



Appeal Decision

Site visit made on 6 May 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 May 2026

Appeal Ref: APP/B3410/C/24/3357048

Land lying to the South of Derby Road, Burton upon Trent, Staffs, DE13 0DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr James Lomas against an enforcement notice issued by East Staffordshire Borough Council.
- The notice was issued on 19 November 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the siting of metal shipping containers on the Land.
- The requirements of the notice are:
 - a) Stop using the Land to site metal shipping containers.
 - b) Remove all metal shipping containers from the land.
- The period for compliance with the requirements is: 60 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (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.

Decision

1. The enforcement notice is quashed.

Enforcement Notice

2. Section 173(1) of the Town and Country Planning Act, 1990, as amended (the Act) states that an Enforcement Notice (EN) shall state (a) the matters which appear to the local planning authority to constitute a breach of planning control; and (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls. Section 173(2) of the Act states that an EN complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are. In this case paragraph 3 of the EN alleges, *“Without planning permission the siting of metal shipping containers on the land.”*, and the requirements of the EN are to: a) stop using the Land to site metal shipping containers; b) remove all metal shipping containers from the land.”
3. The siting of shipping containers is not, however, a use of Land. The Council has subsequently advised, firstly, that when the EN was served the containers were not in use for agricultural purposes and that there had been no lawful change of use of the Land; and secondly, that they consider the containers to be operational development. The Council suggest that the EN could be varied to remove the requirement to stop using the Land to site the metal shipping containers. The Appellant appears to accept that the metal shipping containers have previously been used to store items not for agricultural purposes, however, considers that they are now in a use ancillary to the use of the Land for agricultural purposes.

4. The EN set out that the alleged breach of planning control had taken place within the last four years¹, thus suggesting that operational development was alleged. However, having regard to the requirement to stop using the Land to site the metal shipping containers, and the Council's clear concern about what the containers are being used for, there is clearly some ambiguity between the intention of the notice, the allegation and its requirements.
5. Furthermore, having regard to the Council's Statement of Case (SOC), including the appendices attached to it, some of the containers are linked by a roof to form an animal shelter? It is not clear if the roof is part of the allegation. Moreover, the Plan attached to the EN does not identify the location of the alleged containers and includes all the Land in the ownership of the Appellant. Although the Council's SOC refers to eight shipping containers, I noted on my site visit that there were more than eight containers on the Land, including one sited within the frame of the agricultural building and another in the northwestern corner of the appeal site. The requirements of the EN are to remove all the metal shipping containers from the Land. However, having regard to the SOC's submitted by the Council and on behalf of the Appellant, reference is only made to eight containers. If the Council is suggesting the notice is alleging that the containers are operational development and thus buildings, then the shipping containers should be clearly identified on the Plan attached to the EN.
6. On an appeal any defect, error, or misdirection in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Act, or its 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 notice being quashed.
7. For the reasons set out above, the EN in so far as it relates to an alleged use of the Land and operational development is unclear, both in terms of what is being alleged and the requirements, including which shipping containers, and/or animal shelter form part of that allegation and/or are to be removed. If the EN had been clear, the appellant may have wished to argue that a breach of planning control had not occurred (ground (c), for example that the containers are not buildings? Furthermore, the terms of the deemed planning application are derived from the alleged breach. Therefore, if the EN had been corrected/varied, the appellant's submissions in relation to the ground (a) appeal may have been different and he has not had an opportunity to respond. Thus, if I were to try and correct the EN there would be injustice to the Appellant. On the other hand, my decision to quash the notice leaves open to the Council the option of issuing a further corrected EN under the provisions of section 171B(4) of the Act, should it wish to do so.

Conclusion

8. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the Act, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances, the appeal under grounds (a) and (g) set out in section 174(2) of the Act and the application for planning

¹ Paragraph 4 a) of the Enforcement Notice.

permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

Elizabeth Pleasant

INSPECTOR