



Appeal Decision

Site visit made on 18 May 2026

by Jean Russell MA FRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2026

Appeal ref: APP/Q2371/C/25/3368651

Land to the rear of Highcroft, Highfield Road, Croston, Leyland, PR26 9HH

- The appeal is made by Mrs Christine Wrennall under section 174 of the Town and Country Planning Act 1990 (as amended) against an enforcement notice issued by Lancashire County Council on 23 May 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the unauthorised development of the Land by the importation and disposal of waste material on the Land.
- The requirements of the notice are to:
 - (i) Remove the imported waste materials from the Land.
 - (ii) Following the removal of the waste materials referred to in (i) above, restore the Land level to the condition it was in previously prior to the importation and depositing of the waste materials and
 - (iii) Include the spreading of previously stripped clean topsoil onto the Land.
- The periods for compliance with the requirements are 60 days for step (i) and 90 days for steps (ii) and (iii).
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990. 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 Town and Country Planning Act 1990.

FORMAL DECISION

1. The enforcement notice is found to be a nullity, and no further action will be taken in connection with the appeal. In the light of this finding, the local planning authority should review the register kept under s188 of the Town and Country Planning Act 1990.

RECORD OF THE SITE VISIT

2. This appeal has followed the written representations procedure whereby there is no oral event such as a hearing and, therefore, submissions are not heard during the site visit. Nonetheless, when I visited the site in this case, the appellant's son informed the Council officer and I that the enforcement notice had been complied with as required by the Environment Agency (EA).
3. Although the EA operates under separate legislation, I wrote to the parties inviting representations on that submission while also recording some observations that I made on site. The reply sent on behalf of the appellant included that she had "removed the material and reinstated" the land, but the EA had only provided "hand written [sic] paperwork which unfortunately has been misplaced".
4. The appellant also submitted photographs of the site being dug up and of what I assume is waste material at another property. However, I was given little evidence to show that any of the three requirements of the notice have been fully complied

with. By contrast, the appellant admitted to “uncertainties in respect of...whether or not they have complied”. She wished to proceed with the appeal.

THE ENFORCEMENT NOTICE

5. Under s176(1) of the Town and Country Planning Act 1990 (TCPA90), an Inspector may correct any error, defect or misdescription in an enforcement notice provided that will cause no injustice to the appellant or the Council. If injustice would be caused, the notice will be not correctable and invalid.
6. A notice is null if it is so defective on its face that it does not amount to an enforcement notice in law at all and the question as to whether corrections would cause injustice cannot arise. That might be the case if the notice is hopelessly ambiguous and uncertain, or its contents do not include what is required under s173 of the TCPA90 as discussed below.
7. Under s55(1) of the TCPA90, development [which requires planning permission] means the carrying out of building, engineering, mining or other operations in, on, over or under land, **or** the making of any material change in the use of any buildings or land [my emphasis]. In alleging that there has been “...unauthorised development...by the importation and disposal of waste material”, the notice does not say what form of development that might have been.
8. The Council suggests, in paragraph 4.6 of their statement, that the importation and deposit of waste represents operational development **and** a material change of use of land [my emphasis]. However, the notice is concerned with just one act of development which must constitute one type or the other.
9. Sometimes waste material is deposited on land as part of the carrying out of some operational development, perhaps to raise land levels or form a bund. However, where waste is imported and disposed for the purpose of its disposal, that normally amounts to a material change in the use of the land¹.
10. The notice as a whole is ambiguous as to the nature of the breach:
 - The allegation omits not only to specify whether waste was imported and disposed of through operational development or a material change of use, but also to describe any particular works such as the raising of land levels.
 - Yet paragraph 4(i) alludes to the breach occurring within the last four years, the time limit for taking enforcement action against operational development under s171B(1) of the TCPA90, where the development was substantially completed prior to 25 April 2024. The time limit for taking enforcement action in respect of a material change of use is **ten** years under s171B(3).
 - The notice does not require that any use of land for the importation and disposal of waste materials be ceased.
 - Yet the plan attached to the notice does not show where within the site it appears to the Council that any operations may have been carried out.

¹ S55(3)(b) of the TCPA90 provides that, for the avoidance of doubt, the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—(i) the superficial area of the deposit is extended, or (ii) the height of the deposit is extended and exceeds the level of the land adjoining the site.

11. Under s173(1)(a) of the TCPA90, an enforcement notice shall state the matters which appear to the local planning authority to constitute the breach of planning control. Under s1713(2), a notice complies with (1)(a) if it enables any person served to know what those matters are. The appealed notice does not do that. It fails to allege “development”, and it is wholly unclear as to what development should be alleged. I find the notice hopelessly ambiguous and uncertain.
12. In the event that the Council disagrees, it would have been possible for me to ask them what they intended to allege and ask both parties whether correcting the notice accordingly would cause any injustice. However, it is already plain to me that injustice would be caused in any probable scenario.
13. If there has been a material change of use of the land, it should be noted that the use will be continuing in the event that the appellant has not removed all the waste materials deposited on the site. It follows that a problem, for correction purposes, would arise from the absence of any existing requirement to cease the use.
14. If I corrected the notice to allege that there has been a material change of use **and** require cessation of the use, I would cause injustice to the appellant by making the notice significantly more onerous. However, I would cause injustice to the Council if I corrected the allegation but not requirements. I say that because, if the unchanged requirements were then complied with, planning permission would be deemed to be granted for the use of the land for the importation and disposal of waste material that the notice could have required but did not require to cease².
15. If the notice were corrected to describe operational development, injustice would similarly be caused to the appellant or the Council depending upon whether the notice did or not require the removal of those works. I also fear that correcting the notice would be liable to prejudice either party’s case on any ground of appeal.
16. However, my first and determinative conclusion is that the notice is hopelessly ambiguous as to whether the alleged importation and deposit of waste materials was carried out as part of some unspecified form of operational development, or it amounted in itself to development in the form of a material change of use.
17. The notice is a nullity. In these circumstances, the appeal on grounds s174(2)(a), (b), (c), (e), (f) and (g) of the TCPA90 and the application for planning permission deemed to have been made under s177(5) do not fall to be considered.

Jean Russell

INSPECTOR

² Under s173(11) of the TCPA90, where an enforcement notice could have required an activity to cease but it does not do so, and all the requirements of the notice are complied with, then so far as the notice did not require, planning permission shall be treated as granted in respect of development consisting of the carrying out of the activities.