



Appeal Decisions

Site visit made on 14 July 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 14 August 2025

Nutley Dean Farm, Small Hills Road, Horley, Surrey RH6 0HR

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
 - The appeals are made by Mr Gary Drake against enforcement notices issued by Reigate and Banstead Borough Council.
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Appeal A Ref: APP/L3625/C/23/3325005

- The notice was issued on 7 June 2023.
- The breach of planning control as alleged in the notice is bringing onto the land five storage containers that amount to structures rather than chattels so constitute operational development.
- The requirements of the notice are to:
 - 5(1) Permanently remove the storage containers from the land shown in blue on the attached plan.
 - 5(2) Do not relocate them within the red line shown on the site plan.
 - 5(3) Remove all associated materials and debris from the land outlined in red.
- The period for compliance with the requirements is: 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Act.

Summary Decision: The appeal is dismissed; the enforcement notice is corrected and varied then upheld.

Appeal B Ref: APP/L3625/C/23/3325006

- The notice was issued on 7 June 2023.
- The breach of planning control as alleged in the notice is change of use of the land for agriculture to a mixed use for agriculture and for the stationing of mobile homes for residential purposes.
- The requirements of the notice are to:
 - 5(1) Cease using the land for the stationing of mobile homes for residential purposes.
 - 5(2) Remove permanently from the land shown in blue hatch on the attached plan, all static caravans/mobile homes and tourers and do not relocate them within the red line on the plan.
- The period for compliance with the requirements is: 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Act.

Summary Decision: The appeal is dismissed; the enforcement notice is corrected and varied then upheld.

Enforcement Notices

1. In Appeal A, though raised in ground (f), the appellant claims no plan was attached to the notice. The appeal questionnaire included a copy of both notices and a single notice plan. The Council explained that this plan accompanied both notices. Additionally, that it shows the same land referred to by a blue 'hatch' and a red line relevant to the breach of planning control and the requirements of each notice, which it does. Considering also that the notices were issued on the same date, served together and one was referenced with a suffix 'A' (E.01.936A in Appeal B) as a companion to the other (E.01.936 in Appeal A), it is not unsurprising that sequentially this plan followed the E.01.936A notice in the document bundle, whether printed or digital. The status of this plan relative to each notice is plainly comprehensible and there is little of practical consequence to suggest that the

Council's method rendered one or both notices defective, as the appellant contends, or prevented appeals being made.

2. In Appeals A and B, also raised in each ground (f), the appellant claims the requirements of both notices are defective because there is no land shown by a blue hatch on the notice plan. Indeed, this plan shows a blue 'stipple'. However, there is no dispute that the development pursued by both notices is on land within the blue stipple or that it is one in the same as what the Council described as the blue hatch. I shall therefore correct the requirements of each notice accordingly, including to also clarify that 'the land' and 'the plan' means as shown in the plan attached to the notices. It is not, though, necessary for the plan to plot the precise position of the five storage containers or the mobile homes – it is sufficient, as I saw, that they are on land within the blue stipple.
3. In Appeal A, I will then correct requirement 5(1) of the notice to match the alleged breach, so specifically refer to 'five' storage containers. I shall also correct requirement 5(2) to refer to the 'attached plan' because there is no notice plan marked as a 'site' plan. I shall also correct requirement 5(3) to refer to land marked with a blue stipple to clarify that this requirement does not relate to 'materials and debris' I saw elsewhere on land within the red line on the notice plan.
4. I am satisfied this will cause no injustice to any party.

Appeal A on ground (b)

5. For ground (b) to succeed, the onus and burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities, that the alleged breach of planning control has not occurred as a matter of fact.
6. As identified during my site visit, the five 'storage containers' are four green shipping containers and a grey portacabin next to them. The appellant contends they are all moveable and temporary, so not buildings or operational development but a material change of use of land. For planning purposes it is generally accepted that the setting up of such structures on land is a building operation and relevant caselaw has established three primary factors – size, permanence and physical attachment¹.
7. There is little to suggest that as originally built the shipping containers and the portacabin were individually constructed on the site, albeit this is not a determining factor. According to the appellant, they were placed on the site in 2019 or 2020 which is not disputed by the Council. However, with regard to size, the shipping containers and the portacabin are typical in form and scale of such structures.
8. With respect to permanence, while these two dates are ambiguous (with no sworn statutory declaration or affidavit to provide clarity), there is little evidence that any of these structures have been moved since. They have been (and still are) used in conjunction with residential occupation of a mobile home on the site. This includes as additional living space or to store domestic or personal possessions and they are embellished with security cameras, floodlights, a satellite dish and outside tap. They form a means of enclosure next to the mobile home on one side, by a fenced outdoor amenity area and a parking space.

¹ *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385 and *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102

9. In terms of physical attachment, three shipping containers are butted up to each other in a line and rest mainly on two narrow steel runners placed over a hardcore surface. The other one is stacked above. They are interconnected by an electricity cable strung between and through them, including for internal lighting. The portacabin is elevated above the hardcore surface, supported and partly enclosed by a scaffold framework resting on steel plates placed on the hardcore. A raised walkway around two sides includes a means of passage between the portacabin and the mobile home. It is connected to electricity and freshwater supply, with a waste water pipe underneath running to a cesspit also serving the mobile home.
10. Consequently, notwithstanding the conventional size and fabrication of the shipping containers and portacabin or that ordinarily these sorts of structures are capable of being moved, in this case and for my assessment they have been in situ for a significant period of time, even before the enforcement notice was issued in 2023. While they are not directly physically attached to the ground, such as by a fixed foundation, their significant spatial presence has demonstrably displaced or altered visual or physical properties of the land. There is little to refute that they were intended to be in one place from the outset as part and parcel of residential occupation of the mobile home, despite the claimed temporary need. This longevity has become indeterminate and no longer indicative of a short term requirement or fleeting intent.
11. These circumstances render the shipping containers and the portacabin a significant degree of permanence with appreciable physical attachment, including that some or all of the scaffolding would likely have to be dismantled in order to move the portacabin.
12. For these reasons, as a matter of fact and degree, there is little to counter that the shipping containers and the portacabin amount to buildings and are operational development. The appellant has not, therefore, demonstrated on the balance of probabilities, that the alleged breach of planning control had not occurred as a matter of fact. Accordingly, Appeal A on ground (b) fails.

Appeals A and B on ground (f)

13. It is clear from the reasons for issuing the notices and their respective requirements that the purpose of each notice is to remedy the breach of planning control alleged. The Council does not seek to underenforce. For either ground (f) to succeed, the appellant must therefore demonstrate that the steps required by the notices to be taken exceed what is necessary to remedy the breaches of planning control.
14. I have already addressed alleged defects in both notices with regard to the status of the notice plan and the descriptive interplay between the requirements of each notice and the notice plan. I have also reconciled the type of development in Appeal A. The appellant has submitted little else in respect of either ground (f), including no suggested lesser steps.
15. In these circumstances, I am satisfied that the requirements of both notices are consistent with remedying each breach of planning control and as such they are not excessive. Accordingly, Appeals A and B on ground (f) fail.

Appeals A and B on ground (g)

16. For either ground (g) to succeed, the appellant must demonstrate that the 3 month period specified in the notices to take the steps required by each notice falls short of what should be reasonably allowed.
17. I saw that one of the mobile homes on the site was unoccupied and being refurbished for residential use. There is no apparent reason why it, or a small touring caravan also present, could not be relatively easily or promptly removed from the site.
18. The appellant's son and his family occupy the other mobile home and use the shipping containers and portacabin. I appreciate that this was to have been a temporary arrangement but there is little evidence of attempts made to look for permanent living accommodation or storage facilities elsewhere. Nor about whether this would be unusually difficult or require an inordinate amount of time. There is also little to suggest that the appellant's son and his family would be made homeless, as the appellant otherwise claims. Consequently, the appellant has not justified the 12 month period sought in both appeals.
19. I am, though, concerned that 3 months is not much time to achieve all of the requirements of both notices, including practical and personal considerations. While extending the period in both notices would perpetuate harm to the countryside and the Green Belt, this would not be permanent. I also note that the Council has, without prejudice, suggested a period of 6 months in its appeal statement.
20. I consider that a period of 6 months for compliance with the requirements of each notice would be reasonable and proportionate, so I intend to vary both notices to this effect. As such, the 3 month period given by each notice falls short of what is reasonable. Accordingly, Appeals A and B on ground (g) succeed.

Overall conclusions

21. Taking account of all the above, I will therefore uphold both enforcement notices subject to correction and variation.

Formal Decisions

22. In Appeal A, it is directed that the enforcement notice is corrected and varied as follows:
 - Requirement 5(1) – insert the word '*five*' between '*Permanently remove the*' and '*storage containers...*'.
 - Requirement 5(1) – delete the word '*hatch*' and replace with '*stipple*'.
 - Requirement 5(2) – delete the word '*site*' and replace with '*attached*'.
 - Requirement 5(3) – delete '*outlined in red*' and replace with '*shown in blue stipple on the attached plan*'.
 - Section 6 – delete '*3 calendar months*' and replace with '*6 calendar months*'.
23. In Appeal B, it is directed that the enforcement notice is corrected and varied as follows:

- Requirement 5(1) – insert ‘*shown in blue stipple on the attached plan*’ between ‘*Cease using the land*’ and ‘*for the stationing of...*’.
- Requirement 5(2) – delete the word ‘*hatch*’ and replace with ‘*stipple*’.
- Requirement 5(2) – insert ‘*attached*’ between ‘*...the red line on the*’ and ‘*plan.*’
- Section 6 – delete ‘*3 calendar months*’ and replace with ‘*6 calendar months*’.

24. Subject to these corrections and variations both appeals are dismissed and the enforcement notices are upheld.

Robin Buchanan
INSPECTOR