



Appeal Decision

Site visit made on 6 September 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 29th September 2025

Appeal Ref: APP/P1560/C/22/3307026

**Land and buildings on the eastern side of Coggeshall Road (known as Goodhall Farm),
Ardleigh CO7 7LR**

- 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 “1990 Act”).
- The appeal is made by Mrs Sally Halsall on behalf of E Halsall & Sons against an enforcement notice issued by the Tendring District Council.
- The enforcement notice was issued on 18 August 2022.
- The breach of planning control as alleged is the material change of use from agriculture to B8 storage use.
- The requirements of the enforcement notice are to: 1) Cease using the land for the purposes of (B8) storage 2) Remove all associated signs, road cones, barriers, equipment, skips, reels, crates, highways equipment and machinery, and miscellaneous tools and items associated with the unauthorised use for Class B8 (storage) 3) Remove the caravan marked in the approximate position (coloured black on the plan) and all associated gas bottles and lighting to support it 4) Break up and remove all hardcore and hardstanding in the area contained within the blue line, and 5) remove all materials and debris resulting from steps 1) to 4).
- The period for compliance with the requirements 1), 2) and 3) is two months and step 4) and 5) 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (d), (f) and (g) of the 1990 Act. 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: the appeal succeeds in part, and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Ground (d)

1. The onus of proof is upon the appellant. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous.
2. The appellant does not challenge the issued notice on the grounds that the alleged change in use of the land is immune from enforcement action. Indeed, there is no precise or unambiguous evidence to support such a contention. Be that as it may, the appellant's claim is that since they acquired the land in 1999 or thereabouts, the hardstanding has always existed in its current location. If sufficiently precise and unambiguous evidence is submitted to support that claim, the current case law¹ suggests that it probably did not support a material change in the use of the land and enforcement action cannot then be taken against it, because it is immune. However, the clue is in the words “precise” and “unambiguous”.

¹ *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467.

3. None of the sworn statements or documentary evidence before me clearly demonstrates that the hardstanding has existed for at least 22 years. The land registry document does not support that claim either. The assertion is that the hardstanding has not been altered nor extended, it used to be covered in vegetation and a firm carried out minor repairs to the surfaced area before it was used to store plant, machinery and other equipment over it. However, there is nothing to show the hardstanding's location or condition before these repairs were carried out. Usually, documentary evidence in the form of aerial imagery is submitted in support of these kinds of claims. Although a snapshot in time, this information provides reasonable evidential basis. In the absence of this type of evidence, it is difficult to verify the appellant's claims: I cannot go searching for this kind of evidence online.
4. The Council was too busy and engaged in other matters and missed the statement submission deadlines. Nonetheless, the onus is upon the appellant to make their case out in this legal ground of appeal. The evidence before me does not show, on the balance of probabilities, that the hardstanding targeted by the notice is immune from enforcement action due to the passage of time.
5. Pulling all the above threads together, I find that the evidence presented does not clearly show that at the date when the enforcement notice was issued, it was too late to take enforcement action against the alleged development. Ground (d) must fail.

Ground (f)

6. As I have indicated above, the notice attacks the material change in the use of the land. Where the latter has been facilitated by operational development or engineering operations, it is better to specify that in the alleged breach of planning controls, but it is not essential. The reasons for issuing the notice normally set out the time limits applicable to development, but the issued notice does not do that, but this does not mean the notice is flawed. Clearly, the appellant understood the alleged development is subject to the 10-year immunity period but sought to show that the hardstanding existed more than 4 years. I have come to a different conclusion for the reasons given in ground (d) above.
7. That said, step 4) requires the recipient to break up and remove all hardcore and hardstanding in the area contained within the blue line. There is some force behind the submission that the hardstanding can be used in connection with the land's lawful and existing use given its limited size and extent. There is no evidence before me to indicate the agricultural use has ceased.
8. In my assessment, given the reasons for issuing the notice, the change in use of the land is unacceptable in principle given the planning harm caused. The latter is remedied by ceasing the storage use of the land and removal of all associated signs, road cones, barriers, equipment, skips, reels, crates, highways equipment and machinery. The removal of the caravan would also achieve the purpose of the steps, which seek to remedy the breach. Step 4), as described in the issued notice, is excessive and disproportionate. Ground (f) succeeds as I will vary the requirements.

Ground (g)

9. The appellant says that the period of compliance with steps 1) to 3) is too short: a reasonable period being 6 months. However, the steps required by the varied notice are not too onerous given they simply require cessation of the unauthorised use and removal of associated items.

10. There is nothing before me to indicate alternative accommodation cannot be found. In any event, it seems things have moved on the ground since the appeal. Given the reasons for issuing the notice, the breach of planning control should not be allowed to continue more than necessary. I do not consider the period of compliance is too short. Ground (g) fails.

Overall conclusions

11. For all the above reasons, and having considered all other matters, the appeal on ground (d) and (g) fail. Ground (f) succeeds in part because the requirement to remove the hardstanding exceeds what is necessary to remedy the breach. I shall vary the steps required to the issued notice.

Formal Decision

12. It is directed that the enforcement notice be varied in section 5, what you are required to do, by the deletion of the following text: "4) Break up and remove all hardcore and hardstanding in the area contained within the blue line". Subject to this variation, the enforcement notice is upheld.

A U Ghafoor

INSPECTOR