

Appeal Decision

Site visit made on 29 September 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2026

Appeal Ref: APP/E2001/C/25/3366391

Land at 100 Spellowgate, Drifffield, East Riding of Yorkshire YO25 5UP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
 - The appeal is made by Mr Andrew Kiddy against an enforcement notice issued by East Riding of Yorkshire 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 land and buildings from a nil use to a mixed use for residential use and storage and distribution, including the provision for self store for members of the public.
 - The requirements of the notice are to:
 1. Cease the residential use of the Land; and
 2. Remove all domestic goods, furniture, the kitchen, bathroom, domestic chattels and domestic equipment from the Land; and
 3. With the exception of the building marked edged in blue on the attached Plan, cease the use of the Land for storage and distribution including self-store; and
 4. Remove from the Land all shipping containers and items contained therein; and
 5. Remove all vehicles, trailers, plant and equipment associated with the external storage and self store use from the Land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the Act. 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.

Applications for costs

2. An application for costs has been made by Mr Andrew Kiddy against East Riding of Yorkshire Council. This application is the subject of a separate decision.

Matters Concerning the Enforcement Notice

3. In the enforcement notice, the breach of planning control is “the material change of use of land and buildings from a nil use to a mixed use for residential use and storage and distribution, including the provision for self store for members of the public”. It is therefore clear that the alleged breach of planning control is a material change of use.
4. Section 173(11) of the Act states, “Where— (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A

in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities”.

5. The requirements of the notice seek the cessation of the residential use, the cessation of use for storage and distribution including self store on part of the site, and the removal of certain items which include shipping containers and items, vehicles, trailers, plant and equipment. None of the steps in the notice require the cessation of the mixed use as described in the breach of planning control. Having regard to section 173(11) of the Act, as the notice could require the mixed use to cease but does not do so, planning permission shall have been treated to be granted for the mixed use by virtue of section 73A of the Act. This does not appear to be the intention of the Council and therefore the notice is deemed to be invalid.
6. Under section 176(1) of the Act, I do have the power to vary or correct the terms of the notice, providing that I am satisfied that a variation or correction will not cause injustice to either the appellant or the Council.
7. The appellant and the Council have been made aware of the matters described above with regards to the enforcement notice. The Council confirm that they consider the breach to be a mixed use as described in the notice. They also detail that in considering expediency of enforcement action, they specifically disaggregated the mixed uses which are listed separately and specifically in the requirement steps. The Council do not consider the notice to be defective being content that the notice under enforces in connection with the building marked blue on the notice plan, however, they further indicate that should it be necessary to correct the notice, then this can be done without causing injustice. The appellant has provided a response indicating that the notice cannot be corrected without causing injustice, detailing that any correction to address the cessation of the alleged mixed use would materially alter the scope and effect of the notice and that the appeal was prepared and submitted on grounds (a), (b) and (c), responding to the notice as it was served.
8. Whilst I have had regard to the Councils submissions, the notice alleges a mixed use, and the notice does not require the cessation of this mixed use. Were I to uphold the notice, and having regard to section 173(11) of the Act, the land would benefit from an unconditional deemed planning permission for a mixed use of residential and, storage and distribution across the whole of the site. This is clearly not what the Council intends from the notice. If I were to correct the notice so the requirements seek the mixed use to cease, this would have to be across the whole of the site given the residential use part is within a building that is used as storage and distribution. This would result in the storage and distribution use of the building marked in blue also ceasing which is not what the Council intended either. This would result in injustice to the appellant as it would make the requirements more onerous to comply with.
9. Accordingly, it is not possible to correct the notice without causing injustice and the appropriate action is to quash the notice. This would give the Council the opportunity to explore its powers under section 171B(4) of the Act to take further action.

Conclusion

10. For the reasons given above, I conclude that the enforcement notice does not specify what the Council intend it to. 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.

11. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (b) and (f) of the Act do not fall to be considered.

Chris Baxter

INSPECTOR