Planning Inspectorate

Appeal Decision

Site visit made on 2 November 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date 18 November 2026

Appeal Ref: APP/W3520/C/24/3354993
Land To The North of 2 Rectory Cottages, Rectory Road, Hemingstone, Suffolk and shown edged in red on the plan attached to the notice

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Maxwell Woodard against an enforcement notice issued by Mid Suffolk District Council on 30 September 2024.
- The breach of planning control as alleged in the notice is:
  Without planning permission, the change of use of the land for the stationing of one static caravan and one portacabin, on the land edged in red on the attached plan.
- The requirements of the notice are to:
  1.Remove the static caravan in its entirety from the land.
  2.Remove the portacabin in its entirety from the land.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (c) (d) (e) (f) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. The enforcement notice is quashed.

Reasons

2. The notice is widely and significantly defective.

Allegation (Section 2 of the notice)

3. The allegation refers to the 'stationing' of a caravan and a portacabin, but that is not a description of land use. It is essential that a notice specifies what use of land is associated with the siting of such units, so that it is sufficiently clear to the recipient the material change of use (MCU) being alleged.

4. Subject to the test of injustice, I may have been able to correct the notice to remedy the defect. However, not only is it unclear from the notice as a whole the MCU being alleged, but the Council's statement appears equivocal and uncertain as to its own view on how the land is in fact being <u>used</u>. For instance, the statement at 5.3 says that there may be residential use and refers to "*…reports from the community who advise that the landowner continues to stay on the land…".* However, at 5.6, the statement reads "*It is unknown to the Council if any of the caravans stationed on the land are being used for residential use as the frequency of occupation of these caravans remains unknown".* The Council's appeal submissions are wholly unclear as to the new <u>use</u> alleged, to which effect I might have otherwise corrected the notice.

Reasons for Issue (Section 3 of the notice)

5. Section 173(10) of the Act and Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 require an enforcement notice to specify the reasons why the local planning authority consider it expedient to issue the notice, and all policies and proposals in the development plan which are relevant to the decision to issue the notice.

6. While the caravan and portacabin are identified as constituting a breach of planning control (BPC), there are no reasons provided in the notice as to why the Council considered it expedient to issue it. The expediency test necessarily involves an assessment of any planning harm (not simply whether there is a BPC). The notice does not specify any planning harm.

7. No development plan conflict has been identified in respect to the caravan. While a single development plan policy (SP03 of the Babergh and Mid Suffolk Joint Local Plan, 'JLP') has been cited, to which the portacabin is said to be contrary, conflict with a policy alone does not automatically render it expedient to issue a notice under section 172 of the Act. Without the planning harm being considered, and explained in the notice, the reference to policy conflict by itself does not explain why it was considered expedient to issue the notice. Neither is it clear from the notice, in any event, how there is conflict with the policy.

8. Further, the Council's appeal statement says that the development is contrary to JLP Policies SP03, SP09, LP17 and LP16. That should have been specified in the notice, in accordance with the above requirements. Notably, also, it is only in the Council's statement that it addresses issues of alleged planning harm.

9. I have considered whether I could use my powers of correction to remedy these defects. However, the notice reasons form the basis of the main planning issues in the ground (a) appeal and deemed planning application. Because the above matters (the alleged planning harm and various development plan conflicts) were only revealed to the appellant by way of the Council's 6-week statement, his own grounds of appeal and statement were made without the necessary benefit of being aware of them. While the appellant was able to respond to the Council's case at the 9-week final comments stage, he was unable procedurally to introduce new material or evidence in support of his appeal. He also was prejudiced by having to respond anew, within 3 weeks, to matters which the Council should have specified in the notice upon its issue. For these reasons, the appellant would suffer injustice were I to make corrections to the notice now after he has been prejudiced in making his appeal against it due to the above defects.

Conclusions

10. For the reasons given above, I conclude that the enforcement notice is invalid. 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 notice will be quashed. In these circumstances, the appeals on various grounds of the Act and the application for planning permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

Andrew Walker

INSPECTOR