



---

## Appeal Decision

Site visit made on 7 April 2025

**by Paul T Hocking BA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 April 2025**

---

**Appeal Ref: APP/M1710/C/23/3330443**

**Land at Keri, 21 Abbey Road, Medstead, Alton GU34 5PB**

- 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 Mr S Harding against an enforcement notice issued by East Hampshire District Council.
  - The enforcement notice was issued on 30 August 2023.
  - The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years a material change of use of land to B8 storage including the storage of water pumps and generators on the land.
  - The requirements of the notice are: 1. Cease the use of the Land for B8 storage purposes 2. Remove from the land all items including water pumps and generators and any other items stored on site in connection with the B8 use.
  - The period for compliance with the requirements is 6 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. Since the prescribed fees have 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 as amended have lapsed.
- 

### Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld.

### The Enforcement Notice

2. The appellant contends the land affected by the notice is larger than for which planning permission had previously been sought. Whilst that might be the case, in issuing the notice the Council has identified a planning unit and there is very little evidence to demonstrate on the balance of probabilities that there is physical and functional separation such that this should be reduced in size.

### The ground (d) appeal

3. For the ground (d) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice.
4. The appellant asserts that three storage containers have been in situ for at least 10 years. Whether or not this is the case, the breach of planning control targeted by the notice concerns the material change of use of land to a B8 storage use. The notice is therefore not alleging the breach in respect of the containers and so they are not applicable to a ground (d) appeal.

5. There is then very little evidence to demonstrate on the balance of probabilities that the B8 storage use enforced against has continually subsisted for a period of 10 years prior to the issue of the notice on 30 August 2023.
6. The appeal on ground (d) therefore fails.

#### **The ground (f) appeal**

7. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.
8. The appellant is concerned that the requirements of the notice would include the removal of the aforementioned containers. The notice however does not require the removal of the storage containers, and the Council has further clarified this in its Statement.
9. As no other lesser steps are before me, the appeal on ground (f) therefore fails.

#### **The ground (g) appeal**

10. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short as more time is required to find an alternative location for the storage of the generators.
11. There is however very little evidence to underpin any supposed difficulty in finding an alternative site. A period of 6 months therefore strikes the appropriate balance to not unduly perpetuate the breach of planning control.
12. The appeal on ground (g) therefore fails.

#### **Overall Conclusion**

13. For the reasons given above I conclude that the appeal should not succeed. I shall therefore uphold the enforcement notice.

#### **Formal Decision**

14. The appeal is dismissed and the enforcement notice is upheld.

*Paul T Hocking*

INSPECTOR