



Appeal Decisions

Hearing held on 15 September 2026

Site visit made on 15 September 2026

by Grahame J. Kean B.A. (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2026

Appeal A Ref: APP/A2335/C/26/3378663

Appeal B Ref: APP/A2335/C/26/3378664

Appeal C Ref: APP/A2335/C/26/3378665

Land lying to the north of Bottomdale Road, Halton, Lancashire, LA2 6BH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Keith Mounsey.
- Appeal B is made by Mr Thomas Varey.
- Appeal C is made by Mr John Kerrigan.
- The appeals are made against an enforcement notice issued by Lancaster City Council on 30 April 2026.
- The breach of planning control as alleged in the notice is: without planning permission, the change of use of land for the siting of caravans on the Land and the engineering development consisting of significant land level changes on the Land.
- The requirements of the notice are:
 - (i) Cease the use of the Land for the storage of caravans;
 - (ii) Remove the caravans from the Land;
 - (iii) Reinstatement the previous land levels within the Land as shown in Appendix B;
 - (iv) Remove all waste, rubble, inert material, vegetation and building material from the Land;
 - (v) Reinstatement the Land to its previous condition before the breach of planning control occurred as shown in Appendix B, by cultivating and grass seeding the Land.
- The period for compliance with the requirements is: three months from the date this notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(b), (a) 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.
- Appeals B and C are proceeding on the grounds set out in section 174(2) (b) and (g) of the 1990 Act.

Decisions

1. It is directed that the enforcement notice is corrected as follows: in the allegation of the breach of planning control delete *“the change of use of land for the siting of caravans”* and replace with *“the material change of use of the Land to use for the storage of caravans.”*
2. Subject to this correction, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural matters

3. The appellants in Appeals B and C were not served with copies of the enforcement notice. The Council had questioned whether they could appeal, however at the hearing the Council withdrew its objection, so I have not considered the matter further.

4. At the hearing the Council provided its “expediency” report authorising the issue and service of the enforcement notice. The copy I was provided with was undated and not signed by the person understood to be authorised to issue it, however no point was taken that delegated authority did not exist to issue the notice.
5. It was the appellants’ case that the development carried out is a material change of use of land to form a 3-pitch gypsy and traveller site with access being taken via the existing access point that links the site to Foundry Lane/Bottomdale Road and onwards to Halton and Lancaster. The Council was very clear that the allegation in the notice was correct in that the site was not residentially occupied, but being used to store caravans.
6. It was common ground between the parties, and I agree, that the powers I have on appeal pursuant to s177(1)(a) of the 1990 Act do not extend to granting permission for matters that do not consist of the whole or part of the matters alleged to constitute the breach of planning control and that consequently, on a deemed application for use of land for storage purposes, I would be unable to grant permission for its use as a gypsy and traveller site. The storage of caravans and the stationing of caravans for human habitation are both uses of land. However, there is a difference in planning terms between a caravan site used for human habitation, and a caravan store, which is not physically occupied in that way.¹

Matters concerning the notice

7. There is a problem with the wording of the notice in that the allegation of the breach of planning control does not allege any material change of use, it merely alleges the siting of caravans on land but not for a particular purpose. As is well established², an enforcement notice should state the use for which a caravan is stationed. I have a duty to get the notice into good order and therefore the notice should be corrected, subject to there being no injustice, to state the use alleged to constitute the breach.
8. In this case it is quite clear from the steps required to be taken and the reasons for issue appearing on the face of the notice, that its target is the use of the land for the storage of caravans. As therefore, no injustice would be caused to the parties, I shall amend the notice to make the allegation and the steps required to be taken match each other, using my powers of correction in s176(a) of the 1990 Act.

The appeals on ground (b)

9. At the hearing the agent for the appellants formally requested to add this ground of appeal to their case to which I agreed, it not being objected to by the Council, and as it appeared to me from the appellants’ case as submitted, that the ground was a hidden ground of appeal.
10. An appeal on ground (b) is that the matters alleged to have occurred that constitute the breach of planning control have not occurred as a matter of fact. The onus is on an appellant to prove their case on the balance of probability. Section 174(2)(b) is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the notice as a matter of fact.

¹ The Court accepted a submission to this effect in *R.(on the application of Ocean One Hundred Limited) v New Forest Park National Authority* [2025] EWHC 953 (Admin) (para 23). Although overturned on appeal, this part of the judgment was unaffected.

² *Woodspring DC v SSE* [1982] JPL 784

11. The appellants claimed that when the notice was issued, the appeal site was being used for residential purposes, ie by the appellants who were occupying their respective caravans on the site residentially. For the avoidance of doubt, my decision relates only to the matters alleged at the time the notice was issued. When I inspected the site, I saw that three caravans were in situ but clearly not inhabited. There was a washing line at the bottom plot but otherwise no domestic paraphernalia on the site whatsoever. No utensils, bedding or other domestic accoutrements were visible inside the caravans.
12. I also saw that the three caravans, which were tourers and not static vans, had remained more or less in the positions shown in submitted photographs and that vegetation had started to become overgrown somewhat around them. The existing access to the site had no dropped kerb and was formed of rough hard surfacing.
13. An initial complaint was made to the Council on 7 May 2025 about a large amount of earthworks occurring on the site. Subsequently, on 17 March 2026 a call was made to the Council that two caravans had arrived on the site. The Council visited the site and took photographs. There was no evidence that anyone was living in the caravans, and no personal belongings were seen through the windows. Land level changes were evident to the far west of the site with at least 2m deep newly dug land showing. Large amounts of waste had been left on the site. A further complaint was made on 9 April 2026 that a third caravan was placed on the land.
14. Photographs were taken by the Council's enforcement officer dated 27 March 2026, before the notice was issued and served. More photographs of the site were taken by the Council after issue/service, on 8 July 2026. For whatever reason these latter items were not copied onto PINS' system. I was unaware of them until the Council referred to them at the hearing and made copies for me and the appellants. These items were also considered.
15. Various matters were advanced by the appellant. My attention was drawn to a previous application for planning permission, made by the appellant KM on 27 April 2026 to retain the use of the appeal site as a three-pitch gypsy and traveller site and associated access. The application was not validated, and I have not been provided with a copy of it. There is no dispute that it was made to retain a gypsy and traveller use, but that does not prove such use was in fact subsisting.
16. Secondly, I was asked to note a pre-application enquiry by a Mr Mounsey (not thought to be the current appellant) dated 25 August 2023 Ref 23/00987/PRENG2 and replied to on 13 February 2024. It concerned a proposed use of the appeal site as a three-pitch gypsy and traveller site and associated access.
17. I should add here that the Council's appeal statement contains a section on planning history which mentions only two matters, both completely irrelevant to the appeal site. The pre-application enquiry is however referred to but the application made on 27 April was not mentioned, possibly as it was not, for whatever reason, validated.
18. Thirdly, photographs of the appeal site were submitted by the agent showing only TV's caravan and immediate surroundings. Two images were dated 27 March 2026, ie before the notice was issued. The rest were taken after issue in May, June and July 2026. The images of the site before the notice was served are long distance views of TV's caravan at the bottom of the site with nothing to indicate domestic use. The images taken after the notice was issued include some

evidence of occupation, eg the washing line in the position where I saw it on my own site inspection, a lawn mower, an image inside TV's van showing food, toaster and a kettle and an image taken on 23 May 2026 with a social media type superscript that read "*peace and quiet love living here need some nice new hanging baskets*".

19. KM was understood to be in hospital. His caravan is shown in several images as having a broken window, there is vegetation overgrown around it, and there is no direct evidence of it having been occupied residentially.
20. The appellants TV and JK spoke at the hearing. The evidence they gave regarding dates when they were in occupation of the site was imprecise. JK stated that he went on site about April 2026 when a notice was put on the gate. JK wished to make it clear that he and the other appellants had been advised to proceed in a correct manner in seeking planning permission for a traveller site, meaning in effect not occupying the site before any residential occupation was regularised. Accordingly, JK and his family were living elsewhere. It also appeared from what TV told me that he had initially occupied his caravan on the site for a few weeks but had also decided to leave, exactly when was unclear, hence there was currently no evidence of actual residential use on the site despite the continued existence of the washing line.
21. For the Council, it was said that when the site visit was undertaken at the time of service of the enforcement notice³, no personal possessions were found when looking through the windows of the caravans, nor were there any vehicles or domestic paraphernalia. Therefore, it was argued, if persons were now living on the site, they moved onto it after the enforcement notice was served. Most of the photographs submitted by the appellants were taken after the notice was issued and served. The images taken in March 2026 do not show evidence of habitation.
22. The pre-application enquiry was for a proposed residential use of the site. Whilst the April 2026 application was ostensibly to retain a residential use, the overall impression I have of the siting of the three caravans, evidenced through the photographs of the site and my site inspection, is that they have been stored on the land rather than lived in for a considerable period prior to the issue of the notice, and whether or not it was intended that their continued presence on site should be regularised through an eventual planning permission for a traveller site.
23. The caravans sited on the land are tourer/trailer vans and not static caravans as envisaged in previous enquiries to the Council. The appellants' proposals were expressed through the drawing "Proposed Site Plan Day Room Details and Plan Key" dated April 2026. The drawing shows three static caravans as well as three tourers and three day rooms. It appears to be the drawing used in the so-called retrospective application for use as gypsy and traveller pitches, however the static caravans do not appear ever to have ever been sited on the appeal site or the day rooms erected. By contrast the drawing "Existing and proposed site plans" also dated April 2026, shows in respect of the site as existing, no caravans whatsoever.
24. Given the previous condition of the land as an open field, the storage of the three tourer/trailer vans and engineering operations have amounted to a change of use which has materially changed the nature and character of the appeal site beyond any a use that is incidental to the existing use of the land.

³ Additional documents, composite bundle, p6 pdf.

25. I also find that that on the balance of probability that around the time the notice was issued any residential use of the land as there might have been was a use that was more of a sporadic, casual or intermittent character, insignificant enough to displace the use that was clearly being made of the site for the storage of the caravans since March 2026, and as alleged by the Council.
26. As to the element of the allegation concerning land level changes, this is not factually disputed by the appellants.
27. Accordingly, ground (b) does not succeed.

Ground (a)

28. The appellants made it clear at the hearing that despite the nature of the allegation in the enforcement notice, no case was being made as far as concerned the deemed application for that which constitutes the breach of planning control. Indeed, in the appellant's main submission document⁴, storage as a use is not mentioned at all.
29. The development is outside a settlement boundary, therefore National Policy (NP) S5.5 of the National Planning Policy Framework 2026 (NPPF) applies, which states that development proposals in the Green Belt should be determined in accordance with certain NPs of which GB6 and GB7 are relevant here.
30. NP GB7 lists categories of development that are not inappropriate in the Green Belt. Among those potentially relevant are: (e) the redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt. The appellant has referred to an aerial image of the site to support its view that "*the site has been previously developed (unauthorised)*." However, development that has never been lawful development is not capable of rendering land PDL, therefore the exception in sub-paragraph (e) does not apply.
31. The other potentially relevant category concerns utilisation of grey belt land (sub-paragraph (g)). Grey belt land is by definition PDL and/or any other land that, in either case, does not strongly contribute to certain purposes of including land in the Green Belt. However, several other criteria need to be met, including that there is an evidenced unmet need for the type of development proposed ((g)(ii)). No evidence is advanced to suggest that there is an unmet need for the unauthorised storage use or indeed the embankment created by the ground works perpetrated to the appeal site. The upshot is that the unauthorised development is inappropriate development in the Green Belt.
32. NP Policy GB6 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposed development, is clearly outweighed by other considerations. In making this assessment, substantial weight should be given to the harm to the Green Belt which would be caused, including harm to its openness.
33. As to openness, there is an adverse impact on openness due to the continued presence of the three caravans in a prominent position on the appeal site, causing visual as well as some spatial harm. The appellants state "*we are not aware that*

⁴ "Enforcement Notice Grounds of Statement May 2026"

land levels have changed significantly or are demonstrably harmful to the openness of the green belt in this part of the Borough". I disagree. As noted, the land level changes were quite evident. In my view they have had a deleterious visual impact on the previously undisturbed contours of the field.

34. Other adverse effects include harm to the character of the countryside. The development is close to the M6 northbound carriageway but lies in a very rural area to the north of the village of Halton. In this respect it fails to comply with the Council's Development Management DPD 2025, Policy DM29 which requires new development to make a positive contribution to the surrounding landscape. The policy is broadly consistent with NP Policy N2 insofar as the latter policy seeks development that contributes positively to the natural environment, considering among other things the environmental qualities of land, including landscape character and the natural beauty of the countryside.
35. No evidence is before me that persuades me that there are very special circumstances to allow the unauthorised development on the appeal site.
36. To summarise, the use of the site and land level changes are inappropriate development causing harm that should be given substantial weight. There is added harm due to the adverse effect the development has had on openness. There is also harm to the character and appearance of the area due to the continued presence of the caravans and the earthworks which undermine the previously unspoilt nature of this part of the countryside, contrary to Policy DM 29 of the development plan and NP Policy N2. The harm caused is not clearly outweighed by other considerations.
37. For the above reasons planning permission should be refused.

Other matters

38. In this appeal several technical documents were submitted and statements made concerning the suitability of the site for use as gypsy and traveller pitches. Whilst some of this material may not in terms have been disputed, it has not been relevant to consider given that it does not relate to the deemed planning application. Therefore, the absence of comment on such material should not be taken as an endorsement or rejection of the same, or of its accuracy or relevance in any future proposal concerning the appeal site.
39. The siting for storage purposes of the three tourer caravans also militates against the existing access into the site which only supports the former agricultural use, ie intensifying use of the access adversely impacts highway safety due to the lack of dropped kerbs and lack of appropriate surfacing. It was not suggested, and it would not in any case in my view be realistic, that a condition could be attached to a permission for this unauthorised development to implement the highway related works proposed by the appellant for a different development.

Ground (g)

40. An appeal on this ground is that the period for compliance with the notice is unreasonably short. Considering all representations, my view is that the stipulated period of three months is an adequate period within which to remove the caravans from the land and reinstate the levels in accordance with the requirements of the notice, so that that this land is now restored to its former condition.

Conclusion

41. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Grahame J. Kean

INSPECTOR

ATTENDANCES

For the Appellants

Mr Carr MSc MRTPI	Mat Design Limited
TV	Appellant
JK	Appellant

For the Local Planning Authority

Mr Foster MRTPI	Principal Planning Officer
Ms Leadbetter BSc AssocRTPI	Planning Enforcement Officer

ADDITIONAL DOCUMENTS SUBMITTED

- A1 Email correspondence dated 04.06.2025 from Mr Carr to Ms Isherwood
- A2 Appeal procedure query from Planning Enforcement Officer to Planning Inspectorate
- A3 Planning Enforcement Officer Expediency Report
- A4 Planning Enforcement Officer Correspondence to Planning Inspectorate with Photographic evidence taken on site 08.07.26⁵
- A5 Planning Enforcement Officer Site Photos Dated 14.09.26
- A6 Appellant Photographic evidence
- A7 Planning Enforcement Officer Site Visit Photos Dated 17.03.26

⁵ Not 2025 as marked up by the Council when presenting the composite bundle.