



Appeal Decisions

Hearing held on 11 March 2026

Site visit made on 11 March 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 March 2026

Appeal A: APP/M3645/C/25/3368581 and Appeal B: APP/M3645/C/25/3368582 Land to the south of Woodlands, Weatherhill Common, Smallfield, Horley, RH6 9JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mrs. Katie Connors and Mr Patrick Connors against an enforcement notice issued by Tandridge District Council.
 - The notice was issued on 3 June 2025.
 - The breach of planning control as alleged in the notice I, without planning permission, operational development comprising of the laying of hardstanding and construction of a culvert in the approximate areas shown by the words "hardstanding" and "culvert" on the attached plan..
 - The requirements of the notice are to:
 - 1) Permanently remove the hardstanding and culvert from the Land by digging up the hardcore, rubble, and other material used to create the hardstanding and taking the culvert out of the stream on which it has been placed;
 - 2) Remove all materials generated from compliance with 1) above from the land; and
 - 3) Re-seed the areas of the works on 1) above with a native grass seed mix.
 - The period for compliance with the requirements is within 3 months from the date on which this Notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (b), (c), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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The enforcement notice, the subject of the appeals

1. The Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002 under Part 2, 4C specifies that notices shall show the precise boundaries of the land to which it relates, whether by plan or otherwise. In this particular instance, there are fundamental errors with the attached plan and also, due to the extent of the land identified by the enforcement notice, the service ,of the notice itself.
2. Firstly, the plan shows a wide stretch of land, which tapers out to the east, and incorporates an area directly to the south of several properties. The Land Registry shows that nearly all the land targeted by the enforcement notice is in the ownership of Katie Connors, although there are small areas which the appellant's agent has identified including both land belonging to Twynways and also land adjacent to Kilcare, which the ringed line on the enforcement notice takes in. This falls outside of Mrs Connors' freehold title.
3. Second, timber fencing runs along a southwards continuation of the common boundary line between Rose William Cottage and Redcot. The fence contains an access gate beyond which is an area of grassed rear garden forming part of Redcot's residential curtilage which, despite the enforcement notice's plan and annotation, clearly does not form part of the area of hardstanding. In essence, the

fencing physically demarcates the hardstanding's eastern limit from the rear garden beyond.

4. The Council, in its Statement, does not fully address the above errors as it refers only to a minor correction that could be made to exclude the stream to the rear of Twynways.
5. Notwithstanding the above, the appellant's agent has flagged up that occupants of the static caravans at Woodlands and persons living at Redcot have not been served with a copy of the enforcement notice. However, given that the Mr and Mrs Connors were both recipients, and both subsequently lodged appeals against the notice, I am satisfied that, the owners of Twynways and land adjacent to Kilkare aside, no occupiers have been substantially prejudiced by its requirements.
6. Third, the enforcement notice's plan fails to identify a significant area of hardstanding directly to the rear of Rose Willam Cottage and Woodlands for which retrospective planning permission (ref 2024/1121) was granted in February 2025 for the purposes of parking, having been incorporated into the Woodlands site.
7. Importantly, an enforcement notice should not affect any existing development rights. This is known as the *Mansi* principle, founded on the judgement of *Mansi v Elstree Rural DC* [1964] 16 P&CR 153. Accordingly, an enforcement notice should not be constructed to prohibit lawful development. It appears that this is appeal is a case in point, being effectively the reverse of the provisions of s180C, in that planning permission exists for an area of hardstanding within the larger site targeted.
8. As a result the enforcement notice's stated requirement to permanently remove the hardstanding is imprecise and ambiguous to the point where it confusing; something one would not reasonably expect of a legal document. The thrust of the notice is clear, but it is less than accurate and its errors, admittedly of varying importance, compound to a point where its validity is thrown into doubt. I therefore doubt whether, in the form issued, the notice provides the certainty necessary for it to have a reasonable chance of success. The plan represents a particular failing given the circumstances surrounding the alleged breach.
9. Under the provisions of section 176(1) of the 1990 Act as amended it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms if I am satisfied that the correction or variation will not cause any injustice. It is considered that the Courts interpret the power to correct a notice very widely and that the powers in s176(1) can extend to making significant changes to the terms of the notice so as to put it on a proper footing.
10. I cannot here be certain that no injustice would be caused if I were to attempt to make the significant corrections necessary. In other words I find that this notice, as issued, is incapable of correction. For the reasons given above I therefore conclude that the enforcement notice is invalid and will be quashed.
11. An application for an award of costs was made by Mr Patrick Connors against Tandridge District Council. This application is the subject of a separate decision.

T C King

INSPECTOR