



Appeal Decision

Site visit made on 1 July 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/A1910/C/23/3322239

Land at Abilea Meadows, Friendless Lane, Flamstead AL3 8DE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr P Gilmore against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 19 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the siting of a shipping container.
 - The requirements of the notice are: 1. Remove the shipping container and all contents from the land in its entirety. 2. Remove any fixings from the land and all blocks the container was sited on. 3. Remove any materials arising from steps 1 and 2 from the land. 4. Restore the land to its previous condition.
 - The periods for compliance with the requirements are: 1 to 3-three months. 4-six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by in paragraph 4 deleting 'CS27' and substituting it with 'CS7' and varied by in paragraph 6 after 'steps 1 to 3 above' deleting 'three (3) months' and substituting 'six months' as the period for compliance. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. My decision takes into account the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeal.
3. The enforcement notice refers to Policy CS27 of the Dacorum Core Strategy (CS) in the reasons for issue in paragraph 4. That policy is not relevant to the matter alleged in the notice. The Council clearly intended to refer to CS Policy CS7, which concerns development in rural areas and is also referenced elsewhere in the paragraph. Therefore, I shall exercise the powers in the Act at s176(1)(a) to correct the notice to refer to the relevant policy. There would be no injustice in doing so.

Ground (c) appeal

4. The enforcement notice attacks a metal shipping container. The container is situated in an agricultural field which extends to about 2.6 hectares in area.
5. In making a ground (c) appeal, the appellant is claiming that the stationing of the container in the field does not constitute a breach of planning control. The

appellant argued that the container is not a building, being a use of land for the purposes of agriculture which does not involve development having regard to s55(2)(e) of the Act. The burden is firmly on the appellant to show why their appeal should succeed on this basis, the relevant test of the evidence being on the balance of probability.

6. The definition of a building in s336(1) of the Act includes any structure or erection and any part of a building. Established case law, including *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385, *Barvis v SSE* [1971] 22 P&CR 710 and *Skerritts of Nottingham Ltd v SSTER (No 2)* [2000] 2 PLR 102, confirms that three primary factors are determinative of a building-that it is of a size to be constructed on site, as opposed to being brought onto the site; permanence, and; physical attachment to the ground. No one factor is decisive.
7. At around 6 metres in length, 2.4 metres wide and 2.4 metres in height, the container is considerably smaller than the marquee in *Skerritts*. It is also much smaller than one of the poultry units in *R (oao Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin), as well as a number of agricultural and equestrian structures. Be that as it may, the container is of significant size. It is not dissimilar in scale to many other structures, including garden outbuildings, which are clearly buildings. Although the container was brought to the field in its complete form, specialist equipment such as a lorry with a crane or hoist would probably have been used to lower it into position. A degree of care and precision would have been needed to position the container on the concrete block supports and for any levelling up required. Therefore, in terms of the size and the operations associated with its stationing in the field, the container has the characteristics of a building.
8. Established case law referred to above confirms that permanence should be construed in terms of its significance in the planning context. There is no firm evidence that the container is moved. As far as I was made aware, the container has remained in a similar position since it was stationed in the field, around three years ago. Although the container might be on skids, there is no obvious means by which it can be pulled along the ground. The container would have to be moved around the field employing mechanical plant or equipment-the appellant suggested that a tractor could be used. In moving the container, it would also be necessary to remove the block supports and set them up in the new position. None of this suggests that the container is capable of more or less immediate, relatively easy movement.
9. Besides, along with being of significant size the container is constructed of permanent materials. The stationing of the container has made a substantial physical change to the field. As there is no limit on how long the container might remain, the physical change is largely permanent. The ability to move the container does not remove the significance of its presence in planning terms. Even if the container were to be moved around the field, this is unlikely to appreciably affect the physical change made. Accordingly, the container exhibits greater qualities of permanence compared with the more fleeting characteristics associated with the structures in *James v MHLG & Brecon CC* [1963] 15 P&CR 20, *Measor v SSETR* [1999] JPL 182 and *Chester CC v Woodward* [1962] 2 WLR 636, QB 126.
10. The container has no physical connection with the ground other than by its own weight. However, at probably around a couple of tonnes that weight alone is likely

to be substantial. Even when empty, the weight is likely to be sufficient to stabilise and affix the container to the ground, thereby providing it with qualities of attachment commensurate with those of a building. This distinguishes the container from the facts and circumstances in *Tewkesbury Borough Council v Keeley* [2004] EWHC 2594, which concerned a structure on a wheeled chassis capable of being moved freely.

11. Accordingly, as a matter of fact and degree, applying the tests set out in established case law I am not persuaded that the container is anything other than a building. That being so, the stationing of the container falls within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act.
12. Planning permission is not granted for the stationing of the container by Article 3, Schedule 2, Part 6 (agricultural and forestry development) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Nor has planning permission been granted to station the container following the submission of a planning application to the Council. At s171A(1), the Act states that carrying out development without the required planning permission constitutes a breach of planning control.
13. As the appellant has been unable to show that the stationing of the container does not constitute a breach of planning control, the ground (c) appeal fails.

Ground (a) appeal

Main Issue

14. The main issue in this ground of appeal is whether the container conserves the landscape and scenic beauty of the Chilterns National Landscape (NL).

Reasons

Landscape and scenic beauty of the NL

15. The container is situated towards the edge of the field, alongside a substantial maturing hedge which borders a narrow country lane. The field is located on a plateau in open countryside which generally consists of a network of agricultural fields bounded by maturing hedgerows, with occasional tracts of maturing woodland. Scattered development and rural settlements also form part of the wider landscape setting. These factors all contribute to the highly rural character and appearance of the surrounding countryside, which evokes the scenic qualities of the wider landscape within the NL. Legislation and national policy require that great weight be given to conserving and enhancing landscape and scenic beauty in the NL.
16. The angular lines, box-like profile and solid metallic surface finishes all bestow the container with an obviously manufactured, utilitarian appearance. This does not sit comfortably with the softer, more naturalistic shapes and largely organic qualities of the mostly undeveloped rural surroundings. The tall, maturing, more or less continuous boundary hedging means that views of the container are limited to glimpses along the lane. Even so, the container is likely to be more open to view from the lane when foliage is absent, i.e., during the winter and early spring months. In any event, the container is clearly visible throughout the year from the public footpath running along the far side of the field. The relatively modest scale

and dark green colour finish provide limited assistance in terms of visually integrating the container within its landscape surroundings. Consequently, although there is no effect on the rural field pattern the container is perceived as an obvious, isolated and alien feature in its otherwise largely open and undeveloped landscape setting and it contributes to a more 'industrialised' feel in the vicinity.

17. The above does not compare favourably with the limited incidences of built development in the immediate and wider surrounding countryside, which in general are successfully assimilated with their rural context on account of factors including their design and external materials. Nor does the container pay sufficient regard to the Chilterns Building Design Guide (DG), which advises that agricultural and other rural employment buildings should, amongst other things, be well sited and in sympathy with their surroundings, be linked to the wider landscape and use traditional materials. Cladding the external walls in timber would not ameliorate the adverse visual impact of the container to any significant extent.
18. Accordingly, the container fails to conserve the landscape and scenic beauty of the NL. This is in conflict with criterion in CS Policy CS7, which requires small-scale agricultural development to have no significant impact on the character and appearance of the countryside. There is also conflict with CS Policy CS24, which requires development to conserve the special qualities of the NL and to support the principles set out in the DG. There is no conflict with CS Policy CS11, which concerns the quality of design in settlements and neighbourhoods. For a similar reason, there is also no conflict with CS Policy CS12. However, by not conserving the landscape and scenic beauty of the NL, which is afforded the highest status of protection in relation to these issues, as well as by not achieving a well-designed place, the container is inconsistent with the Framework.

Other Matters

19. I am given to understand that the appellant has established an agricultural small holding at the field, centred around a flock of sheep. CS Policy CS7 provides qualified encouragement for small-scale development which supports the rural economy and maintenance of the wider countryside. A similar approach is set out in Policy 109 of the Dacorum Borough Local Plan. These policies reflect the Framework, which supports the sustainable growth and expansion of businesses in rural areas, including the development of agricultural and other land-based rural businesses.
20. The container houses equipment, tools and other items used on the small holding. In the absence of another secure storage facility in the vicinity, it is clearly more convenient and efficient for the running of the small holding to be able to securely store valuable items in the container rather than having to regularly transport them to and from the field. In that respect and in the context of Development Plan and national policy set out above, it is not unreasonable to provide some form of secure storage for the small holding. Therefore, this matter attracts moderate weight although ultimately, for the reasons already given, it does not affect the outcome of this ground of appeal.

Conclusion-Ground (a) appeal

21. The container fails to conserve the landscape and scenic beauty of the NL, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be taken other than in accordance

with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Ground (g) appeal

22. The ground of appeal is that the time allowed for complying with the notice requirements falls short of what is reasonable.
23. It would be a straightforward enough task to remove the container and its contents along with the supports from the field. This would not take long, perhaps even a matter of hours, to complete. Nevertheless, there is a significant risk of disruption to the operation of the appellant's small holding unless the remedial works are undertaken at a suitable time. It is likely that the appellant would have to plan a relatively long way ahead and reorganise activity at the holding based on the absence of a secure storage facility. Also, it is unlikely that the appellant could reasonably expect to submit a planning application for a new storage building, have that application determined and if relevant erect the permitted structure, within three months.
24. Allowing a period of six months for the works to be undertaken on the other hand would substantially reduce any risk of the problems identified above occurring. There would be more time available to plan and reorganise the activities at the small holding taking account of seasonal factors, as well as to seek permission for any replacement structure. Accordingly, as so lengthened the compliance period would strike a more appropriate balance between remedying the breach as soon as practicable whilst not imposing a disproportionate burden on the appellant.
25. Therefore, I conclude that the time allowed for complying with the notice requirements falls short of what is reasonable. A more reasonable period would be six months and I shall exercise the power in s176(1)(b) of the Act to vary the notice accordingly prior to upholding it. No injustice would be caused to the Council in doing so. The ground (g) appeal succeeds to that extent.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Stephen Hawkins

INSPECTOR