiry the appellants made reference to other photographic images not made available to the inquiry, but I can only make my decision on the evidence before me.
21. I have carefully considered the various witness statements provided in support of the appellants' case, but any references to construction of the track are general and do not provide specific evidence to cast doubt on what is shown in the aerial photographs.
22. At the inquiry, the appellants sought to explain the invisibility of the track in the 2022 aerial images by suggesting that mainly smaller bikes, used by children, were being ridden on the land at that time, and that these cause less churning of the land. However, it is difficult to reconcile this with the fact that tracks are clearly visible in the earlier photographs from 2020 and 2021. There is nothing before me to show why the track would have been predominantly ridden by children on small bikes in 2022 but not in 2020 and 2021 (when the appellants' children and their motorcycling friends were younger).

23. For these reasons I conclude, on the balance of probability, that the track was not substantially complete 4 years before the notice was issued and it was therefore not too late to issue the notice in respect of the operational development.

The material change of use

24. The 10 year 'clock' for immunity from enforcement action starts from the point at which the material change of use took place. Deciding whether there has been a material change of use requires a comparison between the 'before' and 'after' situations. The question to ask is whether, as a matter of fact and degree, there has been a change in the character of the use of the land. Until that point has been reached, there will not have been a material change of use and so the 10 year clock will not have started.
25. The appellants acquired Heron Farm in 2014. It is common ground that motocross activity of varying intensity has taken place on the land since then. That position is supported by the various witness statements, and confirmed by the appellants' witnesses at the inquiry.
26. However, the specific mixed use alleged includes a motorcycle track use. Thus, it concerns use of a track, as opposed to general recreational motorcycling. Implicit in that wording is that a track has to be present for the use to take place. As I have already indicated, the evidence before me, and the aerial photographs in particular, suggest that there was not a track present at points of time in 2018 and 2022. This alone causes me to doubt that the use alleged has ever been carried out for a continuous 10 year period between the appellants acquiring the property in 2014 and the Council issuing the notice in 2025.
27. In any event, the appellants need to satisfactorily demonstrate that relevant activity was taking place on the land to an extent and at an intensity sufficient to amount to a primary use of the land. Low key, occasional use by family and friends might be incidental to the lawful primary use of the land, so as not to amount to a material change of use which the Council could target with an enforcement notice.
28. In evaluating the appellants' evidence, I have had regard to the Government's Planning Practice Guidance (PPG) relating to Lawful Development Certificates. The PPG advises that *In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.* Although this case does not concern a Lawful Development Certificate, the same principles apply to an enforcement appeal on ground (d). Thus, the appellant is responsible for bringing forward sufficiently precise and unambiguous evidence.
29. However, in this instance the appellants' evidence is not sufficiently precise and unambiguous. I have no reason to doubt the evidence of users of the site that they rode their bikes at various times over the years since the appellants acquired the site. However, the evidence lacks details and specificity in terms of dates when it was used and the intensity of such use. General evidence of the type provided does little to demonstrate the specific use alleged, or establish clearly any continuity of the use.

30. Nor is there other adequate documentary evidence to fill in the gaps. There are some photographs of riders apparently at the track, but they do little to show how frequently the track was being used and only indicate activity on a handful of occasions within the 10 year timeframe. Nor is there evidence such as booking details or other paperwork associated with the use. Social media messages from 2024² promoting the hiring of bikes at the track are consistent with the Council's claims regarding the more intensive recent use of the land, but do not provide evidence relevant to earlier periods.
31. Moreover, the Council's claim that the use alleged in the notice commenced more recently is consistent with the evidence of some local residents, including those who gave evidence to the inquiry, who advise of a marked increase in activity from around 2023. This broadly aligns with when the current track appears to have been created.
32. Both sides refer to the permitted development rights for temporary uses set out in *The Town and Country Planning (General Permitted Development) (England) Order 2015*. Article (3) and Class B of Part 1 of Schedule 2 of the Order permit the use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of motor car and motorcycle racing including trials of speed, and practising for these activities. However, the evidence before me does not show that the use took place at all for most of the 10 year period the appellants refer to, and certainly not with sufficient continuity to establish lawfulness. Consequently, the question of whether those specific thresholds were exceeded does not arise.
33. I appreciate that use and maintenance of the track may have been hindered at times by matters beyond the appellants' control, including the effects of illness and the Covid-19 pandemic. But regardless of that, there is simply insufficient precise and unambiguous evidence to demonstrate the appellants' claims, including during the period prior to the pandemic.
34. Overall, the evidence before me does not show, on the balance of probability, that the use continued for a relevant 10 year period such as to gain immunity from enforcement action prior to the notice being issued. Accordingly, it was not too late to take enforcement action in respect of the material change of use.

Conclusion

35. I do not doubt the value of the track to the appellants, their family and others, but there is no appeal on ground (a) and the planning merits of the development are not before me. The only question for me to decide is whether it was too late for the Council to take enforcement action. For the reasons given above, I conclude that it was not too late. Accordingly, the appeals do not succeed and I shall uphold the enforcement notice with corrections.

Peter Willows

INSPECTOR

² Appended to Mr Barnes' proof of evidence

APPEARANCES

FOR THE APPELLANT:

Christine Tilley and Matthew Tilley

Who called:

- Mitchell Whyles
- Joshua Tilley
- Danny Tilley

FOR THE LOCAL PLANNING AUTHORITY:

Hannah Taylor, Barrister

Who called:

- Chris Barnes – Principal Planning Compliance Officer

INTERESTED PARTIES:

- Christopher McBride
- Keith Grantham

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Letter from Haart Estate Agents dated 25 November 2025
2. Opening Submissions - South Cambridgeshire District Council
3. Closing submissions - South Cambridgeshire District Council
4. Closing Statement – Appellants