



Appeal Decision

Site visit made on 3 September 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2025

Appeal Ref: APP/X3540/C/23/3331692

Part Land East of Mariawood, Hulver Street, Henstead, Suffolk NR34 7UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Shaun Read against an enforcement notice issued by East Suffolk Council.
- The notice was issued on 21 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of the land from a residential amenity use to a storage use, for the siting of a mobile home ("the Unauthorised Use") and the laying of hardstanding ("the Unauthorised Development").
- The requirements of the notice are to:
 1. Permanently cease the use of the Land for the siting of the mobile home.
 2. Permanently remove the mobile home from the Land.
 3. Permanently remove the hardstanding from the Land.
 4. Restore the Land to its former condition immediate prior to the Unauthorised Use and the Unauthorised Development taking place by reseeding with grass seed or turfing the Land.
- The period for compliance with the requirements is: 3 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended) (the Act). 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.

Summary Decision: The appeal is allowed and the enforcement notice is quashed.

Preliminary Matters

1. There is some uncertainty as to the former residential amenity use of the site referred to in the notice. The appellant indicates that this use has not ceased, albeit a mobile home has been brought onto the land. This indicates that they do not consider the description of the breach of planning control is accurate. I consider that constitutes a hidden appeal under section 174(2)(b) of the Act that the matters described in the notice have not occurred. I raised this matter with the parties and will take account of their comments in coming to my decision. I will deal with this matter under ground (b).
2. I note the provisions at section 171B(4)(b) of the Act that enable the taking of further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

The Appeal on Ground (b)

3. An appeal on this ground is that the matters described in the notice have not occurred. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability. This relates to whether the matters described had occurred at the time the notice was issued.

4. The allegation refers to the use of the land for storage, being the siting of a mobile home. The Council has supplied the responses to the Planning Contravention Notice (PCN) that refer to the mobile home being stored in the garden of Mariawood. Although those responses are undated, it is reasonable to assume they were received in accordance with the timescale set out in the covering letter, within 21 days of 12 June 2022. That was before the notice was issued.

5. The appellants indicate that the mobile home is intended for use ancillary to the residential use, for crafts and photography. The mobile home is currently covered by tarpaulin such that it does not appear capable of use for those purposes. In any event, the issue is what the use was at or before the notice was issued and it is clear that the mobile home had been stored on the land. On that basis, the notice is correct to allege the use of land for storage, being storage of a mobile home.

6. However, the area subject of the enforcement notice is large in comparison to the size of the mobile home. It comprises an area of garden with walls on the sides closest to the house and at the rear and fences on the other two sides. The appellant has drawn attention to the pond and dog kennel (a brick built small building incorporated within the wall of the garden) on the land. A large garden bench was also located on the land at the time of my site visit. From the evidence submitted it is clear that the residential use referred to in the notice has not ceased as the enforcement notice suggests.

7. On the basis of the above and on the balance of probability, I conclude that the material change of use of the land from a residential amenity use to a storage use is not correct as the residential amenity use has never ceased. At the time the notice was issued, as a matter of fact and agree the land was in a mixed use for residential and storage purposes, for the siting of a mobile home.

8. The appellant suggests that the appeal site may be within the residential curtilage of Mariawood. For clarity, whether or not the land is within that curtilage does not affect my conclusions as to whether the land is in a storage or mixed residential and storage use. Neither do the considerations in relation to the use affect whether or not the enforcement notice should refer to hardstanding.

9. Section 176(1) of the Act allows me to correct any misdescription in the enforcement notice if I am satisfied that the correction will not cause injustice to the appellant or the local planning authority. I consider that, had the notice alleged a mixed residential and storage use, that may have affected the reasons for issuing the notice and the considerations subject of the appeal under ground (a). As a result, correcting the terms of the notice in this way would cause injustice to the appellant and local planning authority. Consequently, I am unable to vary the notice in this manner.

10. For the reasons given above, I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed.

11. In these circumstances, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act does not fall to be considered.

Formal Decision

12. The appeal is allowed and the enforcement notice is quashed.

AJ Steen

INSPECTOR