



Appeal Decision

Site visit made on 11 March 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2026

Appeals A Ref: APP/H1705/C/25/3376701 and

Appeal B Ref: APP/H1705/C/25/3376489

Highgates, Highclere, Hampshire, RG20 9RQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr John Frankham (Appeal A) and Mr Connor Hutchins (Appeal B) against an enforcement notice issued by Basingstoke and Deane Borough Council.
 - The notice was issued on 29 October 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land from agricultural use to residential use including the siting of a mobile home (the said siting of the mobile home shown for indicative purposes only shaded orange on the attached plan) together with the following associated paraphernalia:-
 - (i) Erection of fencing (shown for indicative purposes only marked with a bold black line between points A and B, C and D, D and E, E and F, F and A, D and G, H and I, I and J, J and K, K and L and L and F on the attached plan);
 - (ii) Erection of gates (shown for indicative purposes only by yellow lines on the attached plan);
 - (iii) Erection of walls with piers (shown for indicative purposes only by blue lines on the attached plan);
 - (iv) The laying of hardstanding (shown for indicative purposes only shaded green on the attached plan).
 - The requirements of the notice are to:
 - (i) Permanently cease the use of Land for residential use;
 - (ii) Permanently remove the mobile home from the land (the said mobile home shown sited for indicative purposes only shaded orange on the attached plan);
 - (iii) Permanently remove the fencing from the land (shown for indicative purposes only marked with a bold black line between points A and B, C and D, D and E, E and F, F and A, D and G, H and I, I and J, J and K, K and L and L and F on the attached plan);
 - (iv) Permanently remove the gates (shown for indicative purposes only by yellow lines on the attached plan);
 - (v) Permanently remove the walls with piers (shown for indicative purposes only by blue lines on the attached plan);
 - (vi) Permanently remove the hardstanding from the land (shown for indicative purposes only shaded green on the attached plan);
 - (vii) permanently remove all paraphernalia associated with the unauthorised residential use from the land; and
 - (viii) restore the land to its former condition prior to the breaches of planning control taking place. These works to include, but not limited to, the reinstatement of hedging between points L and F and F and A on the attached plan, the infilling of any holes and the reseeding with grass seed the area shaded green on the attached plan.
 - The periods for compliance with the requirements are:
 - (i) For step 5(i) above, 9 months after this notice takes effect;
 - (ii) For all other steps above, 12 months after this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). Appeal A is also proceeding on ground (e) and Appeal B on ground (d).
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Appeals A and B Decision

1. It is directed that the enforcement notice is corrected by:
 - Deletion of the plan attached to the notice and its replacement with the plan attached at the end of this decision entitled “Notice Plan as Corrected by the Inspector”;
 - Deletion of existing sub-paragraph 3.(i) and its replacement with a new sub-paragraph 3.(i) stating “Erection of fencing (shown for indicative purposes only marked with a bold black line between points D to E, E to F, D to G, H to I, I to J, J to K, K to L and L to F on the attached plan entitled “Notice Plan as Corrected by the Inspector”);
 - Deletion of sub-paragraph 3.(iii);
 - Deletion of existing sub-paragraph 5.(iii) and its replacement with new sub-paragraph 5.(iii) stating “Permanently remove the fencing from the land (shown for indicative purposes only marked with a bold black line between points D to E, E to F, D to G, H to I, I to J, J to K, K to L and L to F on the attached plan entitled “Notice Plan as Corrected by the Inspector”);
 - Deletion of sub-paragraph 5.(v); and
 - Deletion of existing sub-paragraph 5.(viii) and its replacement with new sub-paragraph 5.(viii) stating “Restore the land to its former condition prior to the breach of planning control taking place.”

Subject to the corrections, the appeals are dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. I have been asked to consider whether the notice is valid. I deal with this under ground (b) below.
3. When I carried out my site-visit, it was pointed out that there had been a further fence erected within the site enclosing an area of lawn near the mobile home. That is not addressed by the notice which relates to the circumstances existing at the date of issue.

Appeal A on Ground (e)

4. To succeed on this ground, it is necessary for the appellant to demonstrate that copies of the notice were not served as required by s172 of the Act. Section 172(2) in particular requires that a copy of an enforcement notice shall be served: (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice. However, even if copies were not served as required, by reason of s176(5) of the Act, I can disregard that fact if neither the appellant nor the person who required service have not been substantially prejudiced by that failure.
5. The Council has explained the process that they went to in order to serve copies of the notice which included those showing on the Land Registry entry. Further copies were served at the site, addressed to the owner and occupier along with a

site notice. The list of those served does not include the appellant in Appeal A and so it is not disputed that they were not issued with a copy.

6. In Appeal A, the appellant was clearly aware of the notice in time to instruct a professional representative, the appeal was accepted and is before me to consider on the grounds they have pleaded. The lack of service upon them and the apparent difficulty that their representatives had in obtaining a copy of the notice before the appeal deadline, has not prevented them from making their case. These circumstances have not therefore caused any substantial prejudice to them.
7. The appeal under ground (e) therefore fails.

Appeals on ground (b)

8. To succeed on ground (b), it is incumbent on the appellants to demonstrate that the matters which are stated in the allegation have not occurred, as a matter of fact. There is no dispute that the site has been the subject of a material change in its use. The appellants in both appeals question the wording of the allegation rather than it having occurred as a matter of fact. It is also suggested that the notice is invalid.
9. The allegation refers to the residential use including the siting of a mobile home. There is no dispute regarding the mobile home being one that would fall within the definition of a caravan as defined in s29(1) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) and/or s13(1) and 13(2) of the Caravan Sites Act 1968. This is therefore a use of the land for the siting of a caravan for residential purposes but I do not consider it is necessary to state “caravan site” within the allegation.
10. The current wording does not indicate a use or construction of a building. It is clearly not alleging use of a dwellinghouse within C3 of the Use Classes Order¹. I understood what the notice is alleging. Although one of the appellants is attempting to challenge the wording, it is clear that the nature of the allegation was understood. The alleged residential use stems from and is linked to the siting and occupation of the mobile home and that is a reasonable reading of the allegation.
11. The mobile home along with a separate gravelled driveway and lawn is within an area which is enclosed by the close-boarded fencing with gates which separate it from the main shared driveway. The fencing firmly encloses parts of the site that appear to be associated primarily with the residential use of the mobile home. The red line outside of that fencing covers the adjoining land. From what is presented by the appellants and what I saw at my site visit, the red line covers the entrance, part of the driveway into the land, some of the adjoining rough-grazed field and also part of the carriageway of the road. The red line also has straight sides which does not relate directly to any features on the ground or any activities that are taking place. The red line on the plan and its use to described what has taken place is not correct.
12. It is necessary as a starting point to consider what the relevant planning unit is and to consider what primary use or potentially mix of uses is taking place within it. The concept of the planning unit is not defined in legislation but has come about through case law. It has been held that the planning unit is usually the unit of occupation

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

unless a smaller area can be identified which is, as a matter of fact and degree, physically separate and distinct and occupied for different and unrelated purposes. The concept of physical and functional separation is key.

13. In this situation, it appears likely that there are 2 potential scenarios. Firstly, if the mobile home as well as the land around it is within a separate planning unit from the other land and only consists of one primary use, that being the residential occupation of the mobile home, the wording of the allegation is essentially correct. A second scenario is if the land outside of the fencing indicated by the black lines on the notice plan is within the same planning unit as the use as alleged and that includes other primary uses, there may be a mixed use of the wider area.
14. I do not have in-depth evidence about the other activities on the wider site or whether they are operated by either of the appellants or one of them as the occupier of the mobile home. However, even if the wider land including the main driveway, 2 existing buildings and large field are used and occupied by the residents in the mobile home, the distinct enclosure, physical and functional separation of the land from that wider area indicates, on a fact and degree basis, that the mobile home is within a separate planning unit from the wider land.
15. My conclusion on that then leads to difficulties with how the notice has been drafted. The land described by reference to the red line on the notice plan covers an area broader than where the material change of use has taken place. I have a duty to try and get a notice in order where I can. I have broad powers to correct or vary the notice under s176(1)(a) and (b) but this can only be undertaken where it would not cause injustice to the appellant or to the Council. To make the necessary corrections, a smaller area would need to be defined for just the residential use of the mobile home and the enclosed area around it. That in itself would therefore not cause injustice to either main party as their representations were based on the broader allegation.
16. Given the above, the appropriate planning unit for what is correctly alleged is the area demarcated by the black line on the notice plan but only that which is annotated at points (going clockwise from the northern corner) 'D', 'G', 'H', 'I', 'J', 'K', 'L', 'F' and 'E'. Correcting the notice plan would also necessitate removal reference to the operational developments that are described and located outside of that remaining black line. The notice is clearly worded to allege a material change of use with those operational developments only part of the allegation because they are "associated paraphernalia." Those physical "paraphernalia" clearly also relate to the use of the broader planning unit rather than having only enabled or facilitated the material change of use as alleged. Addressing those developments would require further consideration by the Council with respect to whether they are breaches of planning control in their own right or not and whether they remain unlawful. Removing those from the requirements of the notice would not cause injustice to either main party because those matters can be reconsidered.
17. I will revise that plan and remove reference to what has been undertaken outside of that area and the linked requirements as well as making consequent corrections including to the requirements in section 5. The remainder of the grounds of appeal will then relate to the notice as corrected. Therefore, whilst the allegation is correctly worded, the notice plan requires correction which I will do under my powers of correction.

18. Notwithstanding the above, what has been alleged has taken place as described in the allegation and the appeals under ground (b) fail.

Appeals on ground (c)

19. The appeal on this ground is that what is alleged does not constitute a breach of planning control. The onus is upon the appellants to demonstrate their cases.
20. Given the corrections that I have made to the notice, it will no longer require the removal of the operational developments outside of the planning unit as demarcated by the red line on the revised notice plan. Subject to this ground of appeal, the notice will continue to require the removal of the fencing that is illustrated approximately along the revised red line as well as the gates between points 'G' and 'H' which are alleged to be "associated paraphernalia". That therefore indicates clearly that in the Council's opinion, they have been undertaken in order to facilitate the material change of use. In principle, a notice directed at a material change of use can require the removal of such features and some of those matters would also be relevant to other grounds of appeal that have been pleaded. That is the case whether they could potentially be lawful, including as permitted development under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO).
21. It is not disputed that the fence enclosing the planning unit where the residential use has occurred as well as the gates enabling access, was erected around the same time as that use commenced. That being the case, I am satisfied that it has facilitated the use within a separate planning unit from the other land around it.
22. With respect to Appeal B, the appellant has argued that the caravan is or could be being used whilst they carry out engineering operations on the existing structures nearby. Although argued under ground (d), that would seem appropriate to consider here too because this appears to argue that such occupation is permitted development rather than it being immune from enforcement action. I will also deal with that under ground (f).
23. The GPDO in Schedule 2, Part 5 provides some circumstances when the use of land temporarily as a caravan site would be permitted development. This cross-refers with the 1960 Act and specifically the exclusions from the requirement for a caravan site licence. These are set out in the first schedule, section 2 and of relevance here is paragraph 9². This provides for the use as a caravan site "of land which forms part of, or adjoins, land on which building or engineering operations are being carried out". I did see some buildings on land adjoining the planning unit. I have very little detail about any work that is being undertaken or the extent to which the occupiers of the caravan are occupying the site for that purpose. On a fact and degree basis, it is not demonstrated that the occupiers are living in the mobile home primarily to undertake such works within the limitations of the GPDO.
24. As such, the appeals under ground (c), fail.

² "Subject to the provisions of paragraph 13 of this Schedule, a site licence shall not be required for the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations" (NB Schedule 13 relates to the withdrawal of some exemptions which are not argued to apply here).

Appeal B on ground (d)

25. This ground of appeal is that at the time the notice was issued, it was too late to take enforcement action with the onus on the appellant to demonstrate their case, on the balance of probabilities. It is not suggested that the material change of use including the residential use took place more than 10 years prior to the issuing of the notice. That is not immune from enforcement action.
26. The argument here is that the gates and fencing have been on site “as early as 2010” many years prior to the change of use. The evidence in this respect relates to the fences and gates which I have deleted from the allegation rather than the fencing and gates which surround the residential area of land including the mobile home and which appear to have facilitated the material change of use. This ground of appeal is no longer relevant to those and any fences and gates which remain part of the allegation are only those which are inherently part and parcel of the material change of use.
27. This appeal under ground (d) therefore fails.

The Appeals on ground (f)

28. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. From the wording of the notice and what is said in the Council’s appeal statement, the purpose of the notice is to remedy the breach of planning control, which I take to mean the purpose within s173(4)(a) of the Act. The requirements bear that out in necessitating that everything that has been undertaken is ceased or removed. This is not a notice seeking the remedying of any injury to amenity as suggested by one of the appellants.
29. The allegation relates to the residential use of the site which includes the use of the mobile home. Requiring that use to cease is achieving the purpose of the notice and along with the facilitating operational development, goes no further than that.
30. Once the site is restored to its former condition, it may not be a breach of planning control to bring a caravan, including a mobile-home, back to the site and use it for lawful purposes on the land. That potentially could include as a day-room for agricultural workers, as raised under ground (g) in Appeal B. However, I do not have any convincing evidence that this would be a particular necessity with respect to the continuing use of the land. Even if re-erecting fencing and gates could be done within the limits of the GPDO that does not alter what has already been erected as part and parcel of the residential use. These enclosures as well as the hard-surfacing appear to have had a specific purpose, to create a residential enclave distinctly separate from the wider field. Seeking their removal is appropriate to ensure that the breach of planning control is remedied.
31. The appeal under ground (f) fails.

The Appeal on ground (g)

32. The appeals on this ground are that any period specified in the notice falls short of what should reasonably be allowed. The notice currently allows 9 months for the cessation of the residential use with 12 months allowed for the physical works to be undertaken.
33. The appellants stressed that the occupants of the site need to find alternative

accommodation. I can understand that finding alternative accommodation can be difficult. This does raise personal circumstances, including the best interests of the resident children although neither appellant has not presented much information about these matters.

34. Removing the family home would be an interference with their rights under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. Those are qualified rights however and interference may be justified where that is lawful, in the public interest and is proportionate and interference was in accordance with the law as the protection of the public interest cannot be achieved by means which are less interfering with the appellant and their family's rights. I cannot consider the planning merits of the case here and I am given very little evidence to back up these points.
35. There is also no presented evidence to back up claims that there would be difficulties in instructing contractors to undertake the physical works required by the notice.
36. Overall, I consider that the notice strikes a reasonable and proportionate balance between bringing the unauthorised development under control in the public interest and the challenges of finding alternative accommodation and carrying out the required works. The appeal under ground (g) therefore fails.

Conclusion

37. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections.

Andy Harwood

INSPECTOR

