



Appeal Decision

Site visit made on 7 July 2026

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 18 August 2026

Appeal Ref: APP/C3105/C/25/3365518

Land at Heathfield Yard, Street through Heathfield Village, Heathfield

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Nicholas, William Giles of Totem Scaffolding Ltd against an enforcement notice issued by Cherwell District Council.
- The notice was issued on 15 April 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land from agricultural land to a sui generis use being a scaffolding yard including operational development comprising the erection of associated buildings and structures and scaffolding related paraphernalia shown edged in red on the attached plan titled 'Location Plan'.
- The requirements of the notice are to:
 1. Permanently cease the use of the Land for any use other than agricultural use.
 2. Remove all structures, portacabins, caravans, paraphernalia and detritus associated with the unauthorised development from the Land edged in red apart from the building edged in blue.
 3. Remove all heavy good vehicles and plant associated with the unauthorised development from the Land.
 4. Remove all hardstanding and restore the Land to its lawful agricultural use, including reseeding the Land to fully reinstate the grass..
- The periods for compliance with the requirements are:
Requirement 1 within 1 month of the notice taking effect.
Requirements 2-4 Within 3 months of the notice taking effect.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

The Enforcement Notice

1. Section 176(1) of the Act states that, on appeal, the Secretary of State may (a) correct any defect, error or misdescription in the enforcement notice; or (b) vary the terms of the enforcement notice, if they are satisfied that the correction will not cause injustice to the appellant or the LPA.
2. The operational development, that is the erection of associated buildings and structures and scaffolding related paraphernalia, is integral to, and part and parcel of the material change of use of land that is being enforced against. All of these items would also not necessarily be operational development. It is therefore not necessary to refer to the term "operational development" in the allegation, and this should be deleted. Furthermore, as the land to which the notice relates is stated in section 2 of the notice there is no need to repeat this in the alleged matters or the requirements and should also be deleted.
3. The word "permanently" in requirement 1 of section 5 of the notice is unnecessary having regard to Section 181(1) of the Act which states that compliance with an

enforcement notice shall not discharge the notice. The requirements of an enforcement notice thus have an enduring effect and this word is therefore required to be removed.

4. The requirements should also reflect the allegation, and it is not appropriate to refer to “any use other than agricultural use”, as it is only the enforced use that can be required to cease. I shall therefore delete these words and substitute them with “as a sui generis scaffolding yard” in requirement 1. In the interests of clarity, it is also necessary to insert the words “on the plan attached to the notice” after the words “building edged in blue” in requirement 2.
5. Furthermore, a notice cannot specify the future use of the land or require improvements to land, or restoration beyond its previous condition. Accordingly, requirement 4 of the notice can only go so far as to restoring the land to its condition before the breach took place. The requirements to “restore the Land to its lawful agricultural use” therefore exceeds what is necessary to remedy the breach of planning control. Accordingly, I shall replace these terms in requirement 4 with “restore the Land to its condition before the breach took place, including reseeded the Land to fully reinstate the grass.”
6. I am satisfied that I can make these corrections without injustice to the appellant or the Council.

Preliminary Matters

7. The grounds of appeal originally included ground (a). However, Section 174(2A) of the Town and Country Planning Act 1990, prevents appellants from having multiple attempts at getting planning permission for the same development within a two-year period. In this case, a retrospective application has already been refused planning permission less than two years before the enforcement notice was served.
8. Consequently, an appeal may not be brought under ground (a) and in determining this appeal, I am unable to take account of any planning merits. My consideration is therefore confined to matters relating to the ground (g) appeal only.

Appeal on ground (g)

9. The appeal on ground (g) is made on the basis that the period specified in the notice falls short of what should reasonably be allowed. The period for compliance is 1 month to cease the use of the land, and 3 months to remove all structures, portacabins, caravans, paraphernalia, detritus, vehicles, plant, hardstanding and to reinstate the grass as set out in the header of this decision.
10. The appellant considers these periods to be too short due to the lack of available alternative sites and the consequences that this would have on the local construction industry, housing delivery and employees. A period of 1 year is sought for compliance with requirement 1, to assist the appellant in sourcing an alternative location in the local area.
11. The time to remove all the buildings, structures and paraphernalia from the land and to return the site back to its original condition, are also given as reasons for requiring additional time. In the appeal evidence a period of 6 months has been sought for compliance with requirements 2-4.

12. I am mindful of the importance of striking a balance between enforcement that is intended to be remedial rather than punitive, whilst maintaining public confidence in the planning system.
13. I have had regard to the appellant's evidence in respect of a wider search of alternative locations. The intention to seek pre-application advice regarding relocating the existing use to the building outlined in blue on the notice is also noted. However, there is little before me to substantiate why the online search area is limited to a 15 mile radius of the appeal site. There is also no indication that any pre-application advice from the Council, for the neighbouring building outlined in blue, would be favourable.
14. I am mindful of the potential consequences on employees, the operation of the company, the local construction industry and the delivery of housing. However, around 15 months have elapsed since the appeal was submitted with enforcement action effectively suspended. I am also aware that the appellant was informed that ground (a) was barred on the same date that the appeal was submitted. The notice has therefore been appealed for the sole reason of securing more time and in the expectation that the notice will be upheld as it was issued. Given the reasons for issuing the notice and the time that has passed since the appellant was made aware that ground (a) is barred, I consider that the stated compliance period for requirement 1 is reasonable in the circumstances.
15. There is also little evidence before me to demonstrate that the necessary arrangements could not be made to secure compliance with the timescales for requirements 2-4. Given the lightweight style and appearance of much of the unauthorised storage structures, containers, caravans and paraphernalia, limited physical work would be required to dismantle, remove and remedy the breach. In the absence of evidence to substantiate the amount of time expected to facilitate and complete this, I am not persuaded that there is need to extend the period for compliance for requirements 2-4 in the notice to any extent.
16. On that basis, the appellant's suggested compliance period (12 months for requirement 1 and 6 months for requirements 2-4 respectively), which would be tantamount to a grant of temporary planning permission, is not justified. As such, I am satisfied that the periods for compliance with the requirements, as set out in the notice, are a proportionate response to the breach of planning control that has occurred. The appeal on ground (g) therefore fails.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Formal Decision

18. It is directed that the enforcement notice is corrected by:
 - The deletion of the words “operational development comprising” and “shown edged in red on the attached plan titled ‘Location Plan.’” in section 3.
 - The deletion of section 5 in its entirety and the substitution of the following wording instead:

“5. WHAT YOU ARE REQUIRED TO DO

1. Cease the use of the Land as a sui generis scaffolding yard.
 2. Remove all structures, portacabins, caravans, paraphernalia and detritus associated with the unauthorised development from the Land apart from the building edged in blue on the plan attached to the notice.
 3. Remove all heavy goods vehicles and plant associated with the unauthorised development from the Land.
 4. Remove all hardstanding and restore the Land to its condition before the breach took place, including reseeding the Land to fully reinstate the grass.”
19. Subject to the corrections, the appeal is dismissed, and the enforcement notice is upheld.

Mark Caine

INSPECTOR