



Appeal Decision

No site visit made

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2026

Appeal Ref: APP/U2750/C/25/3374244

Land at Lowmoor Gate Farm, Low Moor Lane, Rillington YO17 8FG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr James Foster against an enforcement notice issued by North Yorkshire Council.
- The notice was issued on 9 June 2025.
- The breach of planning control as alleged in the notice is "The unauthorised change of use of the Land to a residential use, the siting of caravans, the laying of hardstanding for the siting and occupation of caravans on the Land, the erection of ancillary buildings, sheds, dog kennels, provision of drainage and/or water systems and associated residential paraphernalia."
- The requirements of the notice are:
 - Step 1 Cease the use of the Land for the stationing of caravans, vehicles and other paraphernalia associated with the residential use.
 - Step 2 Permanently remove from the Land all caravans, amenity buildings, sheds, dog kennels. Vehicles and other paraphernalia associated with the residential use including provision of electric, sewerage, and water for human habitation. But not limited to the above.
 - Step 3 Return the Land to its previous condition of equestrian use as approved under planning application reference: ZE24/03392/FUL.
 - Step 4 Remove from the Land all materials and debris arising from compliance with the above requirements (1-3).
- The periods for compliance with the requirements are:
 - Step 1 6 months from the date when the notice takes effect.
 - Step 2 6 months from the date when the notice takes effect.
 - Step 3 6 months from the date when the notice takes effect.
 - Step 4 6 months from the date when the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

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

- *the deletion of the words "The unauthorised change of use of the Land to a residential use, the siting of caravans, the laying of hardstanding for the siting and occupation of caravans on the Land, the erection of ancillary buildings, sheds, dog kennels, provision of drainage and/or water systems and associated residential paraphernalia." and their substitution with the words "Without planning permission, a material change of use of the Land to use as a caravan site facilitated by the laying of hardstanding and the erection of amenity buildings, sheds and dog kennels and the installation of drainage and water systems." in paragraph 3; and*
- *the deletion of the words "for the stationing of caravans, vehicles and other paraphernalia associated with the residential use" in Step 1 of paragraph 5;*
- *the deletion of the words "kennels. Vehicles and other paraphernalia associated with the residential use including provision of electric, sewerage,*

and water for human habitation. But not limited to the above” and their substitution with the words “kennels, domestic paraphernalia, drainage and water systems” in Step 2 of paragraph 5;

- *the deletion of the words “Return the Land to its previous condition of equestrian use as approved under planning application reference: ZE24/03392/FUL” and their substitution with the words “Remove all materials and debris arising from compliance with Steps 1 and 2, and return the Land to its previous condition.” in Step 3 of paragraph 5;*
- *the deletion of Step 4 of paragraph 5;*
- *the deletion of “6 months” and the substitution of “18 months” as the period of complying with Steps 1, 2 and 3 in paragraph 6;*
- *the deletion of “Step 4 6 months from the date when the notice takes effect” in paragraph 6; and*
- *the substitution of the plan attached to this decision for the plan attached to the notice.*

Subject to the corrections and variations, the enforcement notice is upheld.

Matters Concerning the Notice

2. The allegation refers to a *“change of use”* having occurred. However, for a change of use to constitute development, s55(1) of the 1990 Act¹ requires it to be material [my emphasis]. It is clear from the written submissions that there is no dispute that there has been a material change in the use of the Land. Other issues arise from the wording of the allegation and relate to the plan attached to the notice and matters that do not constitute development.
3. The Land identified in the plan attached to the notice includes that being used as a caravan site as well as that being used in connection with the authorised livery use. Neither the caravan site use nor the livery use could be said to be incidental or ancillary to the other. The Land edged red is therefore being put to two primary uses. That being the case, then the allegation should identify a material change of use of the land to a mixed use comprised of both uses. Therefore, if I take the plan to be correct, then the matter alleged is incorrect. I would then need to consider whether the allegation can be corrected without causing injustice to either the appellant or Council.
4. If I were to correct the notice to allege a mixed use comprising the use of land as a caravan site and equestrian livery yard, an appeal on ground (a) would not have been barred as the planning application currently being considered is not for the mixed use of the Land. My correction of the allegation in this way would therefore cause injustice to the appellant and would not comply with s176 (1) of the 1990 Act.
5. In the alternative, the appellant has suggested that the Land identified on the plan should be amended to *“only include the area being used for the private gypsy site and access”*. The appellant has provided a copy of the plan showing the land to

¹ Town and Country Planning Act 1990 as amended

which they refer and which the Council confirms accompanies the planning application submitted to regularise the development.

6. The Council does not dispute that the livery business was being operated at the time the notice was issued. However, they do not agree that the plan should be varied as, in their opinion, the land would have to be returned to equestrian use if the appeal is unsuccessful. The Council's reasoning in this regard is incorrect and fails to address the fact that the allegation must accurately reflect the use(s) to which the Land was being put when the notice was issued. If the Land identified in the plan is not changed, then I would have to find the notice invalid as I cannot correct the allegation without causing injustice.
7. Varying the plan attached to the notice is therefore necessary to provide clarity and precision. From the evidence before me, excluding the shared vehicular access, the land used as a caravan site is confined to the area edged red in the appellant's plan (shown on page 6 of their Appeal Statement). The Council has confirmed that the appellant's plan shows where the caravan site use is taking place. I shall vary the plan attached to the notice to show only the land being used as a caravan site.
8. The parking of vehicles is incidental to the unauthorised use and does not need to be specified. Ancillary buildings are listed in the allegation whereas 'amenity buildings' are listed in the requirements. As sheds and dog kennels are ancillary buildings, the allegation shall be corrected to include amenity buildings. For precision, I shall re-word the allegation as follows:

"Without planning permission, a material change of use of the Land to use as a caravan site facilitated by the laying of hardstanding and the erection of amenity buildings, sheds and dog kennels and the installation of drainage and water systems."
9. I am satisfied that my correction of the allegation and variation of the plan in the manner set out above would not cause injustice to the appellant or Council. I shall proceed based on the corrected allegation and varied plan.

Preliminary Matter

10. The planning merits of the proposed development are not relevant to this appeal. As such a site visit would not help me reach a decision. I advised the main parties of my intention to determine the appeal without a site visit and no concerns were raised.

The Ground (f) Appeal

11. An appeal on this ground is that the steps required to be taken go beyond what is reasonably required to remedy the breach of planning control, or the injury to amenity, as the case may be. The notice is seeking to remedy the breach of planning control as the steps require the land to be returned to its condition before the breach occurred. The requirements also need to be varied to reflect the wording of the corrected allegation.
12. Step 1 is aimed at securing the cessation of the unauthorised use. It is therefore the corrected use of the Land as a caravan site that needs to cease and superfluous words shall be deleted.

13. The words “*But not limited to the above*” in Step 2 are ambiguous and lack precision. They will therefore be deleted. Further, the appellant contends the hardstanding existed before the corrected matter alleged occurred and that electricity, water and drainage are facilities required by the livery businesses. Step 2 does not require the removal of the hardstanding and provision of electricity is not identified in the allegation. The utilities are only required to be removed where they facilitate the use of the land as a caravan site. Once the use has ceased it is reasonable for the caravans, amenity buildings, sheds, dog kennels, domestic paraphernalia and utilities facilitating the use as a caravan site to be removed from the land. I shall vary Step 2 accordingly.
14. The Land can be required to be returned to its condition before the breach of planning control occurred, which can include the removal of all material and debris arising from compliance with Steps 1 and 2. Requiring the reinstatement of the previous use however goes beyond what is required to remedy the breach of planning control. Step 3 shall be varied accordingly and reworded to incorporate the requirements of Step 4, which will be deleted.
15. The appeal on ground (f) succeeds to this limited extent.

The Ground (g) Appeal

16. An appeal on this ground is that the period specified in the notice to comply with the requirements falls short of what should reasonably be allowed. The appellant argues that 6 months is insufficient a period within which the appellant could find, procure and move into alternative accommodation.
17. The Council concede that they do not have a 5-year land supply to accommodate traveller sites or an up to date Gypsy and Traveller Accommodation Assessment (“GTAA”). The Council suggest that a period of 9 months would therefore be reasonable whereas the appellant is seeking a period of 2 years.
18. No suitable available alternative sites to accommodate the appellant has been brought to my attention. The emerging local plan is in its early stages and the shortfall in pitch provision is unlikely to be addressed in the short term. Furthermore, the Council has indicated that while work is progressing on a new GTAA, it is unlikely that the planning application relating to the regularisation of this development will be progressed to a decision until that new GTAA is adopted/finalised.
19. An appeal under s78 of the 1990 Act against the Council’s failure to determine the planning application has been turned away as it was submitted to the Planning Inspectorate outside the relevant period. The appellant is therefore reliant upon the Council determining their planning application to allow matters to be progressed.
20. It would not be unusual in circumstances such as these for the period of compliance to be extended to accommodate the determination of the planning application, including time for an appeal to be determined if necessary. A maximum period of 12 months would not be unusual in these circumstances as a longer period would be tantamount to giving a temporary planning permission.
21. It is necessary for me to balance the private interests of the appellant against the public interests arising from the breach of planning control. As enforcement action is remedial not punitive, the fact that a breach has occurred does not of itself

weigh against the development. However, there are several factors that I consider weigh in favour of a longer period being given in this case.

22. The Council claims the development has “*an adverse, harmful impact on the character and visual amenity of the open countryside and locality.*” The notice does not however define the open countryside’s characteristics or explain how they, or visual amenity, have been adversely affected or harmed by the development. The Council’s statement of case also does not clarify what adverse effects or harm has been caused.
23. The appellant has sought to regularise the development. While the reasons for issuing the notice claim the unidentified adverse effects and harm arising from the development cannot be overcome by conditions, their planning application has not yet been determined. Further, the Council advise that they do not intend to progress the application to determination until such time as their GTAA has been adopted/finalised. This causes considerable uncertainty for the appellant’s future.
24. The appellant has been barred from bringing an appeal on ground (a). As such there is no deemed application for planning permission before me and I am not able to consider whether a temporary planning permission should be granted.
25. Extending the period of compliance to 2 years would be excessive. However, the 9 months suggested by the Council is also unreasonably short in my view. Having regard to all the above factors, I find that a period of 18 months would provide a degree of certainty for the appellant and allow time for the Council to determine the planning application to regularise the development, as well as providing time for any subsequent s78 appeal to be determined.
26. The appeal on ground (g) succeeds to this limited extent.

Overall Conclusion

27. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the corrected breach of planning control and the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeal on grounds (f) and (g) succeed to that extent.

M Madge

INSPECTOR



Plan

This is the plan referred to in the Decision dated: **25 February 2026**

by **M Madge**

Land at: **Lowmoor Gate Farm, Low Moor Lane, Rillington YO17 8FG**

Reference: **APP/U2750/C/25/3374244**

Scale: Not to Scale

