



Appeal Decision

Site visit made on 10 July 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 July 2026

Appeal Ref: APP/F0114/C/25/3372657

Plot East of 33 Rotcombe Lane, High Littleton, Bath and North East Somerset, BS39 6JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Danielle Barnes against an enforcement notice issued by Bath and North East Somerset Council.
 - The notice was issued on 7 August 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of land from equestrian to a mixed-use comprising livery, horse and pony physiotherapy and rehabilitation, and the stationing of caravans for residential use, together with the erection of fencing to conceal the residential use.
 - The requirements of the notice are to 1) cease the mixed-use comprising of residential, livery and horse and pony physiotherapy and rehabilitation, 2) remove the caravans, hot tub, fences and all domestic/residential paraphernalia from the land (the approximate location of the fencing in question is marked with an 'A' on the accompanying site plan and shown in the accompanying photo sheet).
 - The period for compliance with the requirements is four months from the date the enforcement notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words *"cease the mixed-use comprising of residential, livery and horse and pony physiotherapy and rehabilitation"* in section 5(1) and their substitution with the words *"cease the residential, livery and horse and pony physiotherapy mixed use by ceasing the residential component of the mixed use"*. Subject to the variation, the enforcement notice is upheld.

Preliminary Matters

2. The appellant initially appealed on ground (e) of section 174(2) of the Act. However, at final comments it is stated that *'the appellant confirms no ground (e) appeal was submitted'*. For the avoidance of doubt, the appellant is in any event aware that the notice has been served. Even if a claim was being made that the notice had not been served in accordance with section 172 of the Act, no injustice has been caused to the appellant as she has appealed the notice.
3. While the appellant's appeal form does not tick ground (f) of section 174(2) of the Act, it is nonetheless pleaded as part of her statement of case. The Council has responded in its statement of case to an appeal made on ground (f). I shall therefore proceed to determine this appeal based also on the consideration of a ground (f) appeal.

Ground (b) appeal

4. The appeal made on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The onus is on the appellant to make a case on the legal grounds of appeal.
5. The appellant's claim is that when the notice was issued, there were two caravans on the land. She states that the large static caravan was being used as a welfare rest room and store in association with the use of the land for approved equestrian purposes (planning permission ref 22/04490/FUL). She also says that it was previously used by workmen repairing and building the permitted stables on the site. She says that the other caravan was simply being stored on the land for the purpose of being used off-site by the appellant in connection with horse shows and competitions.
6. The appellant states that while it is her intention at some point to apply for planning permission to use the static caravan for a temporary three-year residential use, it is not how it had been used when the notice was issued. She also says that the Council did not undertake a site visit to specifically view inside the caravans prior to the notice being issued and, moreover, she has completed two planning contravention notices stating that residential use had not occurred.
7. Moreover, the appellant says that while prior to the notice being issued it was her intention to use the site for livery and physiotherapy purposes, there is a difference between an intention and actual use. She says that such an intention was delayed due to her ill-health at the time. Medical evidence has been submitted as part of the appeal.
8. The appellant says that when the notice was issued, the site was not being used for livery, or for horse/pony physiotherapy, and instead was being used for the stabling/keeping of her own horses. In any event, the appellant states that planning permission ref 22/04490/FUL granted equestrian use of the site/stables and with no conditions which restricted use for livery or horse/pony physiotherapy purposes. In addition, it is noteworthy that the Council states in its enforcement report that *'use as equestrian has therefore been established for a period of over 10 years and is therefore considered to be a lawful use'*.
9. As regards the fence that has been erected on the land, the appellant says that this was erected as a means of screening a caravan and not *'to conceal the residential use'*. I deal with the fence as part of the consideration of the ground (c) appeal, but there is no dispute between the parties that the fence is on the land.
10. The Council claims that the breach of planning control has occurred. According to the Council's enforcement notice dated 7 August 2025, its decision that it was expedient to take enforcement action took into account the appellant's completed planning contravention notices, a site visit that took place on 2 November 2023, and *'monitoring forms and photographs'* from complainants which *'includes witnessing caravans being stationed on the site, lights on in the caravans in the early and late hours, a bed and other packages being delivered to the site, large fences erected to conceal the caravans, cars parked on the site overnight, and the siting and use of domestic garden paraphernalia such as tables, chairs and parasols'*.

11. The Council has also submitted evidence in the form of an appeal statement which includes appendices with photographs dated 2 November 2023 showing a vehicle and advertising banner on the site which collectively say, '*Danielle Barnes Vet Physio*', a hot tub under a gazebo, and a log of events between 23 October 2023 and 8 April 2024. In respect of the latter, it is understood that the evidence is taken from complainants.
12. The appellant acknowledges that she is a qualified horse physiotherapist. I find that the provision of a banner on the site does indicate that it was more probable than not that the site was being used for this purpose on 23 October 2023. The inclusion of such information on the appellant's vehicle does not in itself mean that the site was being used for that purpose, but in conjunction with the physical erection of the banner, I find that to be more likely than not. I do not doubt that the appellant has had some medical/family issues, but the evidence fails to include necessary precision in terms of whether she or any other physiotherapist expert had or had not been practising on the site prior to the notice being issued.
13. While the parking of cars overnight does not in itself equate to residential use of the caravans, the log of resident complaints prepared by the Council does suggest that there has been a turnover of different vehicles at the site and with various vehicles being parked overnight. In conjunction with the other evidence provided by the Council, this demonstrates to me that the site has likely been used for residential purposes. In fact, the log refers to vehicles being parked overnight on 15 March 2024, 16 March 2024, 21-25 March 2024, and times in April 2024. It is also noteworthy that the appellant at least acknowledges that the static caravan has been used on two separate occasions for overnight sleeping by one of the workers on the appeal site.
14. While the appellant provides a reasonable account for a time when cars were parked on the land overnight (i.e., a visit to a B&B), this does not account for the many other times when the log indicates that the different cars were parked on the land, as well as identified noise and activity during such periods. The appellant's evidence is not sufficiently precise or unambiguous to counter the Council's claim that some of the cars parked overnight were in connection with the residential use of the land and in association with the use of the caravans.
15. I note that there is no evidence of the Council carrying out a site visit to look inside the caravans. In fact, the only evidence of a Council site visit relates to that undertaken on 23 October 2023. This predates the issued notice by a considerable amount of time. However, this is not in itself fatal as section 174(2)(b) is worded in the past tense, and the question is whether the breach had (my emphasis) occurred by the date of issue of the notice as a matter of fact.
16. As outlined above, I find that the provision of a banner advertisement on the site on 23 October 2023 referring to physiotherapy, along with a vehicle parked at the site saying the same, casts sufficient doubt about the appellant's claim that horse/pony physiotherapy had not been carried out on the land when the notice was issued. Moreover, while the evidence is that the Council did not view inside the caravans prior to the notice being issued, the appellant acknowledges that '*tables and a hot tub*' were on the site in September 2023. I cannot see why it would be necessary to have a hot tub in association with use of land for either equestrian purposes, or in connection with the use of a caravan(s) as a welfare unit. This demonstrates to me that that residential use had likely occurred by the date of the issued the notice.

17. Moreover, and while not determinative in this case, the Council's log states that on 5 December 2023 '*a large double bed and headboard were delivered to the site at 13.55 (photo sent)*'. The appellant does not dispute that this occurred. This casts further doubt about the appellant's claim that either one caravan has only been used as a welfare unit, or that the other has only been used for site storage purposes.
18. While the hot tub and other domestic paraphernalia (e.g., tables and chairs) have now been removed from the land, in my judgement the inclusion of them on the site casts sufficient doubt about the appellant's claimed use of the static caravan as solely a welfare unit or in connection with the repair/building of the stables, and the use of the other caravan for storage only purposes. When considered alongside the Council's other evidence, I find that it is more likely than not that the tables and chairs were used in connection with the residential use of the land.
19. I note that the appellant occupies a dwellinghouse near the appeal site. This does not in itself mean that the site had not been used for residential purposes prior to the notice being issued. In fact, the appellant accepts that on occasion this had in fact occurred. I note, in terms of the letter from Mr Collins dated 12 August 2025, that there are four other people that have been involved in the care of the horses on the land. Mr Collins states that the appellant is '*not operating any form of business from the stables. All ponies kept there are privately owned by her*'. The claim that the site had not been used for livery purposes prior to the notice being issued can only afford limited weight as it no more than assertion and is not a sworn statement or statutory declaration. Moreover, the advertisement banner casts doubt about this claim.
20. For the reasons outlined above, I conclude that the matters comprising the alleged breach of planning control have occurred. Therefore, the ground (b) appeal fails.

Ground (c) appeal

21. The appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. As with the ground (b) appeal, the onus is on the appellant to make her case on this legal ground of appeal.
22. The appellant makes the claim that the use of the land for horse and pony physiotherapy would not amount to a material change of use of land relative to its lawful use which is for the keeping of horses, i.e., an equestrian use. In reaching this conclusion, the appellant points out that planning permission 22/04490/FUL does not include any conditions which would preclude use of the land for livery or physiotherapy purposes. In addition, I have been able to consider planning permission 05/03152/FUL for the approved manege and hay store. It is noteworthy that this planning permission does not include any conditions which impose a restriction in terms of the use of the manege.
23. Notwithstanding the above, it is important to emphasise that the breach of planning control relates to the material change of use of the land from equestrian to a mixed use comprising of livery, horse and physiotherapy and rehabilitation and (my emphasis) the stationing of caravans and residential paraphernalia for residential use, together with the erection of fencing to conceal the residential use.
24. However, the point that I need to emphasise in this case is that the breach of planning control relates to a material change of use from equestrian to a single

mixed use and one which includes a residential component. The residential element of the alleged mixed use is such that it constitutes a material change of use of the land. Indeed, the provision of two residential caravans on the site materially changes the character of activity on the land from what can lawfully take place both in visual terms and in terms of the associated comings and goings on and off the site.

25. There is no dispute between the main parties that the land can lawfully be used for equestrian purposes. In terms of the planning permissions for the site, there are no restrictions in place in terms of the use of the stables/land for only domestic equine purposes. Had the Council wanted to restrict livery use of the stables, it would have needed to do that by planning condition. Moreover, and, in my judgement, the use of the stables/land for horse physiotherapy purposes would be in accordance with the lawful equestrian use of the land. Again, there is no evidence before me that there are any conditions or other restrictions in place which would prevent this from lawfully occurring on the land and as part of the undisputed lawful equestrian use.
26. I deal with the above matter again as part of the consideration of the ground (f) appeal. This is because the requirements of a notice must not purport to stop someone from doing something they are entitled to do given their existing lawful use rights, including the right of reversion under section 57(4) of the Act.
27. Notwithstanding the above, when the mixed-use breach of planning control is considered a whole, it constitutes a material change of use and hence an act of development under section 55(1) of the Act. The breach of planning control does not fall to be permitted development in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In this regard, planning permission is required for the material change of use element of the breach of planning control.
28. As regards the erection of the fence which forms part of the breach of planning control, this is clearly referenced with a letter 'A' in the photograph attached to the notice. It also forms part of requirement 2 of the notice. The appellant states that the fence was repaired and not erected. This claim is not supported with precise and unambiguous evidence from the appellant. The onus is on the appellant to demonstrate that a fence was in situ previously and that an act of repair only took place. On the balance of probability, I find that the fence was erected and that it was done so to facilitate the material change of use of the land. Indeed, it is noteworthy that the appellant says, *'the fence was erected simply to lessen the impact of the caravan as an alien feature in the countryside'*.
29. As the fence has been erected to facilitate the unauthorised material change of use of the land, it does not matter how high it is above ground level with reference to class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). This is because while it would ordinarily be possible to erect a fence or means of enclosure up to two metres in height in this location under Class A of Part 2 of Schedule 2 of the GPDO, this is subject to 3(5)(b) of the GPDO which states that *'the permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing use, that use is unlawful'*. In other words, while the fence is not causative of the material change of use, it has nonetheless

facilitated the material change of use and hence is unlawful and can be required to be removed irrespective of its height above ground level.

30. For the above reasons, I therefore conclude that the ground (c) appeal fails.

Ground (f) appeal

31. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
32. The appellant claims that it is excessive to require the removal of the caravans as they could be reinstated on the land if used in connection with a lawful use. Using caravans on the land for a different use would not relate to the breach of planning control.
33. The purpose of the notice is to remedy the breach of planning control by ceasing the unauthorised mixed use of the land falling within a single planning unit and the removal of the caravans, hot tub, domestic paraphernalia and fencing. These are not excessive steps as they remedy the breach of planning control. While the evidence is that the hot tub and other domestic paraphernalia have been removed from the land, it is still necessary that the notice includes a requirement to permanently remove such items. Indeed, it remains possible that they could be brought back onto the land prior to the notice taking effect.
34. Notwithstanding the above, requirement 5(1) of the notice states '*cease the mixed-use comprising of residential, livery and horse and pony physiotherapy and rehabilitation*'. While the residential component of the mixed use requires planning permission, the evidence is that livery and horse and pony physiotherapy do not given the equestrian planning permissions on the land and because, as a matter of fact and degree, I do not find that such a use(s) would amount to a material change of use of the land.
35. Given the above, I shall vary requirement 5(1) of the notice so that it reads '*cease the residential, livery and horse and pony physiotherapy mixed use by ceasing the residential component of the mixed use*'.
36. To the extent that requirement 5(1) of the notice is varied, I conclude that the ground (f) appeal succeeds.

Conclusion

37. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

D Hartley

INSPECTOR