



Appeal Decision

Site visit made on 25 September 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2026

Appeal Ref: APP/W1850/C/25/3374743

Gorbett Bank Cottage, Luston, LEOMINSTER, HR6 0AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Tom Perkins against an enforcement notice issued by Herefordshire Council.
 - The notice was issued on 9 September 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission an unauthorised building being used as a dwelling, the material change of use of the land for the siting of a touring caravan, unauthorised fencing adjacent to the highway and widening of an access on to the B4361.
 - The requirements of the notice are to:
 - (1) Cease the use of the building for residential use.
 - (2) Demolish/ remove the building and all materials from the land.
 - (3) Remove the touring caravan from the land.
 - (4) Remove the fencing and gate adjacent to the highway.
 - (5) Plant a native hedgerow in the same location as the unauthorised fence and gate that is required to be removed.
 - The period for compliance with the requirements is: Requirement (1) – 9 months from the date the notice takes effect; For requirements (2) & (3) – 10 months from the date the notice takes effect; and for requirements (4) & (5) – 11 months from the date the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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. It is directed that the enforcement notice is corrected by:
2. the deletion of the words "an unauthorised building being used as a dwelling" from the description of the breach of planning control at Section 3 and their substitution with the words "the extension, alteration and adaptation of a caravan to form a building and its use as a dwellinghouse";
3. the deletion of the word "siting" before the words "of a touring caravan" from the description of the breach of planning control at Section 3 and its replacement with the word "storage".
4. Subject to those corrections, the appeal is 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.

Preliminary Matters

5. Whilst not a matter raised by the appellant, I have a duty to consider any defects within the enforcement notice and make corrections to put it on a sound footing, providing such corrections would not cause injustice to any party.
6. The notice alleges “an unauthorised building being used as a dwelling, the unauthorised material change of use of the land for the siting of a touring caravan, unauthorised fencing adjacent to the highway and widening of an access onto the B4361”.
7. In respect of the “building being used as a dwelling” the notice does not specify whether the alleged breach is the erection of a building or the material change of use of a building. In other words it does not specify precisely what act of development is alleged to have taken place. In line with s55(1) of the Town and Country Planning Act 1990 (the Act), “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
8. Section 55(1A) states that “building operations” includes demolition of buildings, rebuilding, structural alterations or additions to buildings; and other operations normally undertaken by a person carrying on a business as a builder.
9. The “building” referred to in the enforcement notice would appear to have started life as a static caravan falling within the definitions of the Caravans and Control of Development Act 1960 (the CSCDA) of the Caravan Act 1968 (the CSA). The siting of a caravan and its use for residential purposes will generally be considered as a material change of use of land as opposed to a building operation. However, in this case, the Council’s position is that it has been extended and modified to such an extent that it no longer constitutes a caravan but is a building.
10. The appellant has not disputed that in the written evidence but did wish to point out on site that the chassis of the caravan and its wheels are still intact and that did appear to be the case. Nonetheless, the former caravan has been altered substantially. The front end has been removed and replaced with an extension, constructed in wood which now forms the entrance to the structure and also houses a woodburner to provide heat.
11. That front extension is very much like any other domestic extension one would normally find on a dwellinghouse and does not appear to sit on the chassis of the original structure. Other adaptations have also been made. The structure has been clad inside and out with insulation. On the outside, the layer of insulation is then covered in profiled cladding and on the inside a further layer of insulation is clad in plasterboard. Solar panels have been attached to the roof, fixed to the framework that has been erected to support the outer cladding.
12. Whilst the structure may still have a chassis and wheels, the existence of the front extension and other alterations is such that it could not readily be moved, either through being towed or being picked up and placed on a wagon. The front extension is attached to the ground which would make towing impractical if not impossible and there would be a real danger of collapse if the structure was picked up by a crane. I would have similar reservations as to the structural integrity of the external and internal cladding if the structure was to be moved.

13. Consequently, it seems to me that the structure is not capable of being moved either through being towed or transported on a trailer, such that it does not fall within the definition of a caravan in either s29(1) of the CSCDA or s13(1) of the CSA. Moreover, having regard to its scale, physical attachment to the ground and degree of permanence the adapted and extended structure falls within the definition of a building having regard to well-established caselaw.
14. Accordingly, I agree with the Council in that respect and consider that the EN should be corrected to make it clear that the alleged breach relates to a building operation in the formation of a dwellinghouse. I am satisfied no injustice will arise as a result of making such a correction because it has no real significance in terms of the appeal on Ground (a) or any other potential grounds of appeal.
15. The EN also alleges a MCU in respect of the siting of a touring caravan. However, the allegation does not state what the use of that touring caravan was alleged to be. A caravan could be stored for its own sake, in which case the use would be for storage purposes or it could be lived in for residential purposes, in which case the use of the land would be residential.
16. From the information presented the touring caravan, which has since been removed, was simply stored at the site as opposed to being lived in. I shall correct the notice to provide clarity in that respect. Again, no injustice will arise because no arguments have been presented in respect of the touring unit which has, in any event, now been removed.
17. Comments submitted on behalf of the appellant suggested that the access to the site has not been widened as suggested in the enforcement notice. That is tantamount to an appeal on Ground (b) in that respect. The onus rests with an appellant to make their case in such matters and no further information in support of the claim has been submitted. At the site visit I noticed that the concrete kerbing next to the entrance looked new and the access gate itself appeared reasonably new, indicating it was probably erected at the same time the kerbing was put in.
18. Thus, even if there is a hidden appeal under Ground (b) the evidence needed to support such a claim is unsubstantiated and any such appeal would be bound to fail. Accordingly, I have proceeded on the basis that the widened access has occurred, as alleged in the notice.

The Appeal on Ground (a)

19. The appellant is unrepresented. At the time of filling in the questionnaire, he simply stated that the touring caravan had been removed, disputed that the access has been widened and suggested that he had found someone to advise him such that further information may be submitted in due course. However, no subsequent appeal statement was submitted.
20. Some comments were submitted by the appellant's sister on his behalf at the final comments stage and I have taken those into account in reaching my decision. Whilst I am very mindful of the difficulties a lay person may face in submitting an appeal, I can only base my decision on the information presented which is extremely limited, with little in response to the stated reasons for issuing the enforcement notice and nothing in respect of compliance with relevant planning policies.

21. From the information presented the main issues in the determination of the appeal on Ground (a) are:
- i) The effect of the development on the character and appearance of the area;
 - ii) Whether the location of the site is suitable for new residential development, having regard to its proximity to shops and services and likely modes of travel; and
 - iii) The effect on highway safety.

Character and Appearance of the Area

22. The appeal site is situated in a highly rural location, adjacent to the B4361 some distance to the north of the village of Luston. The local terrain is undulating and the road rises up as it passes the site. For the majority of its length, from the village to the appeal site, the road is enclosed on both sides by mature hedgerows which add to the rural feel, with fleeting views through gaps and field entrances to the meadows and arable fields beyond.
23. Where built development is present it tends to be of a vernacular style, such as the nearby farmhouse at Ladymeadow Farm, with its associated brick and stone entrance wall. The overall pattern is extremely rural with attractive buildings interspersed amongst rolling, hedgerow lined, countryside.
24. The appearance of the appeal site contrasts markedly with that established pattern. The hedgerow has been removed and replaced with a close-boarded timber fence which has an urban appearance, being more typical of the type of enclosure used to separate rear gardens on a housing development. The manner of installation also provides a somewhat ramshackle appearance and the fencing marks an extremely unsympathetic break in the continuous line of hedgerow alongside the road.
25. The structure in use as a dwelling is located directly to the rear of the fence such that the upper sections of the walls and roof are prominent from the road as one passes the site. The limited width of the plot is such that it would not be possible to set the unit back to any degree and it appears shoe-horned into the available space.
26. The metal profiled sheeting that has been added to the external walls and roof and the way in which the unit has been extended and adapted gives the structure a make-shift appearance with materials that are unsympathetic to the prevailing pattern on residential buildings. Moreover, the building and associated domestic paraphernalia create a sense of clutter which jars against the surrounding greenery.
27. For all of those reasons the development has caused harm to the character and appearance of the area, contrary to the aims of Policy LD1 of the Herefordshire Local Plan (2015) with regard to its effect on the landscape and to the aims of Policy SD1 of the Local Plan with regard to design and local character.

Suitability of the Location

28. The site is situated in the open countryside some distance from Luston which is the nearest settlement, with a limited range of facilities. The site is much further

from Leominster which contains a broader range of shops and services. Policy RA3 of the Local Plan identifies that residential development within the countryside, outside of settlements, will be limited to proposals which satisfy a number of criteria, none of which apply to the development at the appeal site.

29. Policy YG2 of the Yarpole Neighbourhood Development Plan (the NDP) aligns with policy RA3 and defines settlement boundaries for the villages within its area. The site sits well outside of any defined settlement. Those policies are consistent with the aims of Policy S5 of the National Planning Policy Framework, insofar as is relevant to the present appeal.
30. The rationale for those policies is multi-faceted but includes an aim of concentrating new residential development where occupants can readily access shops and services using a range of transport modes, as opposed to relying on the private car. The site is extremely poorly located in that respect not only account of its remoteness but also the lack of any apparent public transport, the unlit nature of the road and the lack of segregated pavements. Even by rural standards it is poorly located and residents will be reliant upon the private car.
31. Consequently, in the absence of any justification to warrant development in such a location, the proposal is clearly in conflict with the locational strategy of the development plan and the policies outlined above.

Highway Safety

32. The access from the site is directly onto the B4361 where the national speed limit applies. Whilst not heavily trafficked at the time of my visit it was noticeable that vehicles pass the site at some speed. The Council contend that visibility splays in a southerly direction do not meet the requirements of the Herefordshire Council Highways Development Design Guide which would require 2.4m by 215m accounting for the speed of traffic.
33. The appellant has not responded to that claim and no contrary information is before me. Whilst it may be that there was a pre-existing access there is no information as to the previous use of the land and it is likely that the residential use has caused an intensification in the number of vehicles using the entrance.
34. Consequently, in the absence of any kind of highway safety assessment, the access would not meet local design standards and it has not been demonstrated that the arrangement is safe for the proposed residential use, contrary to the aims of Policy MT1 of the Local Plan.

Other Matters

35. Whilst not a matter raised by the appellant or the Council, the requirement of the enforcement notice to cease the residential use will clearly impact upon the home life of those residing in the building. It is clearly a situation where Article 8 Convention Rights¹ are engaged. However, no written information has been provided in terms of who lives there. Numerous people were present at the time of my site visit where it was said that the appellant resides in the structure with his child.

¹ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998

36. That is the extent of information before me, notwithstanding that the appellant has had the opportunity to submit information as part of the appeal. There is no indication of whether the child attends school locally or background information as to where they moved from, why they occupied the site or what they would do if the notice was upheld. There is no suggestion that they would be unable to secure alternative accommodation elsewhere or that matters such as schooling or healthcare would be unduly impacted. Nor is there any suggestion that the time period given by the notice to cease the use would be too short for them to find alternative accommodation.
37. In those circumstances it is very difficult to attach any significant weight to the personal circumstances or to conclude that the best interests of the child would be harmed by having to relocate from such a remote location, far removed from schools and services.

Conclusion

38. For the reasons given above, the development has caused harm to the character and appearance of the area, is located in an unsustainable location for new residential development and the appellant has failed to demonstrate that the access arrangements are safe, having regard to visibility and the speed of passing traffic. The development contravenes the policies of the development plan in those respects and is contrary to the aims of the development plan, taken as a whole.
39. Whilst the enforcement notice would have significant implications for the home life of those living in the building, no personal circumstances have been advanced to indicate why an exception to the policies of the development plan would be warranted. Accordingly, I am satisfied that the public interest in removing the identified harm which is clearly contrary to adopted planning policies is such that the interference with the Human Rights would be proportionate in the circumstances.
40. There are no other matters to indicate that a decision should be taken other than in accordance with the development plan and the appeal on Ground (a) should therefore be dismissed and I shall refuse to grant planning permission in respect of the deemed application and uphold the enforcement notice, as corrected.

Chris Preston

INSPECTOR