
Appeal Decision

Site visit made on 25 April 2026

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th May 2026

Appeal Ref: APP/P1045/C/25/3369916

Land at North Park Farm, Whitworth Road, Darley Dale DE4 2HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Ms Helen Lowe against an enforcement notice issued by Derbyshire Dales District Council.
 - The notice was issued on 23 June 2025.
 - The breach of planning control as alleged in the notice is without planning permission, and within the last 10 years, the carrying out of engineering works (operational development) within the terms of section 55 of the amended Town and Country Planning Act 1990. Involving the importation of stone and raising and infill of Agricultural field (of the said Land), using imported stone, soils and hardcore composites for a compressed hardstanding (shown hatched black on the plan).
 - The requirements of the notice are:
 - (1) Take up and remove the area of compressed hardstanding, deposited composite materials and soils to a depth of 1.5 metres over the area – (as per the plan and shown as hatched black).
 - (2) Remove permanently from the land all the materials associated with the unauthorised development (deposit of materials, stone, rubble soils).
 - (3) Restore and allow the land to its condition prior to the unauthorised development being carried out by allowing the land to regrow naturally.
 - The period for compliance with the requirements is 3 months (Three) from when this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Act.
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Decision

1. It is directed that the enforcement notice (EN) is varied by:
 - the deletion of the words in requirements 1) and 2) in paragraphs 5.1 and 5.2 of the EN and their substitution with a new paragraph 5.1 “1) Take up and permanently remove from the land all of materials associated with the unauthorised development (deposit of materials, stone, rubble soils) over the area shown as hatched black on the attached plan.”;
 - the deletion of the words in requirement 3) in paragraph 5.3 of the EN and their substitution with the words “restore the land to its previous condition”;
 - the substitution of the plan annexed to this decision for the plan attached to the EN; and
 - the deletion of ‘3 months’ and its substitution with ‘5 months’ as the period for compliance in paragraph 6 of the EN.
2. Subject to the corrections and variations, the EN is upheld.

Reasons

The appeal on ground (b)

3. An appeal on ground (b) is that those matters as stated in the EN have not occurred.

4. The alleged breach of planning control relates to operational development. The meaning of 'development' is set out in section 55(1) of the Act. This includes 'engineering operations', which are defined elsewhere in the Act as including the formation or laying out of means of access to highways.
5. Although the clearance of brambles and vegetation was not 'development' under section 55(1) of the Act, materials were imported from another part of the land holding to increase and alter the level of an area of land. The appellant accepts that these works are an engineering operation. As such, there can be no dispute that the matters stated in the EN have occurred to some extent.
6. The Council claim that the area in which those works have taken place is that shown as hatched black on the plan appended to the EN. However, the appellant contends that not all of the area has seen 'development' take place, with much of the hatched area cleared of vegetation to reveal the original ground. A cross section and layout plan have been submitted by the appellant to support their point, and on this basis, they say that the EN is excessive.
7. Even if vegetation has just been removed from the land near to the boundary wall with the road, the Council's photographs show a strip of clean stone extending parallel to the wall. This material is not covered in soil as you would expect if it had previously been in place below the vegetation. I therefore consider that new material has been added on top of the ground after it was cleared of vegetation. While it may not have significantly altered ground levels, it is still 'development', and that lies within the area hatched black on the plan appended to the EN. The works here formed part of a single act of development alongside the works which the appellant accepts have taken place.
8. Therefore, the alleged breach of planning control has occurred for the reasons set out. Accordingly, the appeal on ground (b) fails. However, the appellant's plan ref: HL.25.01 shows that the land hatched black on the plan attached to the EN is not entirely correct. Given the powers afforded to me through s176(1) of the Act, it would be appropriate to correct this plan to reflect the areas of land identified by the appellant to the north and south of the land hatched black.

The appeal on ground (c)

9. An appeal on ground (c) is that those matters as stated in the EN do not constitute a breach of planning control.
10. Removing vegetation is not 'development', and there is no extant planning permission for the development that has taken place, but the appellant claims that the development is permitted development by virtue of Schedule 2, Part 6, Class A(b) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This class of the GPDO relates to agricultural development on units of 5 hectares or more, but the engineering operations do need to be reasonably necessary for the purposes of agriculture within that unit. It is for the applicant to demonstrate the need for the development. The holding in this case is larger than 5 hectares in size.
11. The appellant says the development is to avoid any further incidents of the sheep becoming entangled in brambles on the land (two recently died as a result), other animal welfare incidents and to meet the farm's duty of care. The development is also said to provide an accessible area to store fodder and facilitates access by tractors and livestock transporters to fields, avoiding reliance on a steep driveway.

12. I observed on site that gates 2, 3 and 4 as shown on plan ref: HL.25.01 were not present. There was also no boundary where gate 3 is shown to be situated. The area where gate 4 is shown was overgrown by vegetation. A large stone boulder was sited directly behind gate 1 also, while there were no animals present within the fields to the north and north-west of the area hatched black. My site visit was only a snapshot in time, so animals may well use those fields, but there is no access to them from the land in question despite the development carried out.
13. I do not doubt the animal welfare reasons put forward, but given the lack of field gates, and the large stone boulder behind gate 1, I am not satisfied that the development is reasonably necessary for agricultural purposes in the unit. This is because the development does not provide an accessible area and facilitate access by large farm vehicles to the fields, even if using this route to and from the road would avoid the steep access.
14. I have noted the parties' points about the discussion which took place on site on 23 June 2025. This discussion is not determinative in my mind because of the explanation provided by the appellant's agent about the erroneous information that they provided based on an incorrect assumption. It does, nevertheless, place a degree of doubt on what the appellant now claims, especially in light of my own findings and the onus resting with the appellant to demonstrate that the development is reasonably necessary for agricultural purposes within that unit.
15. For the reasons set out, I conclude that the appeal on ground (c) fails.

The appeal on ground (f)

16. An appeal on ground (f) is that that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
17. The land hatched black on the plan attached to the EN is not universally level between the wall and the line of trees and shrubs. The appellant's plan ref: HL.25.02 generally reflects what has happened on site in that more material has been laid in the western area of the land hatched black than in the eastern part. This is borne out by the Council's photographs, which show earth with the remains of the vegetation previously on land next to the drystone wall. Given the change in ground levels on the site and a corresponding different amount of material laid, requirement 1) would go beyond what is necessary to remedy the breach of planning control. This is because more material would need to be removed than has been laid, especially for the land closest to the wall.
18. There is also duplication in requirements 1) and 2) as they both require material to be removed. To remedy this and given that the appellant is best placed to know how much material was laid and where, I shall delete requirements 1) and 2) and create a new requirement so that it does not exceed what is necessary to remedy the breach of planning control. No injustice would be caused as a result, but the requirements as drafted (and corrected) do not require the removal of the established trees because they were present before the development took place.
19. While not a point raised by the appellant, the scope of the EN is limited by s173(4)(a) of the Act. This means the appellant cannot be required to undertake works that would go beyond remedying the breach of planning control. The third requirement states "restore and allow the land to its condition prior to the

unauthorised development being carried out by allowing the land to regrow naturally". I understand the Council's aim with this wording, but I do not know what the condition of the land was before the development took place.

20. Therefore, the most that requirement 3) can seek to achieve is to 'restore the land to its previous condition' given that the landowner should have the best knowledge of what the previous condition was. Therefore, I shall correct requirement 3) to this effect. No injustice would arise due to this change.
21. I have the power under s176(1)(a) of the Act to correct any error, defect or misdescription in the EN and/or to vary the terms of the EN. The corrections that I have outlined are not, in my opinion, so significant that the EN is not capable of being corrected, as no injustice would arise from the corrections.
22. For these reasons, the appeal on ground (f) succeeds.

The appeal on ground (g)

23. An appeal on ground (g) is that any period specified in the EN falls short of what should reasonably be allowed.
24. The appellant seeks a longer compliance period so that they can engage with the Council, clarify their concerns and identify what remedial measures are required. They wish to do this before carrying out any necessary remedial works. A longer compliance period is also sought to avoid periods when ground conditions prevent clean working, as material would need to be taken off the site onto the road.
25. The corrected requirements of the EN set out the steps that need to be carried out to remedy the breach of planning control. There is not, therefore, a need for dialogue between the parties to agree on what they might be. Work could therefore start without any delay after my decision. The appellant says, however, that they would need to engage a contractor to carry out the works regardless of whether there is machinery available on the wider land holding.
26. I have no reason to doubt the appellant's point about a contractor, and although we are entering the summer months when ground conditions are typically suitable to carry out the EN's corrected requirements and to avoid material being carried onto the highway, I consider it to be reasonable to extend the compliance period. Doing so would allow for contractor availability, time to carry out the steps in the EN and provide flexibility around ground conditions. On this basis, I shall extend the compliance period to 5 months, and the appeal on ground (g) succeeds.

Other Matter

27. Despite the parties' comments about the development's effect on trees, I cannot consider the planning merits as there is no ground (a) appeal before me.

Conclusion

28. For the reasons given above, I conclude that the requirements of the EN are excessive to remedy the breach of planning control and the period for compliance with the EN falls short of what is reasonable. I shall correct and vary the EN prior to upholding it. The appeal on grounds (f) and (g) succeed to that extent.

Andrew McGlone

INSPECTOR

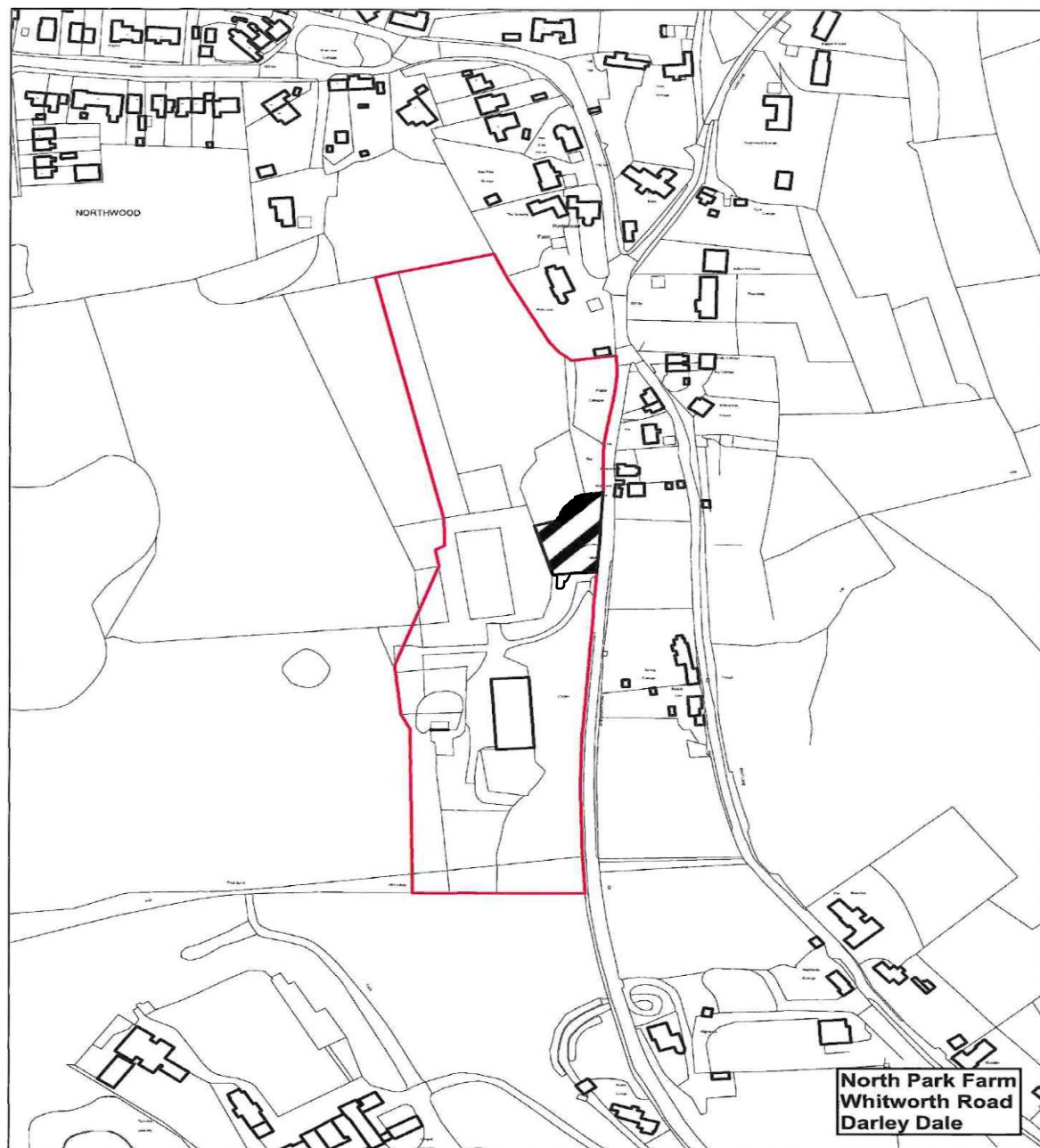
Plan

by Andrew McGlone

Land at: Land at North Park Farm, Whitworth Road, Darley Dale DE4 2HJ

Reference: APP/P1045/C/25/3369916

Scale: Not to Scale



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