



Appeal Decision

Site visit made on 22 October 2025

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 30 October 2025

Appeal Ref: APP/A1530/C/23/3321183

Floral Dene, Park Lane, Langham, Colchester CO4 5NN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by David Harrison against an enforcement notice issued by Colchester Borough Council.
- The notice was issued on 17 April 2023.
- The breach of planning control as alleged in the notice is 'Without the benefit of planning permission, the siting of a storage container on residential land for use as a secure store for household items and tools. (For avoidance of doubt this is the storage container in the photograph attached to this enforcement notice) ("The Activity").
- The requirements of the notice are
 - (i) Remove the storage container from the land
 - (ii) Leave the land in a tidy condition
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).

Decision

1. It is directed that the enforcement notice is varied by deleting the second requirement in full.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Since the appeal was lodged, the appellant has sold the appeal site. However, the appellant has confirmed that he wishes to proceed with the appeal.
4. The appeal is made on ground (c) only. In the absence of a ground (a) appeal which would have included an application for planning permission, planning policy and planning merits are not matters that are before me for consideration.

The Notice

5. It is the duty of the Inspector to put the notice in order irrespective of the grounds of appeal. The second requirement is to leave the land in a tidy condition. However, that is a subjective requirement and the first requirement to remove the storage container would remedy the breach in the event of the notice being upheld. The second requirement will be deleted.

Planning History

6. Planning permission was granted on 29 March 2022 (the 2022 permission) for part of the appeal site, which includes the land where the storage container is located,

for a change of use from agricultural use to use as a garden incidental to the use of a dwelling. The permission related to a change of use only.

The appeal under ground (c)

7. An appeal under ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. The appellant states that the storage container is not a building or a structure. In the event of the storage container being found to be a building, the appellant maintains that its use is ancillary to the lawful use as garden land.

Whether the storage container is a building

8. Section 55 of the Act sets out the meaning of development as ‘the carrying out of building, engineering, mining or other operations in on over or under that land.’ Section 336 of the Act defines ‘building’ to include ‘any structure or erection.’
9. The cases of Skerritts¹ and Barvis² identify the three primary factors which are relevant when considering what is a building which are size, permanence and degree of physical attachment. No single factor is decisive and each case has to be determined upon its own facts and circumstances.
10. The Council has referred to two appeal decisions³ which address whether or not shipping containers are buildings. Whilst, similar principles may apply in terms of relevant case law, it remains the case that each appeal has to be assessed on its own merits.
11. With regard to size, the appellant maintains that the storage container is not comparable to shipping containers which are twice the size of the storage container and is more akin to a traditional shed. However, a shed can be a structure or a building. It is not the case that a shed of the same size as the storage container in the same location would not require planning permission as relevant permitted development rights have been removed. Structures and buildings come in all shapes and sizes irrespective of their description. The container may not be as substantial as a conventional ‘shipping container’ but nevertheless, it is significant in terms of size.
12. Turning to permanence, the Council became aware of the storage container in July 2021. At a site visit in August 2021, the Council was informed that the container had been on site for around 6 months. The container had been on site for over 2 years when the notice was issued. An appeal against the refusal to grant planning permission for a replacement garage with cart lodge with annex had been dismissed prior to the lodging of this appeal on 16 January 2023. The Council had agreed that the container could remain pending the outcome of that appeal and issued the notice in April 2023 when it was not removed. Whilst the appellant indicates that he then required time to find alternative space for household storage, the storage container has now been on site for over 4 years. It is a permanent rather than a temporary feature irrespective of the reason for it being there or its use.

¹ Skerritts of Nottingham Limited v The Secretary of State

² Barvis Ltd v Secretary of State for the Environment (1971) 22 P & CR 710

³ APP/Q9495/C/19/3239952 and APP/Q1445/C/11/2144476

13. Dealing with degree of attachment, the storage container does not have any foundations. However, it has not moved for a number of years and its substantial weight means that it is not necessary to fix it to the ground. It would need specialist lifting equipment to move it due to its weight. Whether or not that specialist equipment is a fork lift truck depends upon the size of the truck and the weight of the container.
14. The container is significant in terms of size, it has a degree of attachment to the land due to its weight and it has been on the appeal site for a number of years. Having regard to the factors of size, permanence and degree of attachment, I conclude that the storage container is a building for the reasons given.

Ancillary

15. The appellant maintains that as the container is in use for the storage of household items, this use is ancillary to the lawful use following the grant of the 2022 permission for a change of use to garden land. However, the allegation relates to operational development not a material change of use.
16. Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) provides that within the curtilage of the dwellinghouse, subject to certain limitations, a building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development. However, the appellant is unable to rely upon Class E permitted development rights 'for the extended garden' as they were removed in the 2022 permission. The Informatives to that permission specifically refer to the storage container, which was already on the land when the planning application was made, as being unauthorised.
17. For the reasons given, I conclude that, as a matter of fact and degree, the storage container constitutes development within the meaning of Section 55 (1) of the Act. In the absence of permitted development rights or express planning permission, a breach of planning control has occurred. The appeal under ground (c) therefore fails.

Conclusion

18. I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

E Griffin

INSPECTOR