



Appeal Decision

Site visit made on 2 June 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09th June 2026

Appeal Ref: APP/D3125/C/25/3370962

Croft Pool, Croft Lane, Standlake, Oxfordshire, OX29 7QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Nicholas Bassett against an enforcement notice issued by West Oxfordshire District Council.
- The notice was issued on 27 June 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission:
 - (i) A material change of use of the island to residential use; and
 - (ii) Operational development consisting of the construction of a dwelling, a further building ("the storage building"), a toilet shed ("the shed") and a canopied structure ("the structure")'.
- The requirements of the notice are to: (i) Cease residential use of the land; (ii) Demolish the dwelling, the storage building, the shed and the structure that are located on the island; (iii) Remove from the land all materials resulting from the demolition; and (iv) remove from the land gas canisters, stored materials, equipment and items that are associated with residential or carpentry use and all waste items (including but not limited to water bowsers, building materials, wooden and metal posts and panels).
- The period for compliance with the requirements is: 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) 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 appeal is allowed and the enforcement notice is quashed.

Procedural Matter

2. The Council's representative was unable to attend the site visit at the designated time. Because of the limited site visibility and restricted accessibility, I took the decision to proceed with the site inspection with access being provided by the appellant confident that he understood that no further evidence could be heard on site. The appellant duly provided access to the site and the individual buildings. I heard no further evidence before, during or after the time of the site inspection.

Ground (b) and the Notice

3. An appeal on ground (b) is that the matters alleged in the notice have not occurred. To succeed on ground (b) the appellant must prove that the use of the land identified in the Notice had not changed to residential and/or that the erection of the referenced buildings/structures had not taken place. The burden of providing relevant facts rests with the appellant, and the test of the evidence is the balance of probability.
4. The Notice identifies the extent of land said to be under the appellant's control. It includes a mown field with sheds and an area for keeping fowl, a lake, storage areas, an 'island' accommodating several structures, and landscaped areas. The Notice concerns itself with the use of the island - which is coloured blue on the

plan attached to it. It also alleges operational development consisting of the construction of buildings and structures.

5. The appellant's evidence refers to several uses taking place on the site, including a fishing lake used recreationally and associated fish feed storage, and the storage of tools within one of the buildings. He does not dispute that some residential occupation of the land has occurred due to his personal circumstances and has advised the Council of aspirations for use of some buildings for short stay accommodation.
6. In consideration of an alleged material change of use of land, Bridge J in *Burdle*¹ highlighted 3 broad categories of distinction in considering the relevant planning unit. These are:
 - 1) a single PU where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary;
 - 2) a single PU that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and
 - 3) the unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes.
7. Bridge J went on to state that 'It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally'.
8. At the time of my site visit, the unfinished 'storage' building on the island was in use for mainly domestic storage, but also for the keeping of some animals and fowl, the storage of tools and some building materials. The cabin used as a dwelling included a small utility area and a combined bedroom, living and kitchen area. An associated covered outside seating area and separate composting toilet shed lay adjacent. Other outside storage included ride-on mowers, a lawnmower, a boat, landscaping equipment and potted plants, water butts and tools. An equipped fishing point with temporary shelter was also present on the 'island' adjacent to the lake.
9. In addition to the recreational lake surrounding the 'island', the wider site includes other storage uses and a limited agricultural function, both utilising built structures. Storage included a motorhome and items referred to as 'waste items' in the Notice. Notably, a shed located close to the area for keeping fowl included stored building materials. The Council's expediency report appears to support the position that other uses occur across the site.
10. The site planning history and the appellant's reported responses to a Planning Contravention Notice (PCN) previously served by the Council refer to the recreational use of the lake – previously in commercial use, but more recently on an informal recreational basis. On the evidence and observations at my site visit, it is evident that the 'island' is probably not solely used for residential purposes but was also being used to facilitate the separate use of the lake by the appellant and others. While it is not necessary for an enforcement notice to coincide with a particular planning unit, if more than one use is taking place and one use cannot

¹ *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207

be said to be incidental/ancillary to a single primary use then the land is in a mixed use and it is not open to the Council to decouple the uses taking place upon it².

11. Furthermore, in referring only to residential use, the allegation in the Notice does not distinguish between primary uses taking place on the island or those which may be considered incidental or ancillary. It is unclear from the limited evidence whether or not any of the storage taking place there is entirely ancillary to the residential use of the cabin; for separate purposes related to the recreational use of the lake for fishing; or for the appellant's business. The appellant's PCN responses appear to make a distinction between domestic and business storage. The wording of the requirement at Section 5(iv) of the Notice also appears to make a distinction between residential use, a carpentry use and waste storage.
12. When referring to 'waste items' and describing these as including water bowsers, building materials, wooden and metal posts and panels, the Notice implies either a storage use or something else, rather than solely part of the alleged residential use. Notably, water bowsers were sited in part of the field to the north-east of the lake used for keeping fowl and therefore more likely to be associated with an agricultural use.
13. The locations of the buildings and structures alleged in the Notice are not individually identified such that it is not initially clear which structures are being referred to. However, a saving in the Notice is provided at section 5(ii) which identifies that it is the buildings and structures on the island which are subject to its terms.
14. In requiring me to consider the status of the Notice, s176 of the Act only allows correction of any defect, error or misdescription, or its terms varied, if injustice is not caused to the appellant or the local planning authority.
15. Whereas other lawful uses forming part of a mixed use could be referred to in a corrected allegation without injustice, it is unclear from the evidence as to what primary uses aside from the recreational lake and alleged residential use might be taking place on the 'island' or elsewhere on the planning unit, nor their legal status.
16. Furthermore, due to the operation of s173(11) of the Act, because the Notice does not require any carpentry or fishing lake uses for example, to cease, this would have the effect of granting planning permission for those uses (if they were taking place) on the remainder of the land if the Notice was otherwise complied with. As a shed in the north-eastern corner of the site was in use for the storage of building materials, that use may also become lawful.
17. While it is not necessarily incorrect for an enforcement notice to only address part of a planning unit, in the absence of clarity on whether various uses taking place on the site are distinct as part of a mixed use, or ancillary/incidental to a primary use/uses, there is significant risk of injustice if I were to correct the Notice. It would alter any case on ground (a); it may have prompted other grounds of appeal which cannot be introduced now; or, it could lead to planning permission being unintentionally granted. Accordingly, I find it is not open to me to correct the Notice as injustice would likely arise to either party.

² see *R (oao East Sussex CC) v SSCLG & Robins & Robins* [2009] EWHC 3841 (Admin)

18. The appellant's ground (b) appeal succeeds; the Notice cannot be corrected and will be quashed.

Conclusion

19. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and I am unable to make the necessary corrections to the Notice without them resulting in injustice to any party. The enforcement notice is invalid and will be quashed.
20. It is open to the Council to serve a further notice which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so, subject to the provisions of s171B(4) of the Act.
21. In the circumstances, the appeal on ground (a) set out in s174(2) of the Act and the application for planning permission deemed to have been made under s177(5) of the Act does not fall to be considered.

R Hitchcock

INSPECTOR