



Appeal Decision

Site visit made on 30 September 2025

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2026

Appeal Ref: APP/K3415/C/23/3335125

Foxtail Farm, 53 Brereton Hill, Upper Longdon, Staffordshire WS15 4LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("The Act").
 - The appeal is made by Mr Kane Hicks against an enforcement notice issued by Lichfield District Council.
 - The notice was issued on 16 November 2023.
 - The breach of planning control as alleged in the notice is the unauthorised development incorporating large scale engineering works including extensive excavation, change in land levels, laying of hardstanding material and the removal of a large area of grassland, trees and associated wildlife corridors.
 - The requirements of the notice are:
 - a) Cessation of all development on the land known as Foxtail Farm, 53 Brereton Hill, Upper Longdon, Rugeley, Staffs, WS15 4LA, as shown edge red, unless permission is granted in writing by the Council
 - b) Return all land levels, to the original state
 - c) Remove all resultant materials as a result of compliance with the above steps.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2) (a), (c) of the Act. 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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Decision

1. The enforcement notice is quashed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) was published in December 2024. In the interests of natural justice both main parties have had the opportunity to make representations. In reaching my decision I have had regard to the revised Framework and the PPG. Since that time the Government has published a consultation on the Framework, however this is in draft stage, and I have not found it necessary for the parties to provide further comments on this.

The Notice

3. S173(2) of the 1990 Act as amended states that an enforcement notice complies with s173(1)(a) if it 'enables any person on whom a copy of it is served to know what those matters are' being the matters alleged to constitute the breach. S173(3) makes clear that the enforcement notice shall specify the steps required to be taken to achieve wholly or partly any of the purposes set out in s173(4). The

test established in Case law¹ is whether the enforcement notice tells the recipient fairly what they have done wrong and must do to remedy it.

4. The alleged breach at Section 3 of the notice, as drafted, appears to relate to operational development being (i) large scale engineering works; (ii) change in land levels; (iii) laying of hardstanding material; (iv) removal of large area of grassland, trees and associated wildlife corridors. However, this description as drafted is somewhat inconsistent with what I saw during my site visit and the evidence as I set out below.
5. With regard to element (i) above, the physical extent of any large-scale area of engineering works is not precise or identified in the notice. As such, there is no certainty as to whether or not it was intended to refer to all of the land, and land which forms part of any existing curtilage. Equally confusing is the change in land levels at (ii), being noted as considerable but with no clear distinction of where this has taken place on the land and soil movement.
6. Again, the element of (iv) is not clearly defined, where the large area of both grassland, trees and associated wildlife corridor was. Moreover, a corridor is normally one characterised as a long narrow strip of land. In addition, there is ambiguity as to whether these elements would be classed as development in its own rights or whether any of this was facilitated by the operational development.
7. These elements could potentially include other works or enabling operations of level changes which have already been granted permission and those which were deemed to be lawful from the planning history. Again, at element (iii) the laying of any hardstanding materials is not identified on the notice, and there is no certainty where this has taken place across the site or which or what areas of hardstanding material have been laid which are referred to in the alleged breach, which was not clearly apparent on the site visit as to which areas the notice was intending to attack.
8. Furthermore, the Council do not clearly provide any agreement as to where the domestic curtilage of the land to the south maybe. Neither is the tree extent or wildlife corridor explicitly referenced, as to whether it formed part and parcel of the operational development. The Council in their own evidence appear to acknowledge that some of the works could be carried out under permitted development around the areas of the dwelling and raise some doubt on both the grass and tree works which were undertaken. This provides further uncertainty as to what elements and where these are located that constitute the alleged breach.
9. In addition, the Council has raised additional concerns over development which has taken place including access from the highway to the development and that a change of use has taken place, including for storage of construction and deposition of waste. Whilst, the appellant has sought to address the highway matters in their ground a) arguments, the notice does not seek to attack these other matters.
10. The requirement set out in paragraph 5(b) of the notice is "*Return all land levels within the plan edged in red, to the original state*". Since the allegation is wholly unclear, (for example in terms of the extent and location of raised ground levels, laying of hardstanding materials and excavation), including that predevelopment

¹ *Miller-Mead v MHLG* [1963] 2 WLR 225

levels are not agreed, equally so therefore is trying to understand precisely what is required to be done in terms of a remedy.

11. Overall, contrary to the PPG advice², the notice and its attached plan do not indicate with any precision where and to what extent individual elements of the alleged breach are located. Appendix 2 of the Councils statement of case shows 9 photographs taken from an estate agents, and a bundle of photographs mainly unmarked and several not dated. However, they simply show general views of the appeal site and hence do not assist in clarifying the precise nature of the allegation and requirements, including which areas may have been existing curtilage and formed garden areas as I have set out regarding elements (i) to (iv) above.
12. Notwithstanding the above, the appellant has sought to understand the alleged breach and requirements by looking at the reasons for issuing the notice at Section 4. In any event, an alleged breach and requirements in a notice should be clear by themselves without having to seek to understand them from the reasons for issuing the notice.

Conclusion

13. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. Furthermore, I am unable to understand what corrections might be appropriate without them resulting in injustice to any party. As such, I am unable to correct the notice in accordance with my powers under section 176(1)(a) of the 1990 Act as amended. The enforcement notice is invalid and will be quashed.
14. It is open to the Council to serve a further notice which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so, subject to the provisions of Section 171B(4) of the 1990 Act as amended.
15. In these circumstances, the appeal on the grounds (a), and (c) set out in section 174(2) 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.

K A Taylor

INSPECTOR

² Planning Practice Guidance Paragraph: 019 Reference ID: 17b-019-20180222 (model enforcement notice)