



Appeal Decision

Site visit made on 12 January 2026

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 18 February 2026

Appeal Ref: APP/P1615/C/25/3366639

Silver Fox Cafe, Broadoak, Newnham, Gloucestershire GL14 1JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Malcolm Ward against an enforcement notice issued by Forest of Dean District Council.
 - The notice was issued on 17 April 2025.
 - The breach of planning control as alleged in the notice is:
Without planning permission the material change of use of the agricultural land as a camping and caravan site including the unauthorised erection of W.C building and laundry building.
The storage of shipping containers, a double decker bus, barge, shepherds hut, motor home and touring caravan, extension to the café building and siting of 2 no. prefabricated brick structures on the Land.
 - The requirements of the notice are to:
 1. Permanently cease the unauthorised use of the agricultural land as a camping and caravanning site (within the area outlined in red identified as cross hatched on the Enforcement Plan at Appendix A).
 2. Disconnect all services (electric, water, drainage and gas) from, and remove, the camping and caravan hook up points, W.C. and laundry structures from the land outlined in red on the Enforcement Plan at Appendix A and as identified in photographs 9, 10 and 15 of Appendix B.
 3. Permanently cease the unauthorised use of the agricultural land for storage (within the area outlined in red identified as crosshatched on the Enforcement Plan at Appendix A).
 4. Remove all items being stored on the parcel of land outlined in red, on the Enforcement Plan at Appendix A, these items consisting of shipping containers, portacabin, barge, shepherds hut, motor home, double decker bus, touring caravan, Heras fencing and scaffolding (as identified in photographs 2, 3, 4, 5, 6, 7, 8 in Appendix B).
 5. Demolish the 2 no. prefabricated brick structures (as identified in photographs 9, 12, 13 and 14 of Appendix B) and remove all resulting debris from the land outlined in red on the Enforcement Plan at Appendix A.
 6. Demolish the extension to the rear of the cafe (as identified in photograph 1 of Appendix B) and remove all resulting debris from the land outlined in red on the Enforcement Plan at Appendix A.
 - The periods for compliance with the requirements are:
For steps 1, 2 and 3 is 1 (one) month.
For steps 4 and 5 is 3 (three) months.
For step 6 is 12 (twelve) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. The enforcement notice is quashed.

Reasons

2. The notice relates to a broadly rectangular parcel of land on the west side of the A48, to the north of Newnham. The land runs approximately parallel with the River Severn, which is on the opposite side of the A48. The land edged red on the enforcement notice plan encompasses an area of just under one hectare within the

appellant's control. It includes a café, an outdoor seating area with picnic benches, a car park and the adjoining open field.

3. The notice alleges a material change of use of agricultural land to a camping and caravan site. Within the red-lined land there are also various items and structures. Some appear connected with the café use to a degree (outdoor seating and some storage areas); others are of mixed or uncertain association (including a motor home, a touring caravan, a shepherd's hut, and a barge which has since been removed); and there is a w.c./shower block and a laundry room which appear capable of, and are said to serve both campers and café customers. The car park is for use by café customers and likely used by those associated with camping.
4. In determining whether a material change of use has occurred, the identification of the correct planning unit is required, and, in turn, whether the allegation properly reflects the actual use of the land: and whether the description of the matters constituting the breach and the requirements of the notice achieve the level of clarity and certainty required by section 173(2) of the 1990 Act, such that the notice can be upheld as issued, or corrected/varied under section 176 without causing injustice.
5. The proper identification of the planning unit is a matter of fact and degree, guided by the principles in *Burdle & Williams v Secretary of State for the Environment & New Forest DC* [1972] 1 WLR 1207. *Burdle* recognises three broad categories:
 - 1) a single planning unit used for one primary purpose with any secondary activities incidental/ancillary;
 - 2) a single planning unit in mixed use, where two or more activities occur and it is not possible to say whether one is incidental to another, or, in the case of a composite use, where the component activities may fluctuate in their intensity, but the different activities are not confined within separate and physically distinct areas of land; and
 - 3) two or more physically separate areas occupied for substantially different and unrelated purposes, each forming its own planning unit.
6. As a working rule, the unit of occupation will ordinarily be the planning unit unless some smaller unit can be identified as the site of activities that amount, physically and functionally, to a separate use.
7. The appeal site is largely open and, save for a partial boundary adjacent to the café and its outdoor seating area, lacks physical demarcation that would indicate distinct areas for different activities. From the evidence and my observations, the activities, including café operations (with associated outdoor seating and storage), camping and caravanning, car parking, and facilities (w.c./shower block and laundry) are not confined to separate, physically distinct parcels within the red line.
8. The mixture of items on the land appears to be related to the café, some associated with general storage, and some with and some without obvious association with the alleged camping use. Some items, rather than 'being stored', appear to be 'used' for storage purposes and some of which had items that clearly belonged to the café, namely freezers that were being used to keep food. There were, in addition, other items that appeared to be of a more domestic nature. Thus, from a functional perspective, it appears that the parking and certain

facilities on the land are likely used interchangeably by both customers of the café and users of the camping area.

9. With an absence of physical differentiation within the appeal site and no evidence of a functional separation, activities are not confined within separate and physically distinct areas. There are activities associated with the café use occurring on the camping land, and vice versa. In respect of my findings, and details included within the recent planning application¹ which sought to regularise the development, I find that the land edged red likely functions as a single planning unit in mixed use, comprising the established lawful café use together with the camping and caravan activities.
10. It follows that the notice, which alleges a material change of use of agricultural land to a camping and caravan site, does not reflect the actual mixed use evident on the ground. The allegation misidentifies both the starting use and the resulting character of the use. Properly framed, it seems to me that the allegation would need to describe a material change of use to a single mixed use comprising a café and a camping and caravan site.
11. Section 173(2) of the 1990 Act requires an enforcement notice to specify the matters constituting the breach of planning control and the steps required to remedy it, with sufficient clarity that a person on whom it is served understands what they have done wrong and what is required to put it right. The long-established test in *Miller Mead v Minister of Housing and Local Government* [1963] 2 WLR 225 is whether the notice identifies the breach and the remedy with reasonable certainty.
12. Furthermore, the notice alleges both use related matters, such as storage associated with camping, and operational development, such as an extension to the café, w.c. block, laundry building and “prefabricated buildings”. However, it does not logically structure or differentiate these distinct categories. In particular:
 - items of storage are presented alongside works alleged to be operational development;
 - the text refers to “prefabricated buildings” being “sited” rather than “erected” and then requires demolition rather than removal, creating uncertainty as to whether the structures are to be treated as buildings (operational development) or moveable items associated with a use; and
 - an extension to the café (operational development) is grouped within narrative concerning storage (use), further blurring categories.
13. Where an enforcement notice alleges both operational development and a material change of use, it may do so within the same notice. However, the allegations must be logically structured, clearly distinguishing between the different types of development and avoiding any confusion as to which requirements relate to which alleged breach.
14. The above deficiencies leave the recipient unsure of the precise breach alleged and the distinct steps required for each type of breach. As such, the notice fails the test of reasonable certainty in section 173(2) of the 1990 Act.

¹ P0551/24/FUL Retention of kitchen extension, retention of structures ancillary to Class E use and retention of 10 camping pitches. Refused by notice dated 27 September 2024

15. I have considered whether the identified defects can be corrected under my powers in section 176(1)(a) (to correct errors and misdescriptions) or varied under section 176(1)(b). These powers may only be exercised when doing so would not cause injustice to either party.
16. In this case, however, the defects, while not seriously defective as to make the notice a nullity, they are not worded with sufficient clarity and precision and thus are not minor. To correct them would require a substantial rewriting of the allegation to reflect a mixed use and to draw clear distinctions between use related matters and operational development, as well as revising the requirements accordingly. This would amount to issuing a materially different notice. The appellant may have pursued different or additional grounds of appeal, and the ground (c) case may have been approached differently had the true nature of the allegation been clear from the outset.
17. For the reasons given, I conclude that it is not open to me to correct the notice in accordance with my powers under section 176(1) of the 1990 Act, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances, the appeals on the grounds set out in sections 174(2)(c) and (g) of the 1990 Act as amended do not fall to be considered.

S A Hanson

INSPECTOR