
Appeal Decision

Site visit made on 24 February 2026

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 24th March 2026

Appeal Ref: APP/C1435/C/23/3328210

Land at Molly's Wood, Hempstead Lane, Hailsham, East Sussex BN27 3PR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
- The appeal is made by Mrs Billie Griffiths against an enforcement notice (EN) issued by Wealden District Council.
- The EN was issued on 19 July 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, change of use of the land from woodland to a mixed use for the stationing of a caravan for leisure and business use, the associated erection of sheds, storage of garden furniture and equipment, and the laying of a hardstanding and track area.
- The requirements of the EN are:
 - i) Stop using the Land for the stationing of a caravan for leisure and business purposes.
 - ii) Disconnect and remove from the Land all services connected to the caravan.
 - iii) Remove the caravan from the Land.
 - iv) Demolish, dismantle and remove all sheds and outbuildings associated with the unauthorised use from the Land.
 - v) Remove all garden furniture and equipment from the Land.
 - vi) Break up and remove the areas of hardstanding from the Land
 - vii) Reinstate the area from where trees have been felled and removed by spreading topsoil and planting a mixture of Oak, Hornbeam, Birch, Willow, Wild Service, Holly and Hazel at a density of 1100 stems per hectare, which equates to roughly 3 x 3m spacing. Maintain stocking density by way of adequate protection from browsing animals and replacement of failed trees for a period of 5 yrs.
 - viii) Remove all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements.
- The period for compliance with the requirements: two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (g) of the 1990 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 1990 Act.

Decision

1. The EN is quashed.

The Notice

2. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. It may be the case that defects are too fundamental to be corrected without causing injustice, leading to the EN being quashed. Irrespective of the appeal on ground (b) I have concerns regarding the matters which appear to constitute the breach of planning control and what is required to be done.

3. Section 55 of the 1990 Act states that “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. The alleged breach of planning control in this case is *‘without planning permission, change of use of the land from woodland to a mixed use for the stationing of a caravan for leisure and business use, the associated erection of sheds, storage of garden furniture and equipment, and the laying of a hardstanding and track area.’* To ensure that the description of the alleged breach reflects that section of the 1990 Act I consider that the wording of the allegation should refer to a *‘material’* change of use. As that correction in itself is minor I could correct the EN in this respect.
4. The pre-existing use that the allegation refers to is woodland, which I do not consider relates to a use of land. The word ‘woodland’ in my judgement refers to land covered with trees. A use of land would be forestry or recreation. Nevertheless, there is no need for the alleged breach to indicate the previous use of the site, and it could therefore be corrected to delete any reference to a previous use without injustice to either main party.
5. Yet the allegation also states that the alleged mixed use relates to the stationing of a caravan for leisure and business use. An EN must be drafted to tell the recipient fairly what they have done wrong and must do to remedy it. The reference to a *‘leisure and business use’* is vague and imprecise as that description could apply to a wide range of uses such as for the purposes of sport or recreation or an office or providing a service such as financial or health services. Within the EN itself there is no further explanation as to what constitutes the leisure and business use. The reasons for issuing the EN focus on the impact of the alleged breach of planning control on an area of Ancient Semi Natural Woodland through the felling and removal of trees.
6. Furthermore, in the Council’s *‘Report to take Enforcement Action under Delegated Powers’* it states that a site visit was carried out in March 2022 and at that time the caravan was stationed on the land for the purposes of overnight stays and as a work unit. It goes on to state that during the visit the owner indicated that the use of the site was for a holistic therapy business, garden furniture and sheds were seen on the site and an area of hardstanding was being laid. The Council’s Statement of Case repeats those facts and then refers to a ‘domestic use’ of the site in sections 6 and 9. It is unclear if the Council considers that the overnight stays constitute part of the leisure use or the domestic use. Additionally, no ‘domestic’ use is cited anywhere in the EN.
7. Moreover, where the EN is concerned with a material change of use, the allegation should be clear whether any cited operational development is ancillary to the material change of use and is being treated as facilitating work or whether it constitutes a separate breach. In this case even though the allegation states *‘the associated’* it is not clear that the *‘erection of sheds, storage of garden furniture and equipment, and the laying of a hardstanding and track area’* are to be treated as facilitating works. This is because there is no *‘and’* before *‘the associated’* furthermore the *‘storage of garden furniture and equipment’* does not constitute operational development. Besides, it is unclear if the EN is alleging that that storage is ancillary or incidental to the mixed use or is a primary use forming part of the mixed use.

8. In respect of the requirements, the recipient cannot be required to undertake works that would go beyond remedying the breach. No matter how the works are specified, the most the EN can seek to achieve is restoration of the land to its previous condition. There is no scope for an EN to require improvements to the land. There is no evidence before me to show that the planting cited within requirement vii) would go no further than restoring the land to its previous condition. In any case, I would be able to delete that requirement and substitute it with a requirement to restore the land to its previous condition prior to the breach of planning control occurring, without injustice to either main party.
9. I acknowledge that caselaw has held that an Inspector has a duty to try and get an EN in order and that the Secretary of State has a broad discretion to adapt an EN to overcome defects in it, provided always that in doing so they do not cause injustice. In this case, for the above reasons, I have strong reservations about the overall clarity of the EN and whether it can be corrected without giving rise to injustice. I cannot correct the description of the allegation to make it more precise as there is insufficient evidence before me to indicate what the alleged mixed use specifically entails. Additionally, the EN does not identify which of the sheds and what areas of hardstanding and track are attacked by the EN. I observed on site that there are numerous sheds on the land and that the appeal site includes a concrete hardstanding/track to an adjacent property. Without knowing exactly what the Council has in mind in respect of the alleged mixed use and the operational development it is not possible for me to correct or vary the EN and its requirements because I may unintentionally be causing injustice to either main party.
10. Because of the above concerns the EN is clearly flawed. Although some of the defects are capable of being corrected or varied without causing injustice to either of the main parties, others are not. Cumulatively, the EN is ambiguous and causes confusion and uncertainty with respect to the matters which appear to constitute the breach of planning control and what the appellant is required to do.

Conclusion

11. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breaches of planning control and the steps required for compliance. It is not open to me to correct the errors in accordance with section 176(1) (a) of the 1990 Act since injustice would be caused were I to do so. The EN is invalid and will be quashed. In these circumstances, the various grounds of appeal as set out in section 174(2) of the 1990 Act, and the application deemed to have been made under section 177(5), do not fall to be considered.

D Boffin

INSPECTOR