



Appeal Decisions

Site visit made on 13 January 2026

by **Chris Preston BA (Hons), BPI, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th February 2026

Appeal A Ref: APP/M3645/C/25/3358670

Appeal B Ref: APP/M3645/C/25/3358671

Barn Owl Kennels & Cattery, Barn Owl Dwelly Lane, EDENBRIDGE, TN8 6QE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Ms J Scutts and Appeal B is made by Mr D Kimble against an enforcement notice issued by Tandridge District Council.
 - The notice was issued on 9 December 2024.
 - The breach of planning control as alleged in the notice is:
 - a) without planning permission, the making of a material change of use of the Land to a mixed use of a residential dwelling and the operation of a pet grooming business;
 - b) the use of an existing vehicular access and parking of vehicles on the Land in association with its use for the operation of a pet grooming business; and
 - c) the erection on the Land of a building within a fenced compound and the laying of surfacing material in association with its use for the operation of a pet grooming business.
 - The requirements of the notice are to:
 - i) Cease the use of the Land and the unauthorised building placed upon the Land for the operation of a pet grooming business and cease the use of the existing vehicular access and parking of vehicles on the Land in association with the operation of a pet grooming business;
 - ii) Permanently remove from the Land the building and associated fenced compound, surfacing materials and all pot plants and garden ornaments in the approximate position marked "X" on Plan A attached to the Notice and placed there for the purposes of the operation of a pet grooming business;
 - iii) Following compliance with i) and ii) above, level, then scarify the surface of those parts of the Land that have been subject of the unauthorised development and seed with a grass and wildflower seed mixture during the next period of the year that includes the months of April to September., immediately following compliance with i) and ii) above.
 - The period for compliance with the requirements is:

In respect of requirement (i), within 8 weeks of the date of the notice; in respect of requirement (ii), within 12 weeks of the date of the Notice and, in respect of requirement (iii), immediately following compliance with (i) and (ii) above.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(c), (f), (g) of the Town and Country Planning Act 1990 (as amended)
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Preliminary Matters

1. Where two appellants are named on the appeal form in respect of enforcement notice appeals, effectively two appeals are made and each one is assigned its own reference number. I have referred to the two appeals as A and B, as set out in the banner heading above. In such circumstances it is common that the required fee in respect of Ground (a) will only be paid in respect of one appeal. In this case, the fee was paid in respect of Appeal A but not appeal B.

2. Consequently, the ground (a) appeal only falls to be considered in respect of Appeal A but all other grounds of appeal are identical.
3. However, before considering the specific grounds of appeal I must address an issue with the enforcement notice in respect of the description of the alleged breach. The Enforcement Notice (EN) identifies the alleged breach of planning control at section 3. At 3(a) the allegation refers to the *“making of a material change of use of the Land to a mixed use of a residential dwelling and the operation of a pet grooming business”*. Section 2 of the EN identifies that the land affected is land forming part of the property known as Barn Owl, Dwelly Lane, Limpsfield, shown edged red on Plan ‘A’, attached to the notice.
4. Whilst the allegation refers to a mixed use of a residential dwelling and the operation of a pet grooming business the land identified does not contain a residential dwelling. Although the pet grooming structure and associated car parking are situated on land that has been historically associated with Barn Owl, the dwellinghouse itself is situated to the north of the land identified.
5. Whilst no appeal has been made on ground (b) of s174(2) of the Town and Country Planning Act 1990 (the Act), if there is no dwellinghouse on the land identified then that land cannot be in a mixed-use as a dwellinghouse and pet grooming business. Accordingly, I wrote to the Council and the appellant following my site visit to seek views on the nature of the allegation and whether the plan attached to the EN correctly identified the area in question.
6. If the site was in mixed use as a dwelling and pet grooming business I questioned whether the red line plan depicting the area where the alleged breach has occurred should be wider, such that it encompasses the dwelling. Alternatively, if the current plan is correct, then the description of the breach would appear to be incorrect given that no dwelling is present on the land.
7. The appellants wrote back to re-affirm their position that the plan appears to be arbitrarily drawn, does not relate to features on the ground and does not contain a dwellinghouse. As such, they are of the view that the allegation of a mixed use on the area in question must be wrong on the basis of the facts because no dwelling exists.
8. Moreover, they are of the view that if the description of the alleged breach of control was corrected to remove reference to the mixed use and the dwellinghouse then injustice would arise. That is because their case has been submitted on the basis of the allegation of the mixed use, as originally set out in the notice.
9. The Council accepts that no dwelling is present on the land identified and now suggests that the introduction of the dog grooming business has led to the formation of a new planning unit in the area identified on the plan attached to the notice, operating independently of the dwellinghouse known as Barn Owl, albeit with shared access arrangements and the land remaining in the same ownership.
10. In its view the description of the breach could be corrected by removing the word “dwelling” from section 3(a). The resulting description would refer to the making of a *“material change of use of the land to a mixed use of residential and the operation of a pet grooming business”*.

11. Given the planning history of the site and the way the cases have been put forward, the suggested alteration to the allegation is not a minor matter. In fact, it could have a significant bearing on the way in which the appeals are determined, especially under ground (c).
12. The Council's response to my query appears as an evolution of its case. The initial notice was clearly expressed in terms that the dog grooming business was part of a mixed use with the dwelling. Anyone reading the notice would have assumed that was the nature of the allegation. The appellants did so in making their case. Conversely, it would not have been apparent to anyone reading the allegation that what the Council was alleging was that the dog grooming business was operating as a separate planning unit, independent of the dwelling, as now appears to be the case. If that has been the case all along, it is not clear why the alleged breach referred to the dwelling at all.
13. The appellants' case under ground (c) is made on the basis that there has been no material change of use on the basis that dog grooming activities have taken place on the wider site since at least 2008, as part of the former kennel and cattery business. In other words, that the mixed use alleged in the notice was a continuation of an established lawful use of the wider site including the dwelling. I make no comment on the merits of that argument but it clearly responds to the nature of the allegation and the suggested mixed use.
14. The appellant has not responded to an allegation that the pet grooming business operates independently of the dwelling which is what the Council now contends. That is unsurprising because of the way in which the notice was originally framed. Consequently, the scenario now presented by the Council is somewhat different to the description of the breach in the original notice.
15. If the allegation was to be altered along the lines suggested by the Council there is a clear potential for injustice. That is because the appellant has not had the chance to respond to the allegation that the pet grooming business is effectively a separate planning unit operating independently of the dwelling. They may wish to produce evidence in relation to that point, for example, to demonstrate any links between the business and the wider site. The evidence presented to date does not dwell on such matters because the notice, as currently drafted, accepts that the dwelling and grooming business form part of a mixed use. Other interested parties and neighbours may also have evidence to add which could be of relevance to the matter.
16. Moreover, it is not a matter that solely impacts upon any appeal on ground (c). Amending the description along the lines suggested by the Council could also have implications for the way in which any appeal is considered under ground (a), especially given that the site lies within the Green Belt. In such cases it is necessary to consider whether the development falls under any of the exceptions listed under paragraph 154 of the National Planning Policy Framework. Precisely what that development is and how it is described may impact on such an assessment.
17. The extent to which the business is independent of the dwelling and the wider site may also have implications for matters such as parking or access and any conditions which may be put forward in the event that any appeal were to be allowed. That is not to suggest that would necessarily be the outcome but simply

to make the point that the way in which a case may be presented could differ depending on the nature of the allegation.

18. For all of those reasons, and there may be others, whilst the suggested alteration put forward by the Council may seem minor, it could have significant implications. It would represent a marked change in the nature of the allegation having regard to site specific circumstances. I am mindful of the delay in proceedings which would be caused if I were to quash the notice. However, that does not alter my conclusion that the allegation cannot be corrected without causing injustice.
19. Therefore, the current allegation is incorrect in that there is no dwellinghouse on the land identified in red on the plan attached to the enforcement notice. If, as now seems to be the case, the Council's view is that the pet grooming business is operating independently of the dwelling, the allegation should have been framed accordingly from the outset. The appellants would then have had the opportunity to make an appeal against that allegation. However, that is not possible within the confines of the present appeal given the way in which the appellants' cases have responded to the initial allegation.

Conclusion

20. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control.
21. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
22. In these circumstances, the appeals on the grounds set out in section 174(2) (a), (c), (f) and (g) 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.

Chris Preston

INSPECTOR