



Appeal Decisions

Inquiry Held on 9, 10 and 30 November 2021

Site Visit made on 1 December 2021

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2022

Appeal A Ref: APP/W1525/C/19/3232527

Land at Land to the North of Brooklands, 182 Main Road, Broomfield, Chelmsford, CM1 7AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by The Landscape Company (Southeast) Limited against an enforcement notice issued by Chelmsford City Council.
- The notice was issued on 31 May 2019.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land as an operating base for a landscape contractor's business.
- The requirements of the notice are to:
 - i) Cease the use of the land as an operating base for a landscape contractor's business.
 - ii) Remove from the land all plant machinery, lawn mowers, trailers, paving slabs, tyres, timber planks, ladders, gardening tools and equipment, wooden pallets, plant pots, surplus fencing and any other item associated with the unauthorised use.
- The period for compliance with the requirements is within 3 months.
The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B Ref: APP/W1525/C/20/3258361

Land to the North of Brooklands, 182 Main Road, Chelmsford, CM1 7AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Michael Holmes against an enforcement notice issued by Chelmsford City Council.
- The notice was issued on 1 August 2020.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for storage that are not for purposes incidental to the enjoyment of the dwellinghouse as such.
- The requirements of the notice are to:
 - i) Cease the use of the land for storage that are not for purposes incidental to the enjoyment of the dwellinghouse as such
 - ii) Remove from the land all items stored that are not for purposes incidental to the enjoyment of the dwellinghouse as such including, the green shipping containers, the yellow shipping containers, the black shipping containers, building materials, building equipment, feed stuffs for livestock and any other item so stored
 - iii) Demolish and otherwise scrape clear from the land the hardstanding shown outlined in red at the approximate location on the attached plan
 - iv) Remove from the land all material and debris resulting from the action taken at steps (i), (ii) and (iii)
 - v) Restore the land affected by the works carried out at steps (i), (ii), (iii) and (iv) to its former condition, by seeding with grass seed.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2), (b), (c), (d) and (f) of the Town and Country Planning Act 1990 as amended.

Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice and by the deletion of the words 'edged red' and the substitution of the words 'edged green' in paragraph 2 of the Notice. (Annex 1)

It is further directed that the enforcement notice is varied by the deletion of three months and the substitution of six months as the period for compliance.

2. Subject to the corrections and variation, the enforcement notice is upheld.

Appeal B

3. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice and by the deletion of the words 'edged red' and the substitution of the words 'edged blue and edged red' in paragraph 2 of the Notice (Annex 2).

It is further directed that the enforcement notice is varied by the deletion of section 5(iii) and substitution of:

5 (iii) Demolish and otherwise scrape clear from the land the hardstanding shown outlined in red and in blue at the approximate location on the plan annexed to this decision.

4. Subject to the corrections and variation, Appeal B is allowed, and the enforcement notice is quashed.

Preliminary Matters

The Enforcement Notice Plans

5. The appellants had provided a plan to show the overlapping nature of the two enforcement notice plans as part of their submissions on the appeals. Following a discussion between the parties the Council sought to amend the site plans for both notices to remove the overlap. This change resolved any potential uncertainty regarding the use of the land which fell within both sites. It did not change the arguments made by the main parties or the submissions made by interested parties. On that basis, as no party would be prejudiced, I shall accept this revision to the plans for both enforcement notices.
6. The Council also requested an alteration to increase the size of the site to which Enforcement Notice B relates. Following analysis of land ownership, the requested extended area was reduced in size and lies to the rear of 8 to 14 Mill Lane.
7. The Council argued that no prejudice would arise from the alteration to the plan because it would not result in a variation of the requirements of the notice, the planning issues would remain the same and not to vary would result in the Council having to serve another notice. However, the appellant considered that the amendment of the plan would be a substantial change and that the Council could have made the change earlier in the appeal process.
8. The alteration of the site plan essentially clarifies that four green containers are included within the scope of the notice. The site plan which was attached to

Notice B was not clear in this regard and it appeared to me at the site visit that the green containers were not within the original site plan area.

9. The appellant for Appeal B says that the green containers were not included in the site plan for Notice B, however he referred to the use of all of the containers, including the green containers, in his appeal submissions and his evidence. I was able to see inside all of the containers during the site visit and confirm that they were all being used for storage. The Land Registry documents also confirm that the containers are on land in the ownership of the appellant.
10. One of the interested parties who provided a statement refers to the containers immediately behind his house at 14 Mill Lane which fall into the extended plan area.
11. Drawing all of these strands together I find that no party would be prejudiced by my consideration of Appeal B on the basis of the extended plan area.
12. In terms of the site plans I shall substitute the plan annexed to these decisions for the plans attached to Notice A and Notice B such that the land outlined green on the plan shall relate to Notice A and the land outlined blue and red shall relate to Notice B. As a consequence of the substitution of the plan a variation of requirement 5(iii) of Notice B is also necessary and I shall make this change to refer to both the red and blue land.
13. The appellants for Appeal A are a company, however the owner of the company gave evidence at the Inquiry and I shall refer to him as 'the appellant'. A list of those who have appealed is set out in Appendix 1.

Appeal A - Ground (d)

14. An appeal on ground (d) is on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. This is a legal ground of appeal and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous and the standard of proof is the balance of probabilities.
15. This ground of appeal accepts that at some stage there has been a breach of planning control, but that it is immune from enforcement action, having subsisted for a ten-year period in the case of a material change of use (MCU).

Main issue

16. In the Statement of Common Ground (SOCG) the parties agree that the site has been used for the purposes alleged in the notice since at least 31 March 2011. The SOCG also states that the Council's case is that the MCU occurred sometime after 26 October 2009 and before 31 March 2011.
17. In order to achieve success on ground (d) in this case the appellant must show that the MCU of the site to an operating base for a landscape contractor's business occurred before 31 May 2009 in order to be outside the time limit provided under section 171B(3) of the Act (the relevant date). For the MCU to occur there must be a significant difference in the character of the activities on the land compared to what has gone on previously. To achieve success on

ground (d) it must also be shown that the use had continued without significant interruption for a period of 10 years to become lawful.

18. The Council accept that a landscape contractor's business has operated from the site since 31 March 2011. The Council also points to the intensification of the use of the site between 2011 and 2015 and further to 2019. This is consistent with the comments made by the two residents who attended the Inquiry and gave evidence. However, the Council is not arguing that the intensification of use amounted to development, therefore it is reasonable to assume that the use to which the notice relates was carried on between 31 March 2011 and the date when the notice was served (31 May 2019). Thus, the appellant has demonstrated just over 8 out of the 10 years necessary to achieve success on ground (d).
19. Given that the Council accepts that the use has been carried out continuously since 31 March 2011 the time period at issue between the parties can be defined as between 31 May 2009 and 31 March 2011.

Reasons

20. The appeal relates to an open area of land between Brooklands which is a dwelling and the rear gardens of houses fronting Mill Lane. There are a number of buildings around the edge of the site but none of these falls within the site nor were they referred to me as being in use by the appellants (the Landscape Company). There are also two cottages (Nos. 206 and 208 Main Road). On this basis the appeal relates to the use of open land.
21. The appellant described the way in which his business operates which in essence involves the storage of plants, machinery, and materials for use in connection with landscaping works and maintenance. On a daily basis his staff come to the site to collect company vehicles and to load them up with plants etc from the site. They then leave the site, returning at the end of the working day to pick up their own vehicles, leaving the company vehicles on site.
22. The invoices provided by the appellant from North End Nurseries demonstrate that significant numbers of plants and landscaping related items were delivered to the site at regular intervals between January 2009 and January 2012. There is very limited information regarding other deliveries to the site. However, the appellant said under oath that North End Nurseries was one of several suppliers he uses. Whilst the Council did not provide evidence to counter the claims by the appellant regarding deliveries to the business being received at the site, it did raise the point that the appellant's company was and is responsible for landscaping works and maintenance at Brooklands which lies directly adjacent to the site.
23. Brooklands is a large house, with a number of outbuildings set in extensive grounds. The occupier of Brooklands, who is the appellant for Appeal B, confirmed that he does not do any maintenance himself and his wife said that she does not do any gardening either. The responsibility for maintaining the grounds falls to the Landscape Company. There is no dispute between the parties that some of the deliveries of plants and materials, including trees, were destined to be used at Brooklands.
24. The occupier of Brooklands said that since he moved in in 1999, he has planted 1000s of trees and laid out 100s of metres of paths on the Brooklands estate.

However, both he and the appellant alleged that these plants and materials were only a small proportion of the total which have been delivered to the site.

25. There is no dispute between the parties that some of the plants and material delivered to the site have been used at Brooklands but that they were not solely for use on the estate. It follows that as more plants and materials were delivered than used at Brooklands, the operation of the business as described by the appellant is feasible. However, what is not clear is whether and how the proportion of deliveries used at Brooklands has varied over time.
26. A significant number of the invoices provided by the appellant relate to the period 31 May 2009 and 31 March 2011 and provide evidence that some form of landscape contractors business may have been carried out from the site during this time period.
27. The appellant and the Council both rely on evidence in the form of aerial photographs and photographs and notes taken by Council Officers who visited the site on 26 October 2009 and 31 March 2011 to demonstrate how the site was used between 31 May 2009 and 31 March 2011.
28. The aerial photograph for 2006 which is attached to the appellant's statement is quite a clear photograph. It shows two grey roofed buildings which were subsequently removed, and an open area bounded by some vegetation. The photographs from 2009 show portions of the site overshadowed and whilst there are objects on the ground, including on the concrete pad left following the removal of the buildings, it is not possible to clearly identify what they are.
29. In October 2009 a Council Officer attended the Brooklands estate to investigate a complaint that engineering works were underway to the rear of 2-8 Mill Lane. On the basis of the site plan as amended, the site includes land to the rear of 2 and 4 Mill Lane. It is therefore reasonable to assume that the Council Officer was at least in part looking at the site which the appellant is arguing was in use at that time as the operating base for a landscape contractor. This evidence has the potential to show that the change of use had occurred by 26 October 2009.
30. The photographs which the Council Officer took are not accompanied by an annotated plan. However, I was able to assess the approximate locations of where the photographs were taken and in which direction during my site visit.
31. The Council Officer's Recommendation for Closure Note is succinct. He reports that he was told that the land to the rear of 2-10 Mill Lane had been cleared to make way for a paddock. He says that there was no evidence of engineering works taking place. The Council Officer makes no reference to the use of the land or adjacent land for instance to the rear of other houses on Mill Lane, the concrete pad or the area surrounded by the outbuildings associated with Brooklands and Nos. 206 and 208 Main Road.
32. The Council's photographs from October 2009 show piles of wood chippings and a pile of rubbish on the site. By comparison with the aerial photograph for 2006 it can be seen that vegetation which was once present alongside a track leading to the rear gardens of Brooklands has been removed. That part of the site which is shown in the photographs has an open aspect which is not incompatible with either the future plan for the paddock or use for storage of

plants, materials and equipment in connection with the use as the base for a landscape contractor.

33. By the time the Council visited the site on 31 March 2011 it is clear that the concrete pad which was retained following the removal of the buildings was in use for storage of pallets and crates containing building materials. There was also machinery and a boat, which the appellant confirmed was used off site for the maintenance of a moat. The woodchip piles are shown in approximately the same position as in the 2009 photographs. Private cars and company vehicles were also evident in the open area bounded by the outbuildings and cottages.
34. The photographs provided by the Council show that the use of the site by the landscape contractors had taken place by 31 March 2011. However, I do not find that the photographs from the visit in October 2009 are conclusive that the change of use had taken place by that time. Thus, the site photographs do not demonstrate that the use had commenced by 31 May 2009 which is necessary for the appellant's appeal on ground (d) to succeed.
35. Turning to the witness statements, the principal evidence on the use of the site comes from the appellant and the occupier of Brooklands. Both of those witnesses gave evidence under oath and were aware of the sanctions which would arise from not telling the truth.
36. The appellant said that he has used the site since 2004 but that he understood the key period of time in relation to the appeal was between 31 May 2009 and 31 March 2011. He could only provide very limited information from former employees of his business. Whilst he did provide many invoices from one supplier and further invoices from two others, he was unable to do so in relation to all his suppliers, which I have referred to above.
37. The appellant describes the way in which the business operates which I have also set out above and refers to some activities taking place off-site. However, whilst he referred to other clients in addition to the owner of Brooklands there is no detailed evidence of where these other sites are or who the other clients were.
38. His explanation that the site was empty during the site visit by the Council in October 2009 because a delivery was expected in early November is supported by the invoices from North End Nurseries.
39. The Council Officer who carried out the site visit in 2009 was not present at the Inquiry, but his note refers to a conversation with the appellant. The photographs which were taken by the Council Officer show all of the land to the rear of the houses fronting Mill Lane. This suggests that his questions to the appellant related to the whole area. However, the appellant disputes this on the basis that he thought that the officer was only concerned with land outside the site which he was operating from and this was the land on which he said the paddock was planned.
40. The Council's note does not set out in detail what was discussed on site. However, it is reasonable to assume that an enforcement officer would look at all the land about which a complaint had been made and not just part of it. The same officer was responsible for recommending that the case be closed and he is unlikely to have done so if there was any confusion about development on the land.

41. Nevertheless, the appellant neither offered up any information about the use of his site during the visit by the Council Officer nor is there any evidence that the Council Officer enquired about any other breach of planning control. To that extent the Council's investigations in 2009 neither confirm nor rule out any use as the operating base for a landscape contractor at that time.
42. The Council noted that the appellant has not paid business rates at the site. However, it was clear from the evidence regarding the registered address of the business that the appellant had an accountant. Therefore, he had professional advice available to him regarding financial matters.
43. Neither the appellant nor the occupier of Brooklands provided any explanation of why business rates had not been paid. The appellant said that his business arrangements with the occupier of Brooklands amounted to a 'gentlemen's agreement'. Therefore, there was no reference to a lease or similar legal document setting out which party was responsible for payment of business rates.
44. The failure to pay business rates does not in itself demonstrate that the use was not taking place from 31 May 2009 or earlier as argued by the appellant. However, such payments could have provided evidence of the length of time that the business has been operating from the site.
45. The occupier of Brooklands refers to the occupation of the site by the business operator in around 2004/5 and he says that since that time the business has used the land. He also confirmed the way in which the business operated. This evidence does not contradict the evidence provided by the appellant, but it also does not add to the information provided by him.
46. The Council sought to undermine the evidence provided by the occupier of Brooklands by reference to two applications for certificates of lawful use or development which he made in 2008 and 2018. As his evidence does not add any weight to the arguments already made by the appellant, it is unnecessary for me to respond to the Council's points.

Summary and Conclusions

47. As I set out in my main issues, in order to achieve success under ground (d) the appellant must show that a MCU had occurred and that the site was in use as an operating base for a landscape contractor's business by 31 May 2009.
48. As long as the evidence provided by the appellant is precise and unambiguous, it does not need to be corroborated by the Council or any other party. The appellant can rely on the photographs taken by the Council during its visit on 31 March 2011 together with his evidence to establish that the site was in use as an operating base for his landscape contractor's business by that date.
49. In respect of the use of the site before 31 March 2011 there is a degree of ambiguity in relation to the extent to which the deliveries made to the site were subsequently used at Brooklands or taken to another place where landscaping was being carried out. Both the appellant and the occupier of Brooklands say that the value of the goods delivered exceeded what would have been spent on the maintenance of the gardens at Brooklands. However, the occupier of Brooklands also said that significant tree planting had been carried out and paths laid since his occupation.

50. On the basis of the evidence, it is not clear whether the change of use had occurred by 31 May 2009 or whether the site was predominantly in use in connection with the upkeep of Brooklands at that point in time.
51. The aerial photographs from 2009 are not of a good quality and what limited information they contain is open to interpretation. Similarly, the appellant's observations on the Council's photographs and notes from the site visit made in October 2009 do not establish clearly whether the site was being prepared for use as a paddock or was being used as a base for the landscape business. The delivery of plants shortly after the Council's visit could have been for use at Brooklands or off site; this is not clear from the evidence.
52. Neither the aerial photographs nor the Council's site visit photographs provide clear evidence that the use of the site as a base for a landscape contractor had commenced by 31 May 2009.
53. Drawing all of the strands together, on the balance of probability, I do not find the appellant's evidence to be sufficiently precise and unambiguous so as to demonstrate that the MCU of the land as an operating base for a landscape contractor had occurred by 31 May 2009 and continued thereafter without significant interruption for 10 years. For that reason, the appeal under ground (d) does not succeed.

Appeal A – Ground (f)

54. In this case the appeal under ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control.
55. The appellant considers that the second requirement of the notice, which relates to the removal of garden equipment etc. is excessive and imprecise because it does not recognise that some of those items could legitimately be retained in connection with the use of the main dwellinghouse at Brooklands.
56. The Council argues that the two requirements of the notice should be read together and when this is done it is clear what steps need to be taken. It points out that the removal of items connected with the use as an operating base for a landscape contractor's business would not preclude the retention of landscaping equipment and materials for domestic purposes. This would amount to a purpose which is unconnected with the unauthorised use.
57. The Council suggests that the concerns of the appellant could be remedied by adding the words 'save those used for the lawful purpose of the site' to the second requirement.
58. The appellant explained during the course of the Inquiry that he uses equipment provided by the individuals for whom he provides a service and the company's own equipment. On this basis he says that some of the equipment currently on the site could legitimately be used solely in connection with the maintenance of Brooklands. For that reason, the requirement to remove all equipment is excessive.
59. Section 57(4) of the Act establishes that where a Notice has been issued in respect of the development of land, planning permission is not required for the purposes for which it could lawfully have been used if that development had not been carried out. It follows that provided that the lawful use of the land is

as part of Brooklands then equipment owned and used by the occupier of Brooklands could be stored there without the need for planning permission.

60. The alteration to the second requirement is unnecessary because Section 57(4) allows for the resumption of the lawful use in any case. Furthermore, there was no clear distinction between the equipment on the site which is owned and in use by the landscape company and any which is owned by the occupier of Brooklands. It was clear from the evidence provided at the Inquiry that the storage units on the Appeal B land were being used to store garden maintenance equipment which was owned by the occupier of Brooklands.
61. The landscapers could bring their equipment onto the site for garden maintenance purposes in the future, but it would have to be removed when not in use and stored elsewhere to ensure compliance with the notice. The appellant and the occupier of Brooklands are best placed to determine which equipment is owned and used solely by the company and which, if any of that which is on the appeal site, belongs to the occupier of Brooklands. On that basis I do not find the second requirement to be excessive or imprecise.
62. For the reasons given above, I conclude that the requirement of the notice is not excessive to remedy the breach of planning control and the appeal on ground (f) should not succeed.

Appeal A - Ground (g)

63. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The appellant considers that the compliance period of three months is too short because it provides insufficient time for alternative premises to be sought, to negotiate and agree the terms of occupation and to physically relocate the business.
64. The Council referred to the passage of time since the notice was served during which period in its view the appellant could have been looking for new premises. However, the appellant has the right to assume success on appeal and this point was conceded by the Council under cross examination.
65. The appellant argues that it will take him 9 months to relocate to another site, however there is limited information before me to substantiate why this longer timescale is needed. Also, this would result in a further period during which the local residents would continue to be disturbed by the use. Nevertheless 3 months is a very short time period and if planning permission were needed for a change of use elsewhere such a limited time would be challenging. On that basis I shall vary the compliance period to 6 months.
66. For the reasons set out above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Conclusion – Appeal A

67. Appeal A succeeds in part and the enforcement notice is upheld with a correction and variations in the terms set out above in the Decision.

Appeal B – Ground (b)

68. An appeal under ground (b) is that the matters to which the notice relates have not occurred. This is a legal ground of appeal and the onus of proof lies with

the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.

69. In order to succeed on ground (b) the appellant would have to demonstrate that the site has not been in use for storage, other than that which was incidental to the enjoyment of Brooklands, at any time even before the notice was served.
70. The notice refers to the use of the land 'for storage that are not for purposes incidental to the enjoyment of the dwellinghouse as such'. The Council made it clear in its submissions and in cross-examination at the Inquiry that its concern was that the land was in use for commercial storage.
71. The site to which the appeal relates lies beyond a hedge that separates the open grassland to the rear of Brooklands from an access track which is wide enough to facilitate the moving of machinery and equipment required to maintain the extensive grounds. The arrangement of the storage units behind the hedge was argued as essential to maintain the landscape vista to the rear of Brooklands. During my site visit I was able to appreciate the role and importance of the screening effect of the hedge, which is heightened by the status of Brooklands as a Grade II listed building.
72. Access to the site from the rear of the house is facilitated by a gap in the hedge and it lies adjacent to pigsties which accommodate the appellant's pigs. This arrangement led me to conclude that it was part and parcel of the Brooklands estate and subject to the contents of the storage units being associated with the use of the house, a separate planning unit had not been created.
73. There are currently eight storage containers on the site which includes the four green containers on the extended plan area. At the time of my site visit one of the green containers was in use as storage for a car, another contained quad bikes and the other two were being used for household storage. One of the black and yellow containers, as described in the notice, was in use for storage of paperwork and a desk and another was used for the storage of pig food and garden furniture.
74. Two of the black and yellow containers were described during the site visit as being in use in connection with the maintenance of Brooklands and its grounds. The hand tools and grass mowers, stored in one of the containers, were consistent with this use. The second container was described as used as a shelter for the staff employed in the garden during inclement weather and for welfare. The land surrounding the containers did not appear to be in any commercial storage use.
75. The appellant argues that the containers have only ever been in use for purposes incidental to the use of Brooklands. The Council has not provided any evidence of what was being stored inside any of the containers to establish that the alleged breach had occurred by the date when the notice was issued.
76. The Council submitted a photograph taken over a year before the service of the notice which is annotated 'unauthorised storage'. The photograph does not show the interior of a storage unit but does show a lean-to structure beside them. It was established during the Inquiry that the wood chipper and ride on mower shown in the photograph under the lean-to were owned by the appellant and that the pedestrian mower, which is not undercover, was owned

- by the landscape contractor. The other items within the lean-to are not clearly visible on the photograph.
77. The landscape contractor confirmed in cross examination that he maintains the grounds of Brooklands using both his own equipment and that owned by the appellant. This explains the presence of his lawnmower in the Council's photograph. Consequently, the Council's photograph does not demonstrate that the appeal site was in use for commercial storage in July 2019.
78. With regard to the gardening equipment which is present in the containers this is also consistent with the use of the appellant's own equipment in addition to that brought into the garden by the landscape contractors. The container which is in use as a welfare unit is a reasonable provision for the owner to make, particularly given the scale of the Brooklands estate and that in evidence the appellant and his family said that they did not carry out any maintenance of the gardens themselves.
79. The appellant's son described how his car was stored in the container and the quad bikes belonged to his family. Pigs were present on the site, which explains the storage of animal feed, and the other items which were being stored were as described by the appellant, including surplus furniture and personal papers.
80. The Council argues that the Brooklands estate has always required upkeep and maintenance and storage for animal feed, therefore those needs do not explain the recent installation of the storage containers. Furthermore, the Council says that there is ample storage on the rest of the estate. However, neither of these points demonstrates that the containers are in use for commercial storage which was established as the key concern of the Council at the Inquiry.
81. Drawing all of these strands together, and on the balance of probability, the storage containers which are on the site have been used for purposes which are incidental to the enjoyment of Brooklands. Furthermore, there is no evidence that the open land within the appeal B site has been used other than for storage incidental to the enjoyment of that dwelling.
82. During the course of the Inquiry the parties also addressed the question of whether or not the siting of the containers on the land amounted to operational development as opposed to a material change of use. As I have found that the breach as described in the notice has not occurred, I do not need to reach any conclusion on this point as it makes no difference to the outcome of this appeal.
83. For the reasons given above, I conclude that Appeal B should succeed on ground (b). Subject to the substitution of the plan annexed to this decision, the enforcement notice will be quashed. In these circumstances, the appeals on grounds (c), (d) and (f) do not fall to be considered in respect of Appeal B.

Conclusion – Appeal B

84. Appeal B is allowed and following its correction and variation the enforcement notice is quashed in the terms set out above in the Decision.

Sarah Dyer

Inspector

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/W1525/C/19/3232527	The Landscape Company (Southeast) Limited
Appeal B	APP/W1525/C/20/3258361	Mr Michael Holmes

Annex 1



Plan

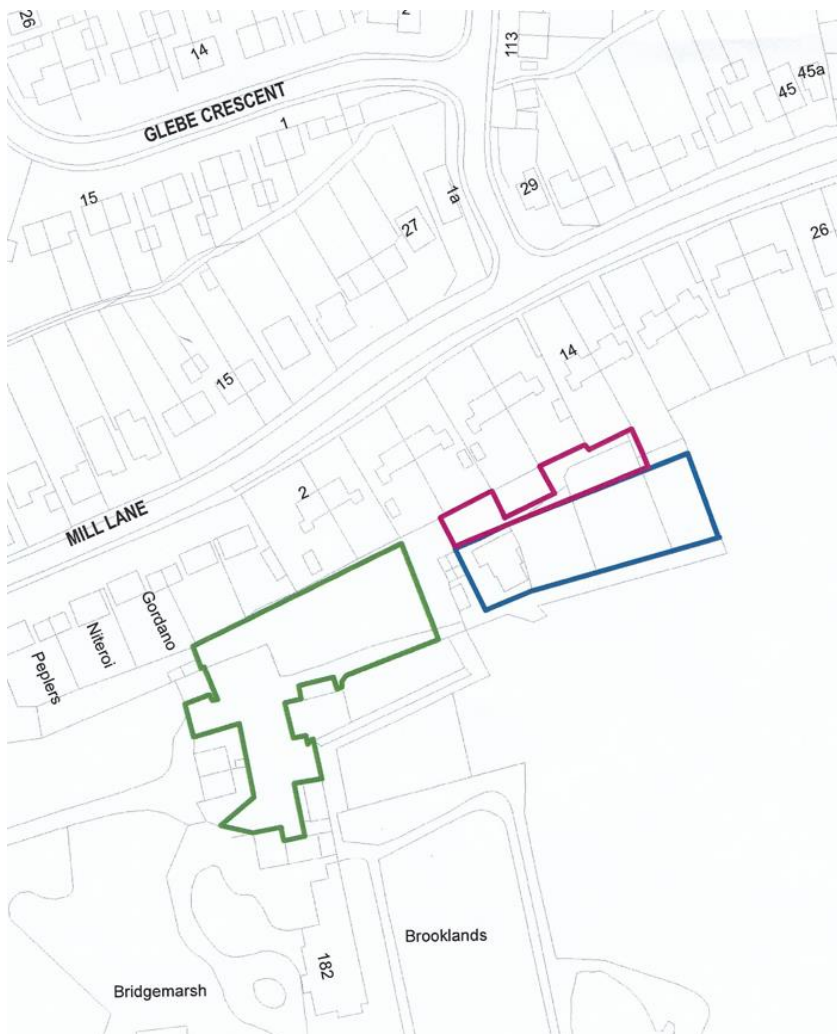
This is the plan referred to in my decision dated: 17th January 2022

by Sarah Dyer BA BTP MRTPI MCMI

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**Land at Land to the north of Brooklands, 182 Main Road, Broomfield,
Chelmsford, CM1 7AJ**

Scale: NTC



Annex 2



Plan

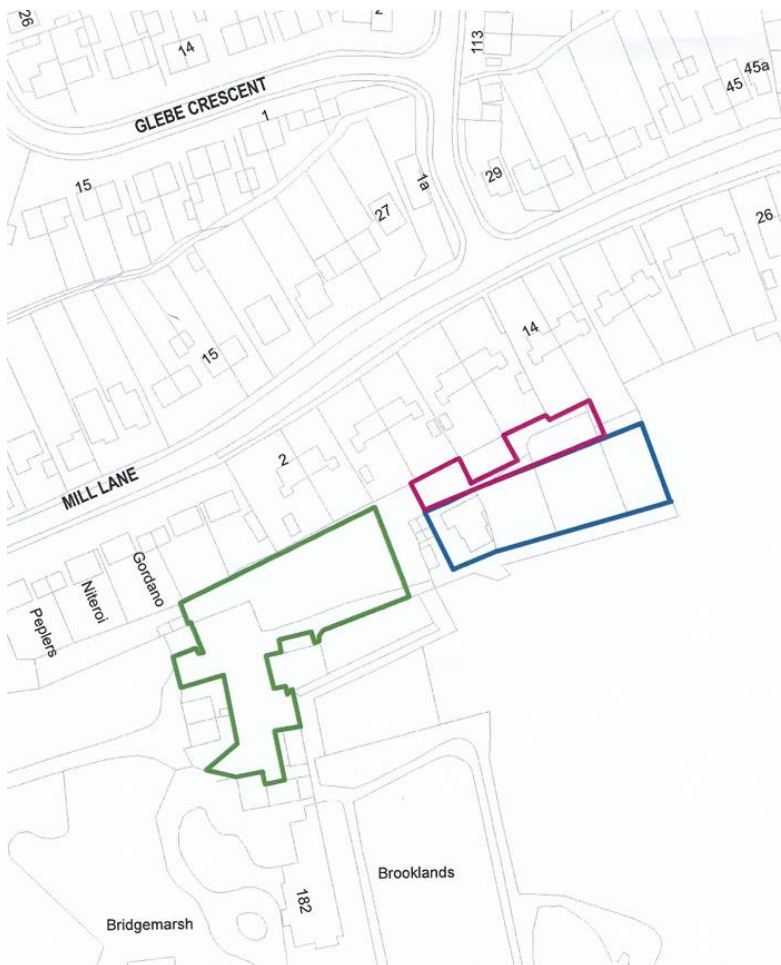
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Scale: NTC



APPEARANCES

FOR THE APPELLANTS:

Mr Steven Hopkins	Solicitor instructed by the appellants for both appeals
Mr Michael Holmes	Appellant/Witness
Mr Darren Ravitch	Appellant/Witness representing the Landscape Company
Mrs Susan Holmes	Witness
Mr Karl Clark	Witness
Mr Geoff Carr	Witness
Mr Garth Holmes	Witness

FOR THE LOCAL PLANNING AUTHORITY:

Mr Sam Fowles	Counsel instructed by Chelmsford City Council
Mr William Stanley	Chelmsford City Council
Mrs Eleanor Hurrell	Interested Party
Mr Timothy Fosh	Interested Party

DOCUMENTS

Four HM Land Registry Official copy of title plan for land rear of houses in Mill Lane.

PLANS

Revised enforcement notice plan submitted with email dated 11 October 2021.
Revised enforcement notice plan submitted to the Inquiry marked green, red and blue.

PHOTOGRAPHS

Aerial Photo 2005 added to Appendix WS8