



Appeal Decision

Hearing held on 31 March 2026

Site visit made on 30 March 2026

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 13th April 2026

Appeal Ref: APP/H1840/C/25/3375971

Cotswold Vale View Caravan Park, Offenham Road, Aldington Evesham , WR11 7AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Adam Smith against an enforcement notice issued by Wychavon District Council.
 - The notice was issued on 15 October 2025.
 - The breach of planning control as alleged in the notice is the unauthorised material change of use of the land to a caravan site, namely the stationing of caravans for residential occupation together with associated operational development comprising the laying of hardstanding.
 - The requirements of the notice are (i) permanently cease the use of the Land for the stationing of caravans for residential occupation and the stationing of caravans not currently in residential occupation. (ii) Remove from the Land all caravans* mobile homes, touring caravans domestic paraphernalia, and all structures, fixtures, and associated infrastructure related to the unauthorised use including but not limited to utility hook-up points, gas bottles, and caravan skirting. (iii) Remove from the Land all areas of hardstanding and associated surfacing laid in connection with the unauthorised use, removing boundary treatments erected within the area outlined in red on the attached plan and reinstate the Land to open grassland by levelling the ground, removing rubble, and reseed with grass. OR (iii) Ensure the development and use of the site is carried out in accordance with the information (including details on the proposed materials) provided on the application form and the following plans/drawings/documents of planning permission W/22/02339/FUL:
 - 001 rev P03 (Site location plan);
 - 003 rev P06 (Proposed site plan);
 - 005 rev P01 (Proposed day room plans and elevations);
 - 006 rev P01 (Proposed refuse store plans and elevations);
 - PLAN REF: 170523_0064_TPP_V3 DWG REF: 004;
 - PLAN REF: 170523_0064_TPP_V3 DWG REF
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e), (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.
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Decision

1. The enforcement notice is quashed.

Applications for costs

2. An application for a full costs award was made by the appellant and is subject to a separate decision letter.

Preliminary Matters

3. It was agreed at the Case Management Conference that I could carry out an unaccompanied site visit on the day before the Hearing and we would discuss at

the hearing the need for a further visit. It was agreed at the Hearing there was no need for a second visit.

Background to the Appeal

4. The appellants obtained planning permission for a 6 pitch gypsy site in December 2023. This included a long entrance track providing access from the B4510 Offenham Road. Although the track was constructed the gypsy pitches were never, as far as I am aware, laid out. Instead 20 or so mobile homes were brought onto the site which led to the Council issuing the enforcement notice.
5. However, this was not in order to create a large gypsy site but for a residential caravan site to be rented on the open market. The eventual aim is for the site to contain 33 rental units and, in a separate section, 6 gypsy pitches. An application was prepared along these lines but the Council issued the enforcement notice and so the ground (a) appeal is for this 39 pitch caravan site.

The Appeal on Ground (e)

6. The appellant argues that the notices were not properly served on a number of named occupiers of the caravans. It is agreed the Council issue a PCN and as a result knew the names of a number of the occupiers. It is also agreed the Council did not hand copies of the notice to 5 of those named. However, there is nothing in s172 of the Act that requires a notice to be handed personally to a named occupier, it simply has to be served on them. In this case the Council placed copies addressed to the named occupiers into the postbox on site. If that is the usual way people received their mail (and it seems it was) then that would seem to have served the notice. However, the Council also were met on site by a person who claimed to represent the caravan dwellers who occupied a site office. Copies of the notice were handed to him and he promised to hand them on. Also each caravan was visited and copies either handed to a resident if they were in or the notice was affixed to the caravan. A further copy was fixed to a stake at the entrance to the site.
7. Although one person did say they saw envelopes being blown around the site, it seems highly unlikely to me that any of the people on the caravan site did not know about the issue of the enforcement notice. However, in the extremely unlikely event that they did not, there is a separate test that they were not substantially prejudiced¹. Given the appellants have appealed the notice and made a comprehensive ground (a) appeal it is difficult to see how anyone remaining ignorant of these events has been prejudiced. This conclusion is further reinforced as I am quashing the notice on ground (b) in any case. The appeal on ground (e) therefore fails.

Commencement of the 2023 planning permission

8. As the ground (b), and a number of other issues turn on this question I shall consider it first. There is no dispute that the 2023 permission (W/22/02339/FUL) remains extant and is capable of implementation, and that the various pre-commencement conditions were discharged. But the Council argue it has not, as a matter of fact, so far been commenced.

¹ S176(5) of the 1990 Act

9. The Council further accept the access drive has been constructed in a similar position to that shown on the plans, but they argue because the rest of the site was developed in a radically different manner to the 6 pitch gypsy site that was approved, the 2023 permission was never commenced.
10. The parties have generally used the word implemented, but I prefer commenced. The issue is whether the planning permission was commenced, so that it then remains a valid permission until such time as it is lost by being superseded by another planning permission and so on. The works required to commence a planning permission must be more than de minimis but are not great and the courts have consistently held that digging trenches, creating an access and other relatively minor works are sufficient to commence a planning permission. The works involved in constructing the access in this case are clearly sufficient to commence the planning permission. However, those works must also be comprised in the development permitted. The Council mention Whitley², where they say the Court of Appeal made it clear that a “*material operation must form part of the development authorised by the permission and must not be divorced from it in purpose or effect*”. I can’t find the “divorced from it” phrase in Whitley, but I note that Riordan³ makes clear that the test as to whether works were undertaken for the purposes of development is entirely objective and the intentions of the developer are not relevant.
11. It is quite clear the lengthy access road was the same as that granted planning permission in 2023 and in constructing it the appellant was commencing that permission. However, the Council refer to a recent appeal decision and court judgement that suggest that works cannot be treated as implementing a permission where they ultimately form part of a development that is materially different from that which was approved.
12. While that is undoubtedly the case here and is what the Inspector in the Droitwich Road⁴ appeal says I think he was misdirected as that is not the message from the court case (Atwill)⁵ at all. In the Droitwich Road appeal the appellant had built an extension that was not in accord with the drawings on the planning permission. He argued he had begun the planning permission by demolishing a garden room and digging the foundations. The Inspector dismissed this argument by relying on his interpretation of Atwill that regardless of what had been begun, if the subsequent development was materially different from what was permitted the works cannot be treated as lawfully implementing the permission.
13. This is a radical departure from my understanding of the case law so far, but Atwill does not support that contention. In essence, in that case, planning permission had been granted for a house, but what was built was completely different in its position, footprint and dimensions. Prior to the building operations the original house on the site was demolished. The Council officers accepted those demolition works constituted commencement and so the original planning permission was still extant. The Court however held that the demolition of the house was not “*properly referable to the construction of that dwelling, which took place in breach of planning control*”. In other words the because the house that was built was so different from that which received planning permission, the fact that the original

² F G Whitley & Sons v SSW & Clwyd CC Court of Appeal [1992]

³ Riordan Communications Ltd v South Buckinghamshire DC [2000]

⁴ APP/H1840/D/25/3359134 - 218 Droitwich Road, Fernhill Heath, Worcester. Issued 9 December 2025

⁵ The King oao Barbara Atwill v New Forest NPA, Angela Vickers [2023] EWHC 625 (Admin)

house was demolished would seem to have no link to the house that had planning permission. So no works pursuant to the planning permission had been undertaken and it had not been commenced.

14. That is not the case here, and it is incorrect to extrapolate from Atwill the general rule that if what is eventually built is different from what was granted planning permission then there can, as a matter of principle, have been no commencement. In this appeal the access road, which must have been the first thing constructed, was in accordance with the plans and so commenced that permission.

The Appeal on Ground (b)

15. This ground is that the matters alleged have not occurred. The allegation is a *“material change of use of the land to a caravan site, namely the stationing of caravans for residential occupation together with associated operational development comprising the laying of hardstanding”*. The appellant argues that is what they have planning permission for so there is no material change of use. The 2023 planning permission is described as “change of use for six gypsy pitches on the land adjacent to Siding Cottage”. But I agree that the planning permission is actually for a caravan site, and the numbers of pitches and their occupants are controlled by the conditions that were attached. The appellant suggests the infringement is actually a breach of conditions.
16. The Council seem to rely heavily on their commencement argument which I have not agreed with. The lawful use of the land is for a caravan site, with numbers and occupiers limited by conditions. The current use of the land is a caravan site therefore there has been no change of use. There was some discussion at the Hearing about the differences between the current use and the approved use. If the uses are the same (ie caravan site to caravan site) then for a change to be material there would have to be intensification to such an extent the uses become materially different. I think the desired outcome of 33 rental caravans and 6 gypsy pitches could have material differences to just 6 gypsy pitches in terms of traffic movements, impact on the landscape, impact on local services, and the effect on the occupants themselves – the gypsy pitches for instance are much smaller and there would possibly be other issues. But that is not the case here, for the site is incomplete. Only about 20 mobile homes were moved on site, compared to the gypsy pitches which could have 2 caravans each (or 12 in total). Some of the occupiers of the mobile homes are gypsies but I do not know about the rest, or even how many are occupied. It seems to me the Council have rather jumped the gun with the notice for they should have alleged a breach of conditions.
17. The Council also point out the site has been enlarged. This is true, but the appeal site is only slightly bigger than the site granted planning permission. In essence the original site was not an exact rectangle and the appeal site has straightened out the boundary. I can believe this was not done deliberately and is effectively de minimis.
18. The Council's reliance on Sage and Garland is misplaced. Neither of these deal with material changes of use. Sage concerns building operations, and states that if a building is not completed entirely in accordance the planning permission then the whole building is unlawful. The context of that case was whether a building had been completed 4 years previously and so was immune from enforcement action. Even if that principle could be extended to a material change of use to a

caravan site it does not affect the question of commencement which is a different question altogether. A building can be commenced but then turn into something else altogether and so become unlawful, but it has still been commenced and the original planning permission remains extant.

19. Garland is rather more complicated concerning permitted development rights. But that turned on the fact that permitted development rights cannot be granted retrospectively. So a building cannot be reduced to the sizes allowed in the GPDO and thus become lawful because it now fits in with the permitted development rights limits. This is even further from the current appeal situation which involves neither buildings nor permitted development rights.
20. I asked the parties whether, if I found the allegation was incorrect, I could correct the notice to a breach of condition but this was resisted by the appellant not least because they consider their proposals would be better suited to being dealt with by a planning application rather than through an enforcement appeal. I also consider the change to be fundamental, as a material change of use and breach of conditions are two very different things. There could well therefore be prejudice to the appellant's case if such a change was made so I will uphold the appeal and quash the notice.

The Appeal on Ground (a)

21. While this ground does not fall to be considered because I am quashing the notice, there was considerable discussion at the Hearing and in the written representations about certain key issues concerning the nature of the development proposed and its relationship to council policy which it would be useful to clarify now. Although they are not binding on future decision makers, I offer these comments to hopefully smooth the path of any further interaction between the parties.
22. The most obvious problem is that the Council do not have any policies for residential caravan sites that are not occupied by gypsies and travellers. They therefore have treated the caravans as if they were housing. This is most obviously problematic in the imposition of amenity and space standards and the eligibility of s106 payments for various matters.
23. It is clear that residential caravans are treated as part of the housing supply for the purposes of calculating the 5 year housing land supply. It is also clear to me that caravans or mobile homes are not dwellings (or dwellinghouses – the two terms are interchangeable). Thus any of the Council's policies that refer explicitly to dwellings do not apply to residential caravans.
24. It follows from this that caravans do not fall within class C3 of the UCO, as this refers specifically to dwellinghouses. The Council produced an appeal decision⁶ from elsewhere in Wychavon, which they said supported their contention that residential caravans are a C3 use. However, that decision was for a change of use from holiday lodges to "*residential park homes (Class C3 use)*". Both parties treated the new park homes as dwellings and as there was no discussion as to whether they were really caravans I must conclude it was obvious they were not. That is quite different from here, where there is no dispute they are caravans.

⁶ APP/H1840/W/25/3360170 Fairview Park, Offenham Road, Evesham. Issued 8 July 2025

25. There was an associated dispute about site licensing terms. All residential caravan sites need to obtain a site licence from the Council, and to do so they must abide by the model standards⁷. These set out distances between caravan units, layout of roads, amenity space and so on. The notes to the standards make it clear that “*The use of land as caravan sites is controlled by relevant planning legislation, whereas the physical standards and layout, amenities and other standards are controlled by a site licence....*”. I therefore have considerable sympathy with the appellant’s argument that much of what the Council wanted to control could have been left to the site licencing regime. It seems clear to me that the Government envisaged a separate regime for residential caravan sites that applies lower standards than to bricks and mortar dwellings.
26. This does not mean the appellant can do what he likes. The Council’s planning department are still responsible for the use of the land, and in particular for off-site impacts such as drainage and traffic, but following this logic it seems to me that a lot of the issues between the parties would simply fall away.
27. As I am quashing the notice I do not need to consider the other grounds or conditions and neither do I need to correct the notice to deal with the minor change in the size of the site.

Simon Hand

INSPECTOR

⁷ Model Standards 2008 for Caravan Sites in England

APPEARANCES

FOR THE APPELLANT:

Mr Rudd – of counsel
Matthew Green - agent
Mike Piotrowski - drainage

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards – of counsel
Sebastian Ash – enforcement
Gavin Greenlaw – development management
Ben Simm – highways
Denise Duggan – policy
Chris Parkes – policy
Mat Tyas – policy
Henry Harbord – flooding
Liz Jones – housing
Hannah Phelan - housing

DOCUMENTS

1. Signed witness statement of Adam Smith
2. Signed statement of common ground