



Appeal Decision

Site visit made on 10 August 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2026

Appeal Ref: APP/W3005/C/25/3371810

Land at 46 Mapplewells Road, Sutton-in Ashfield, NG17 1HW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Michael O'Brien against an enforcement notice issued by Ashfield District Council.
 - The notice was issued on 31 July 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission unauthorised change of use of land to a mixed use including the siting of mobile home, touring caravan for residential use, the laying of hardcore to facilitate the use, erected outbuilding and fencing.
 - The requirements of the notice are to:
 - 1) removal of and cease the use of the site for the stationing of a residential mobile home and touring caravan.
 - 2) cease the use of the site for a commercial use and removal all commercial vehicles, plant and equipment from the land.
 - 3) remove the hard surfacing that has been laid across the land from the site and return the land to a grass paddock which is its former condition.
 - 4) demolish and remove the outbuilding and fencing and remove all material resulting from the demolition from the site.
 - The periods for compliance with the requirements are:
 - Within 1 month from the date when the notice takes effect, cease the use of the land for a commercial use and stop parking and removal all commercial vehicles, plant and equipment from the site.
 - Within 5 months from the date of when the notice takes effect cease the use of the land for the siting of a mobile home and touring caravan for residential use and remove the mobile home and touring caravan from the site.
 - Within 6 months from the date when the notice takes effect demolish outbuilding and fencing and remove all material resulting from these works from the land.
 - Within 6 months from the date when the notice takes effect remove all the hard surfacing that has been laid on the land from the site, replace with a layer of topsoil and sow grass seed to return the land back to its former condition.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (e), (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

The Enforcement Notice

2. Section 174 (1) of the Town and Country Planning Act, 1990, as amended (the Act) states that an Enforcement Notice (EN) 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 EN complies with subsection (1) (a) if it

enables any person on whom a copy of it is served to know what those matters are. In this case paragraph 3 of the EN notice alleges:

“Without planning permission unauthorised change of use of land to a mixed use including the siting of mobile home, touring caravan for residential use, the laying of hardcore to facilitate the use, erected outbuilding and fencing.”

and the requirements of the EN are:

- “1) removal of and cease the use of the site for the stationing of a residential mobile home and touring caravan.*
- 2) cease the use of the site for a commercial use and removal all commercial vehicles, plant and equipment from the land.*
- 3) remove the hard surfacing that has been laid across the land from the site and return the land to a grass paddock which is it former condition.*
- 4) demolish and remove the outbuilding and fencing and remove all material resulting from the demolition from the site.”*

3. The allegation does not state what primary uses are comprised in the alleged mixed use of the Land. It only refers to “the siting of mobile home, touring caravan for residential use”. There is no mention of a “commercial use” in the allegation, despite the EN requiring a commercial use to cease? Thus, it is not clear whether the “commercial use” is part of the alleged mixed use, and nor does the EN specify what type of commercial use is actually taking place on the Land.
4. In addition, the allegation in the EN includes “the siting of a mobile home,”. The siting of a mobile home is not, however, a use of Land. It is essential that an EN specifies what use of the Land the mobile home is sited for. Whilst the notice alleges the siting of a touring caravan for residential use, it does not specify what use of the Land the mobile home is sited for. This is particularly important because any deemed planning application is derived from the alleged breach.
5. From the evidence before me, including observations on my site visit, there are two static/mobile homes on the Land which are being used for residential purposes. There is also a touring caravan, a trailer which has a toilet and shower within it, an outbuilding, a shed and a number of vehicles parked on the Land. Hardstanding has been laid and fencing erected around the site. The touring caravan, trailer with shower/toilet, outbuilding and shed are used for purposes ancillary to the residential use of the Land. The parked vehicles also appeared to be ancillary to the appellant’s residential use of the Land.
6. Although the Council’s delegated officer report, which was prepared when considering whether to instigate enforcement proceedings, refers to there being two static/mobile homes on the Land, the EN only refers to a single mobile home and only requires the removal of “the mobile home” (i.e. singular). Thus, it is not clear which mobile home should be removed from the Land.
7. From the evidence available, it appears that there has been a material change of use of the Land to use for the stationing of two static caravans for residential use, together with the siting of a touring caravan, a trailer for use as a toilet/ shower, and the parking of vehicles all for use ancillary to the residential use of the Land. The residential use of the Land has been facilitated by associated operational development comprising the laying of hardstanding, construction of an outbuilding, a shed and fencing.

8. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1) (a) of the Act, or its terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. It maybe the case that defects are too fundamental to be corrected without causing injustice, leading to the notice being quashed.
9. For the reasons given above, the EN in so far as it relates to the alleged use of the Land is unclear. The deemed planning application is derived from the alleged breach, and thus if the notice were to be corrected to a material change of use of the Land for the stationing of two static caravans for residential purposes, together with the siting of a touring caravan, a trailer for use as a toilet and shower and the parking of vehicles all for use ancillary to the residential use of the Land, etc, the reasons for issuing the EN might have been different and the appellant may have wished to have appealed on ground (a). Furthermore, I would have to correct the requirements to require the removal of all the caravans from the Land and those requirements would be more onerous than the requirements set out in the EN. In addition, if there is indeed a mixed use being carried out on the Land, then all the components of that alleged mixed use need to be included in the allegation, and the precise nature of any alleged commercial use needs to be specified. Those corrections would result in injustice to the appellant. On the other hand, my decision to quash the notice leaves open to the Council the option of issuing a further corrected EN, under the provision of section 174B (4) of the Act, should it wish to do so.
10. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1) (a) of the Act since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeal under grounds (b), (c), (e) and (f) set out in section 174(2) of the Act do not fall to be considered.

Elizabeth Pleasant

INSPECTOR