Planning Inspectorate

Appeal Decision

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2026

Appeal Ref: APP/P3040/C/25/3374994
11A Orston Lane, Whatton, Nottingham NG13 9ET

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Richard Irwin against an enforcement notice issued by Rushcliffe Borough Council.
- The notice was issued on 30 September 2025.
- The breach of planning control as alleged in the notice is breach of condition 3 of planning permission ref 23/01688/VAR which states: 'The development shall be carried out in accordance with the 'Landscape and Ecological Management Plan and Hedgerow Management Strategy', report reference BG20.173 dated May 2020 and Plan Ref.BG20.173.1 Rev A received 21 May 2020 approved under discharge of condition application Ref. 20/00984/DISCON. The landscaping scheme shall be fully completed before the end of the current planting season.'
- The requirements of the notice are: 1. Remove temporary access surface which was created to enable construction of a dwelling. 2. Prepare ground with topsoil and complete the replanting /gapping up of the hedgerow as per the approved plan attached to the notice (Plan 1).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.

Decision

1. It is directed that the enforcement notice be corrected by in paragraph 1 substituting 'Section 171A(1)(a)' with 'Section 171A(1)(b).' Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary matters

2. The enforcement notice states that the alleged breach of planning control falls within sub-paragraph (a) of s171A(1) of the Act, which refers to carrying out development without the required planning permission. As the alleged breach is the failure to comply with a condition of planning permission, the notice should instead refer to sub-paragraph (b) of s171A(1). The notice nevertheless clearly describes the nature of the alleged breach. The steps required to remedy the breach are also clearly set out. The appellant could have been in little doubt as to what the Council considered they had done wrong and what they had to do to remedy the matter. Consequently, there would be no injustice if I were to exercise the power in s176(1)(a) of the Act to correct any defect, error or misdescription in the notice, to refer to sub-paragraph (b) of s171A(1).

3. I am satisfied that the appellant, who is unrepresented, has not sought to pursue their appeal on any of the grounds set out in s174(2) of the Act, other than ground (g). References in the appellant's written submissions to ground (f) are made in the context of their arguments in favour of extending the period for compliance and therefore fall within the remit of the ground (g) appeal. Nor do I read the appellant's written submissions as incorporating a 'hidden' ground (c) appeal.

4. Since no appeal has been made on ground (a) and the relevant fee has not been paid, planning merits considerations cannot form part of my deliberations.

5. The appeal can be determined without the need for a site visit, as I have been able to reach a decision based on the information already available.

Ground (g) appeal

6. The ground of appeal is that the period specified for complying with the requirements of the enforcement notice falls short of what should reasonably be allowed.

7. The appeal site is located on the edge of Whatton village and is occupied by a substantial detached dwelling and an associated residential outbuilding, with two recently erected detached dwellings adjacent to it.

8. The site is currently served by a separate vehicular access from the highway. This was formed during the development of the site and included removing a section of the mature hedge fronting the highway. There is no dispute that maintaining the access and failing to undertake replacement planting to fill the gap in the hedge is in breach of condition No 3 of planning permission reference 23/01688/VAR.

9. The appellant sought to extend the three-month period specified in the notice for complying with condition No 3, as they estimated that completing outstanding works at the site in relation to the outbuilding and drive would take around twelve months, during which time the access would still be in use by construction traffic.

10. I acknowledge the benefits to highway safety and neighbours' living conditions of not having HGVs and other construction-related traffic using the shared drive in front of the two adjoining dwellings whilst outstanding works at the site are substantially completed. Nevertheless, even if those works were to have endured as long as the appellant anticipated, the extended period they sought to retain the access for is now virtually at an end owing to the passage of time since the appeal was made.

11. Moreover, since the appeal is on ground (g) only, it is appropriate to take the time which has elapsed since the issuing of the notice into account in assessing the reasonableness of the compliance period. This is because the appeal was made solely to extend that period, in the full knowledge that the notice would be upheld and the requirements would have to be complied with.

12. Set in the above context, I can find little sound reason to support a further delay to the carrying out of the remedial works beyond the end of the period specified in the notice. That affords ample time for the required works, which are relatively modest in scale and fairly straightforward, to be undertaken at a suitable time of year.

13. Accordingly, the compliance period strikes an appropriate balance between remedying the breach as soon as practicable whilst also avoiding imposing a disproportionate burden on the appellant. Extending that period however would serve little purpose other than to perpetuate the breach.

14. The ground (g) appeal fails.

Conclusion

15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Stephen Hawkins

INSPECTOR