
Appeal Decision

Site visit made on 28 August 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 06 October 2025

Appeal Ref: APP/F0114/C/23/3331993

Land between convergence of Durley Park and Durley Lane, Durley Hill, Keynsham, Somerset, BS31 2AQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Durley Agricultural Services against an enforcement notice issued by Bath and North East Somerset Council.
 - The notice was issued on 28 September 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of agricultural land to a mixed use for storage (including vehicle storage), and the breaking, repair and sale of vehicles and vehicle parts.
 - The requirements of the notice are to:
 - (1) Cease the use of the land for storage (including vehicle storage) and the breaking, repair and sale of vehicles and vehicle parts;
 - (2) Remove the storage buildings in the location labelled A on the attached plan;
 - (3) Remove all vehicles and other stored items from the land; and
 - (4) Restore the land to its condition before the breach took place.
 - The period for compliance with the requirements is within 28 days of the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words "28 days" in respect of the time period for compliance at section 6 and the substitution of the words "three months".
2. Subject to that variation, the appeal is dismissed and the enforcement notice is upheld.

Procedural Matter

3. The alleged breach of control, as described in the Enforcement Notice (EN), is set out in the banner heading above. The second requirement of the EN is to remove the storage buildings in the location labelled A on the attached plan. There are essentially three main storage buildings in the location indicated on the EN, a larger building which commenced construction in 2019 and two smaller structures situated to the side, one of which was locked at the time of my visit such that I could not view inside.
4. In his statement the appellant contends that the EN only requires the removal of the larger building. It is not clear where that assertion arises from because the EN clearly refers to buildings in the plural. The Council confirmed its view on the site that the EN refers to all three structures and I have considered the appeal on that basis.

5. A touring caravan was also present on site at the time of my visit. That does not appear to be mentioned in any of the respective statements and it may be that it was brought onto the land after the EN was served. It did not appear to be in use for residential purposes, being in fairly poor condition and not connected to any services or gas.

The Appeal on Ground (b)

6. An appeal on ground (b) is made on the basis that the matters alleged in the EN have not occurred as a matter of fact. The onus rests with an appellant to demonstrate their case and the relevant test is the balance of probability.

7. There is no disagreement that the lawful use of the land prior to the EN being served was agricultural. The appellant maintains that there has been no material change from that use. In particular, he contends that the vehicles stored on the land are registered with the DVLA as “limited use” agricultural vehicles and use in connection with his agricultural business which, it is said, includes the appeal site and two other parcels of land. He contends that there is no secure parking at the other two parcels of land such that the vehicles are stored at the appeal site. He also contends that a large number of vehicles are needed so as not to exceed the permitted mileage on any given “limited use” vehicle and that the land is cut for hay and used for the storage of feed.

8. The evidence to support those contentions is sketchy and inconsistent. Aside from an undated photograph purportedly showing the appellant ploughing the land at the appeal site, there is no evidence to show that it has been used to produce hay or that it was being put to productive agricultural use at the time the notice was served. There are no receipts or business accounts relating to any agricultural activity, either for items purchased or sold. In contemporaneous photographs provided by the Council vehicles are sited at various locations across the field, other items are strewn around and the grass appears trampled down. Photographs provided by interested parties depict a similar picture, with vehicles not solely being parked on the driveway at the top end of the paddock but elsewhere in the appeal site.

9. The hay stored in the building depicted on one of the appellant’s images is packed in branded packaging indicating that it has been purchased off site and the single image of a Range Rover pulling a trailer stacked with hay provides no indication that the hay in question was produced at the appeal site. A photograph supposedly depicting unwrapped hay bales in the building on site, dating from 2019 again provides no indication of the source of that hay. Overall, judging by the condition of the land, with various items scattered across it and cars parked on the grass suggest that it was not in productive agricultural use at the time the notice was served.

10. In terms of vehicles, the appellant’s initial appeal statement referred to a number of vehicles kept on the site, with registration documents provided at Appendix 2. Those were a Land Rover Discovery, a Santana “Light 4x4” utility vehicle, a Vauxhall Movano van, a Suzuki Samurai Sport estate and a Ford Transit van. The fact that those vehicles may have been registered as limited use agricultural vehicles is not evidence that they were necessarily used for that purpose.

11. The extract of guidance from the National Farmer’s Union identifies that any vehicle can be registered for limited agricultural use, from a moped upwards, providing they are used for agriculture, horticulture or forestry; are only used on roads between

different areas of land occupied by the same person and that road travel does not exceed 1.5km for each trip.

12. In line with that guidance, there is nothing to stop someone from applying to class any vehicle, regardless of its suitability for agricultural use. The fact that the appellant has done so does not necessarily indicate that he has actually used the vehicles for that purpose. Aside from the Discovery, which is shown in a single photograph towing a flat backed trailer with a load of hay, there is little corroboratory evidence to show that the other vehicles were used in connection with agriculture.

13. None of the registered vehicles referred to are what one would consider to be typical agricultural vehicles. If a car is used purely to transport the appellant from one site to another that does not make it an agricultural vehicle to my mind, being no different from a vehicle that a farm worker living away from a farm may use to commute to their place of work. Reference is made to transporting hay, feed and implements but apart from a small amount of hay, there is no evidence of the appeal site being used as a farm store and the photographic evidence does not depict feed or farm equipment on site, certainly not in any notable quantity.

14. Moreover, there is inconsistency in the appellant's evidence in terms of the number and nature of vehicles stored at the site. In his initial statement, he referred to five vehicles, stating that they were largely 4x4s which enable them to be driven on fields and also on the road network. However, when responding to a Planning Contravention Notice in 2023, the appellant provided details of 11 vehicles, only two of which were the same as those referred to in his statement of appeal. The photographic evidence presented by the Council and interested parties depicts further vehicles and registration plates that are not referred to in either response.

15. Many of those vehicles are not 4x4s and are standard cars, even an old campervan, which does not fit with the rationale given by the appellant for keeping vehicles at the site. As well as standard domestic cars there are a number of flat backed vans and what appear to be vehicle recovery wagons on site in the photographs provided. The craned vehicle referred to by the appellant as being used to deliver animal feed is of a type more typically associated with car recovery, complete with flashing lights atop the driver's cabin.

16. It is not clear why the appellant only referred to five vehicles in his appeal statement when the overwhelming evidence is that substantially greater numbers were parked and/or stored at the site. At the final comments stage, when faced with that evidence, the appellant sought to suggest that the images were only a snapshot in time and that not all of the vehicles shown belonged to the appellant but some were of family and friends who were visiting the site.

17. The onus rests with the appellant to demonstrate his case and the initial statement of case should fully set out the evidence upon which he seeks to rely. The initial evidence presented did not paint an accurate picture of the number or type of vehicles present on site. If the site is in use as an agricultural store there is no obvious reason why friends and family would need to visit on a regular basis and the assertion that vehicles shown are simply visitors is not made out. In any event, although the precise vehicles change, the picture of a site with numerous vehicles stored, including domestic style cars, 4x4s, vans and recovery style vehicles remained largely consistent on photographs taken over a number of years by residents and the Council.

18. Overall, the number and type of vehicles on display raise serious doubts over the appellant's contention that they are required for an agricultural function. The vast majority would not appear to be suited to such use. Visually, the images present the picture of a vehicle storage/ scrap yard, on account of the sheer number of vehicles and the varying states of repair. In fact, the contention that the vehicles on site are used in connection with agriculture is so implausible that it casts doubt on the accuracy of the appellant's evidence as a whole in my view.

19. A number of the vehicles shown in images are in a state of disrepair, with body parts, engine parts and wheels shown on the ground. There is evidence of vehicles being repaired at the site, including the image presented at figure 4 of the Council's statement. It is notable that the vehicle is painted with the words "Transport and Recovery" which may give an indication of the normal use of the flat backed van. The bonnet has been removed, the wheels taken off and the vehicle mounted on blocks. It does not appear to be a minor repair.

20. It is not the only evidence, with other images provided by neighbouring residents showing cars and vans with bonnets up indicating work on the engine was taking place, spray cans next to a vehicle and a vehicle seemingly being brought to site or taken from site on the back of a large recovery truck. Put simply, the appearance of the site and the activity shown is indicative of a vehicle recovery and repair use. There isn't a vague hint of anything one would describe as agricultural.

21. The appellant acknowledges within his statutory declaration that he carries out "basic maintenance" on vehicles, with any "larger work" being carried out at local garages. What he means by that term is unclear; basic maintenance and large repairs could mean different things to different people. Neighbouring residents have referred to noise and fumes associated with metal cutting, drilling, grinding and soldering. One resident also pointed out that the appellant's son, who jointly owns the parcel of land is a mechanic who used to service their car, a statement which contradicts the appellant's statement that neither he or his son are mechanics. Overall, the appellant's evidence as to why such a large number of vehicles, often in unroadworthy condition are present at the site is less than compelling in the face of clear evidence of repairs being carried out.

22. In terms of car sales, direct evidence in terms of cars being advertised for sale is limited. Neighbouring residents refer to adverts on Facebook but I have not been provided with details of those, other than a couple relating to sit on mowers. However, a number of photographs depict cars at the site, or on the road immediately outside, with trade plates in the windows. The appellant maintains that none of the cars photographed outside the site have any connection with him or the use of the land. He does acknowledge that he uses trade plates in conjunction with agricultural vehicles, suggesting that allows him to move vehicles in an untaxed state which he then registers for limited agricultural use.

23. However, the Council have produced DVLA eligibility criteria for the use of trade plates which states that you can apply if you are a motor trader, dealer or vehicle tester and your business either sells vehicles, manufactures or repairs them or tests other people's vehicles on public roads. If the appellant simply uses the trade plate(s) for personal use related to agricultural vehicles that would not seemingly fit the eligibility criteria, raising significant doubt over the information provided. In light of the other evidence presented it seems more likely that the trade plates have been obtained in connection with the repair and/or sale of vehicles.

24. Moreover, given the complete absence of any other vehicle related use in the immediate area it seems unusual why vehicles with the same trade plate would repeatedly be parked on the road directly outside the appeal site if they had no connection at all with the goings on at the land in question. The appellant hasn't produced evidence of the trade plate number or numbers that he uses such that it is not possible to verify whether it is the same as that shown in the photographs.

25. None of the vehicles in question had an obvious agricultural nature, including a Suzuki Swift, a Vauxhall Astra, a Mercedes, a small Fiat and a Toyota Corolla. The appellant makes the point that photographs taken by residents only show cars for a fleeting point in time. That may be the case but does not help the appellant's case because it demonstrates the constant turnover of vehicles associated with the site which is itself indicative that the selling of vehicles takes place.

26. I accept that the site does not have the appearance of a car showroom where most people may purchase a vehicle. However, it has the appearance of a vehicle recovery yard and it is not uncommon for cars to be purchased from such surroundings following repair. The onus is on the appellant to make his case and, for the reasons set out, his case is unconvincing and I find that some vehicle sales were taking place from the site on the balance of probability.

27. In view of the above, the site was not being used for agricultural purposes at the time the enforcement notice was served. The suggestion that so many different cars and vehicles are parked and stored on the land in connection with trips to parcels of agricultural land elsewhere is, frankly, implausible. On the balance of probability, the combination of uses identified in the enforcement notice were taking place at the site at the time the EN was served. That amounted to a material change of use (MCU) to a mixed use for storage (including vehicle storage) and the breaking, repair and sale of vehicles and vehicle parts. It follows that the appeal on ground (b) must fail.

The Appeal on Ground (d)

28. The appeal on ground (d) relates solely to the requirement to remove the storage buildings labelled "A" on the plan attached to the notice. The description of the breach itself does not refer to operational development but caselaw has established that an enforcement notice directed at a MCU can require the removal of associated operational development which was integral to and solely for the purpose of facilitating that change of use¹. In such situations, even if the operational development had been completed more than four years previously, an enforcement notice aimed at a MCU could legitimately require its removal.

29. However, that principle does not apply to buildings that had lawfully been erected for another lawful purpose and could be used in association with that lawful purpose if the unauthorised MCU were to cease.

30. In this case, the appellant contends that the larger building was not erected as an integral part of the alleged MCU but was erected for lawful agricultural purposes and completed by August 2019, more than 4 years prior to the service of the EN. If the building was in lawful use for another purpose prior to the service of the EN, the requirement to demolish it would be excessive. That is more an argument in respect of ground (f). However, in order to ascertain whether the structure is immune from enforcement action in respect of ground (d) it is necessary to examine its function and

¹ Murfitt v SSE & East Cambridgeshire DC [1980] JPL 598

whether it was constructed for purposes integral to the MCU alleged in the notice. If that is the case, it would not be immune from enforcement action under the 4 year rule.

31. Construction commenced after a previous structure was damaged by a falling tree in 2019. It is clear that the building amounted to more than just a repair of the previous structure. The damaged structure was an open fronted building, enclosed on two sides, with a corrugated roof. The new building is fully enclosed, constructed from a metal frame on top of blockwork walling. It appears to be significantly larger and of more robust construction in terms of its frame.

32. There is no record of any planning permission having been granted for its construction and no suggestion that it would have qualified for permitted development rights for any agricultural purpose given the limited size of the plot. For the reasons given above, there is little evidence that the recently erected building was ever put to a genuine agricultural purpose. A single photograph depicting hay being stored in 2019 is of limited evidential value of the day to day use of the building.

33. In his statutory declaration, the appellant contends that the building was used to store hay, straw and foodstuffs, plus a small tractor and implements for use on the land. However, as noted above, there is no supporting evidence that the land has been used for agricultural purposes in the time since the building was erected.

34. The fact that a vintage tractor may be stored inside the building does not entail that the use is agricultural. If the purpose is simply to store and repair the tractor there is no obvious agricultural function. The appellant notes that tractors and implements used in connection with other parcels of land that he farms are parked elsewhere. Photographs provided by the Council and interested parties show the door of the workshop open with what appear to be spray canisters and the like stored on shelving attached to the door. Of itself, that photograph is not conclusive but when seen in the context of the array of vehicles in various states of repair outside the building paints a picture of a vehicle related use as opposed to an agricultural one.

35. Thus, there is little to support the contention that the building was erected and used for agriculture. Moreover, whilst the EN was not served until October 2023, that is not indicative of when the MCU of the land took place. Email correspondence between an enforcement officer at the Council and the appellant in June 2019 indicated that complaints had been made relating to the storage of vehicles at the site. No enforcement action was taken at that point in time but there is nothing to suggest that the vehicle related use ceased. The delegated enforcement report notes that numerous visits were undertaken between March 2021 and September 2022 and numerous vehicles not appearing to be in agricultural use were witnessed at each visit.

36. On the evidence presented, there appears to be a direct correlation between the erection of the building on site and the increase in activity related to non-agricultural vehicle storage and repair. That is in contrast to the photographic images from 2018 when the Phase 1 Environmental Risk Assessment report was compiled². The photographs in that report depict the site largely free of stored vehicles, save for a couple of vintage tractors and the static and touring caravans which were the subject of a previous enforcement notice. The report notes that the land was largely laid to grass.

37. The construction of the building in 2019 therefore seems to have coincided with a notable shift in activity. The caravans were removed following the previous

² Phase 1 Planning Preliminary Environmental Risk Assessment, Argyll Environmental, 6th April 2018

enforcement notice and complaints regarding vehicle storage and repair commenced. In the absence of any convincing evidence that the building has been put to agricultural use, it seems more likely than not that it was erected as an integral part of the MCU that has taken place. It follows that it was not lawfully erected for an alternative purpose prior to the MCU taking place on the land.

38. No information has been provided in respect of those small structures in terms of when they were constructed or for what purpose. Aside from a single image showing some hay in one of the smaller structures, taken after the notice was served for the purposes of the appeal statement, there is no clear evidence of how they have been used. One of the buildings was locked at the time of my visit, with the appellant stating that he didn't have the key, such that I could not inspect inside. In the absence of any information that they were erected lawfully in relation to another use, the case that they are immune from enforcement action on account of the passage of time has not been made out.

39. Accordingly, having regard to the Murfitt Principle it is legitimate for the EN to seek the removal of the structures and no supporting information has been provided to demonstrate that the buildings were immune from enforcement due to the passage of time. It follows that the appeal under ground (d) must fail.

The Appeal on Ground (f)

40. The appeal on ground (f) is essentially linked to the appeal on ground (d). As noted within its appeal statement, the Council's aim is to remedy the breach of planning control in its entirety, with regard to paragraph 173(4) of the Town and Country Planning Act 1990.

41. The appellant's position is that the removal of the recently erected building exceeds what is necessary to remedy the breach of planning control and that the EN could simply require the cessation of the use of the building for non-agricultural storage.

42. However, for the reasons set out above, the building was not constructed lawfully for an agricultural purpose but was, on the balance of probability, constructed as an integral part of the MCU identified in the EN. Accordingly, simply requiring the non-agricultural use of the building to cease would not remedy the breach of planning control. What would be left would be an unauthorised building for which no permission exists and which was not constructed for an agricultural purpose. Therefore, removing the building goes no further than is necessary to remedy the breach of planning control in my view. Similarly, on the lack of evidence presented in respect of the two smaller buildings their removal is no more than necessary to remedy the breach of control.

43. The appellant also contends that the requirement to remove all vehicles and other stored items from the land is excessive in that it would require any vehicles and storage associated with the lawful agricultural use to be removed, such that it would go beyond what is necessary to remedy the breach of control. However, it has not been demonstrated that any of the vehicles or items stored are done so in connection with an agricultural use. There is no evidence that the appeal site was in agricultural use at the time the notice was served. Even if some of the vehicles were used in connection with an agricultural function elsewhere, which is not made out, storing or parking them on land which does not have an agricultural function would not amount to an agricultural use, it would essentially be a storage use which is part and parcel of the alleged breach of planning control.

44. Taken together, the first requirement is for the unauthorised use to cease. In order for that to happen it is necessary for the vehicles and stored items associated with that unauthorised use to be removed from the land. Consequently, the third requirement goes no further than is necessary to achieve that aim. None of the requirements would prevent the land being operated for its lawful purpose as agricultural land, nor would it prevent the storage of vehicles where that was ancillary to the lawful use in my view. It is not necessary for the notice to state the obvious in that respect.

45. The appellant also suggests that the requirement to restore the land to its condition before the breach took place is vague and unenforceable. However, I see no particular difficulty in that regard. It is agreed that the lawful use of the land is agricultural and it was seemingly a grass paddock prior to the unauthorised use taking place. In fact, photographic evidence was provided by the appellant of the field being ploughed/ scarified such that he should be in no real doubt about its former state.

46. In view of the above the requirements of the EN go no further than is necessary to remedy the breach of planning control and the appeal on ground (f) fails.

The Appeal on Ground (g)

47. The EN provides a period of 28 days from the date the notice takes effect for all requirements to be carried out. The appellant contends that would be insufficient on account of the need to remove the building(s), find alternative parking for the vehicles and return the land to its former condition. A period of three months is requested.

48. Consideration of what is a reasonable period of time under ground (g) essentially requires a balance between the need to ensure expedient enforcement and the removal of unauthorised and harmful development and the practicality of carrying out the required steps and any private interests bound up in the development.

49. Given the number of vehicles involved and the need to remove the buildings, which may require contractors to be engaged, it is not unreasonable to expect that the physical work involved could take a number of weeks. Once that work is completed there would be a need to restore the site to its former condition which would take further time.

50. In that context, it appears to me that 28 days is short of what could reasonably be expected, purely from a practical point of view. The period of three-months requested by the appellant is more reasonable given the work involved. Accordingly, the appeal on ground (g) succeeds to that extent and I shall vary the terms of the notice accordingly.

Conclusion

51. For the reasons given above, I conclude that the appeal should not succeed, except to a limited extent in respect of ground (g) where I have found that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice in that regard prior to upholding it.

Chris Preston

INSPECTOR