



Appeal Decision

Site visit made on 14 July 2026

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2026

Appeal Ref: APP/M1710/C/24/3348750

8 Downhouse Road, Catherington, Waterlooville PO8 0TX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Gary Zaffarese against an enforcement notice issued by East Hampshire District Council.
 - The notice was issued on 26 June 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years - the material change of use of land to a mixed use of residential and business use, including the erection of an outbuilding to facilitate the mixed use.
 - The requirements of the notice are to:
 1. Cease the use of the land for the storage and sale of motor vehicles and parts for business purposes.
 2. Remove all cars, vans, lorries, and all motor vehicle parts associated with the business use from the land.
 3. Remove the rear single storey outbuilding (as marked hatched black) and dispose of the resulting materials from the land.
 - The period for compliance with the requirements: 3 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) 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.
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Decision

1. The enforcement notice is quashed.

The Enforcement Notice

2. Whilst this is not a matter raised by the parties, I am required to consider whether the enforcement notice is subject to any defect and, where appropriate, to exercise the power to correct or vary it so that it is in order. As a formal legal document, it is important that the enforcement notice is clear, precise and self-contained, and that its meaning is readily apparent on its face without the need to rely on inference or implication.
3. Section 173(1) of the 1990 Act states that an enforcement notice 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 a notice complies with subsection (1) (a) if it enables any person on whom a copy of the notice is served to know what those matters are. Section 173 (3) states that an enforcement notice shall specify steps which the authority required to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the purposes set out in section 173 (4).

4. The enforcement notice sets out that it has been issued as it appears there has been a breach of planning control under section 171A (1)(a) of the Act. A breach of planning control under section 171A (1)(a) is the carrying out of development without the required planning permission.
5. The breach of planning control is described as the material change of use of land to a mixed use of residential and business use, including the erection of an outbuilding to facilitate the mixed use. However, the allegation fails to identify the business use.
6. Whilst the requirements of the Notice refer to the storage and sale of motor vehicles and parts for business purposes, the evidence before me indicates that the site is used, at least in part, in connection with the appellant's hobby of track racing and participation in motorsport events. In those circumstances, the absence of a clearly defined business use within the allegation creates uncertainty as to the precise nature and extent of the breach alleged.
7. That lack of clarity is carried through to the requirements of the Notice. The Notice requires the cessation of the use of the land for the storage and sale of motor vehicles and parts for business purposes and the removal of all cars, vans, lorries and motor vehicle parts associated with that business use. However, where vehicles and parts are also kept on the land in connection with the appellant's hobby, it is unclear how the recipient of the Notice is to distinguish between those items that must be removed and those that may remain. Consequently, the steps required to secure compliance are not stated with sufficient precision.
8. Moreover, the Notice alleges that the erected outbuilding facilitates the mixed use and requires its removal. However, planning permission (24780/012) has subsequently been granted for the retention of this outbuilding as a hobby room. Whilst that permission stipulates that the building can only be used for purposes ancillary and incidental to the enjoyment of the dwelling, the notice alleges that this building facilitates the mixed use. This adds further uncertainty as to the true nature of the alleged breach.
9. In my view, this lack of precision is material. The Notice requires the removal of all cars, vans, lorries and motor vehicle parts associated with the alleged business use, yet it fails to specify how such items are to be distinguished from vehicles and parts associated with the appellant's hobby. Nor does it identify the quantity, location or nature of the items said to form part of the alleged mixed use. The recipient is therefore left to determine for themselves which items fall within the scope of the Notice and what steps are required to secure compliance. This uncertainty is compounded by the fact that the alleged mixed use is not clearly defined elsewhere in the Notice. The appellant maintains that the vehicles, tyres and parts on the land are associated with a personal hobby rather than any business activity, yet the Notice neither explains how those items are said to facilitate a business use nor identifies which items are alleged to be connected with that use. The Notice is therefore insufficiently clear to enable a recipient to understand the breach alleged and precisely what is required to comply with its requirements.
10. I have also had regard to the Council's response to my procedural correspondence. The Council confirms that the alleged breach was intended to relate solely to the storage, sale and repair of motor vehicles and the storage and

sale of motor vehicle parts and has suggested that the requirement relating to the removal of vehicles and motor vehicle parts could be amended to require the removal of those items that are “not incidental to the enjoyment of the dwellinghouse”. However, this proposed amendment does not resolve the underlying lack of precision. It would still require a judgement to be made as to which vehicles and parts are associated with the alleged business use, which are related to the appellant's hobby, and which are incidental to the enjoyment of the dwellinghouse. In my view, such wording would not provide the degree of certainty required of an enforcement notice.

11. Given the above, it would be necessary to amend the allegation so that it properly identifies the nature and extent of the business use which the Council contends forms part of the mixed use of the land. However, such an amendment would go beyond the correction of a minor defect and would alter the substance of the breach alleged. In the circumstances of this case, that would give rise to injustice to the appellant, who has prepared and presented his case in response to the allegation as drafted rather than a more specific one. Accordingly, the defect is not one that can properly be corrected through the exercise of my powers under section 176 of the Act.
12. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control nor are the steps required for compliance clear. It therefore does not comply with the requirements of section 173(2) or section 173(3) of the Act. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the Act as amended, since injustice would be caused were I to do so. The enforcement notice is therefore invalid and will be quashed.
13. In these circumstances, the appeal on the grounds set out in section 174(2) (a), (c) and (f) of the 1990 Act as amended do not fall to be considered.

V Goldberg

INSPECTOR