Planning Inspectorate

Appeal Decision

Site visit made on 24 November 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2026

Appeal Ref: APP/A2335/C/25/3370615
Land at Batty Hill Farm, Lancaster Road, Cockerham LA2 0DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Peter Hewitt of WE & G Hewitt & Sons against an enforcement notice issued by Lancaster City Council.
- The enforcement notice numbered REF 2025/27 was issued on 19 June 2025.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a roof over an existing silage pit ("the development").
- The requirements of the notice are:
  1. Remove the development
  2. Remove any resultant debris and materials from the Land.
- The period for compliance with the requirements is 26 weeks.
- The appeal is proceeding on the ground set out in section 174(2) (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision: the appeal is dismissed and the enforcement notice is upheld

Procedural Matters

1. The appeal as originally made included appeals on ground (b), namely that in respect of any breach of planning control that may be constituted by the matters stated in the notice those matters have not occurred, and ground (c), namely that in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control.

2. The appellant's case on both of these grounds is briefly stated on the Appeal Form as being that (at the time the appeal was made) there was a planning permission pending for the erection of the roof over the existing silage pit. That is not a cogent reason for allowing the appeal on either of those grounds of appeal and accordingly I have not considered these grounds any further.

3. On 29 October 2025, the Council did grant planning permission for the construction of a roof over existing silage pit and installation of drainage infrastructure to include an attenuation pond (Council Ref:25/00286/FUL). Although of a similar description, the permission granted is not for the same development as the breach of planning control alleged in the notice subject to this appeal. The key difference is the comparative heights of the structures. The development granted planning permission under Council Ref:25/00286/FUL would have an eaves height of 7 metres and a ridge height of 8 metres. In comparison the development subject to the notice has an eaves height of 9 metres and a ridge height of 11 metres. I will consider the effect of that permission further under the appeal on ground (f) below.

4. A total of four representations has been received in relation to this appeal, including one from Lancashire County Council in its capacity as the Lead Local Flood Authority. However, there is no appeal on ground (a) before me, namely that planning permission ought to be granted for the matters stated in the notice. This is because in this case ground (a) was barred pursuant to the requirements of section 174(2A) of the 1990 Act, specifically because planning permission was refused (Council Ref: 23/01215/FUL) and a subsequent appeal dismissed (APP/A2335/W/24/3349052) for the development now subject to the notice. Accordingly, the appellant does not get a second 'bite at the cherry'.

5. Consequently, I cannot take the planning merits of the development subject to the notice into account. Neither can I consider the financial cost of complying with the notice and/or replacing the roof, the ramifications for the business of incurring those costs or the implications for the day-to-day operation of the farm: these matters are not before me.

The appeal on ground (f)

6. The appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

7. When an appeal is made on ground (f), it is essential to understand the purpose of the notice (as distinct from the reasons for issuing the notice). Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of notice are to remove the development and remove any resultant debris and materials from the Land: in other words, to restore the land to its condition before the breach took place. The purpose of the notice must therefore be to remedy the breach of planning control that has occurred.

8. The appellant has not put forward any lesser steps that would achieve the purpose of the notice with less costs and disruption. None are obvious to me. Consequently, in this case nothing less than the removal of the development would remedy the breach of planning control that has occurred. The removal of the development is therefore necessary to achieve the purpose of the notice.

9. I am mindful that the Council has granted planning permission for, amongst other things, the construction of a roof over the existing silage pit (Council Ref:25/00286/FUL). This would utilise the same posts that support the development subject to the notice (albeit reduced in height).

10. Section 180(1) of the 1990 Act provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. In other words, the requirement in the enforcement notice to remove some parts of the development subject to the notice (in this case, the support posts) will be overridden by the grant of permission for those matters.

11. For the avoidance of any doubt, the grant of planning permission (Council Ref:25/00286/FUL) does not make the roof as constructed and subject to the notice lawful in planning terms. The development granted planning permission under Council Ref:25/00286/FUL is a different development to that subject to the notice: for example, in terms of overall height. It is necessary to implement the specific development for which planning permission has been granted, which would then have the benefit of planning permission and as such would be lawful (assuming implementation fully in accordance with the approved plans and the conditions imposed on that planning permission).

12. The effect of section 180(1) of the 1990 Act is that the planning permission overrides the notice to the extent that the planning permission authorises what is enforced against. In this case, this applies only to the support posts (as reduced in height), which form part of the matters stated in the notice but unlike the roof itself would remain as part of the development for which planning permission has now been granted. Consequently, it is not necessary for me to vary the notice in this respect.

13. I conclude that the steps required by the notice to be taken do not exceed what is necessary to remedy any breach of planning control that has occurred. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

14. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is 26 weeks. For the avoidance of doubt, the period for compliance only relates to the requirements of the notice: in this case, the removal of the development and the removal any resultant debris and materials from the Land. I cannot consider the time required to install any replacement roof, which is outside of the requirements of the notice.

15. The appellant's case on this ground is that the site is a working farm and that, without a resolution, complying with the notice will create significant environmental damage. The appellant does not go on to expand upon what that 'environmental damage' might be. In any event, I am not persuaded that this is matter that properly falls to be considered under ground (g): it is a matter that would more properly fall to be considered under ground (a) had that ground of appeal not been barred.

16. The appellant does not specifically state why the period of compliance falls short of what should reasonably be allowed. Neither does the appellant propose (with justification) a longer period of compliance which it is considered would be sufficient to comply with the notice.

17. It was evident from my site visit that removing the existing roof and reducing the height of the posts to that required to support the roof granted under planning permission 25/00286/FUL would be a significant and time-consuming undertaking. Neither do I underestimate the complexity of the logistics required to complete that operation and co-ordinating that with the installation of the replacement roof. I am also mindful that the weather will be an unknown but important factor. All of these factors may have led me to extending the period for compliance had the justification for doing so been provided through evidence.

18. Where, as in this case, the appellant has not advanced any justification for extending the period of compliance and/or suggested a longer period of compliance it is beyond my remit to unilaterally devise and impose a longer period of compliance. However, section 173A(1) of the 1990 Act empowers a Local Planning Authority to relax any requirement of an enforcement notice and, in particular, to extend the period for compliance (including outside of the context of an appeal). It is a matter entirely for the Council whether or not to exercise its powers in this respect.

19. In the absence of any evidence to the contrary, I conclude that the period for compliance specified in the notice does not fall short of what should reasonably be allowed. Accordingly, the appeal on ground (g) fails.

Conclusion

20. For the reasons stated above, I conclude that the appeal should not succeed. I will dismiss the appeal and uphold the notice.

Paul Freer
INSPECTOR