



Appeal Decision

Site visit made on 12 November 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 19th November 2025

Appeal Ref: APP/E2001/C/24/3339783

Land east of Thorntree Lane and south of Ivy Park Road, Goole DN14 6YG

- The appeal is made by Surebay Properties Ltd under section 174 of the Town and Country Planning Act 1990 against an enforcement notice issued by The East Riding of Yorkshire Council on 23 January 2024 (ref: 24/00019/ENFORC)
- The breach of planning control alleged in the notice is "the unauthorised material change of use of agricultural land to a mixed use comprising of agriculture and open air storage, and the laying of hardstanding to facilitate the change of use".
- The requirements of the notice are as follows: -
 - "1. Remove from the Land all items stored within the area edged green on the attached plan, including all building materials (bricks, blocks, manhole chamber rings and covers, timber pallets), plant (tracked excavators), shipping containers and a Harlequin 1400BND bunded oil tank; and,
 - 2. Remove from the Land all areas of hardstanding located within the area edged yellow on the attached Goole Earth Image; and,
 - 3. Upon completion of Step 1 and 2 above, restore the land to its previous condition that existed prior to the breach occurring"
- The period specified in the notice for compliance with these requirements is three months.

Application for costs

1. The Council's application for costs against the appellants is dealt with by a separate decision.

Procedural matters

2. The appeal was brought on ground (b) in section 174 (that the matters alleged in the notice have not occurred as a matter of fact) and on ground (c) (that if the alleged matters occurred, they do not constitute a breach of planning control). During the appeal process, the appellants added ground (f) (that the requirements of the notice are excessive) and ground (g) (that the compliance period specified falls short of what should reasonably be allowed).
3. The appellants have also suggested that planning permission could be granted under ground (a) for an agricultural shed on the land, using materials that are already on site, or possibly for housing development. Ground (a) is, however, restricted to granting permission in respect of matters alleged in the notice, which in this instance relate only to open-air storage. The appeal is therefore proceeding only on grounds (b), (c), (f) and (g) and there is no planning

application before me. The planning merits of the alleged change of use or of other possible development on the land have therefore not been considered.

Appeal decision

4. It is directed that paragraph 3 of the enforcement notice be corrected by -
 - (a) replacing "open air storage" with "the long-term open-air storage of items kept for possible future use on the land" and
 - (b) deleting ",and the laying of hardstanding to facilitate the change of use".
5. It is directed that the enforcement notice be varied by -
 - (a) replacing "including" in sub-paragraph 1 of paragraph 5 by "namely",
 - (b) deleting sub-paragraphs 2 and 3 in paragraph 5 and
 - (c) replacing "three (3) months" in paragraph 6 by "twelve (12) months".
6. Subject to these directions, the appeal is dismissed and the enforcement notice is upheld as corrected and varied.

Reasons for the appeal decision

Ground (b)

7. The notice alleges that the land is in "a mixed use comprising of agriculture and open air storage". The term "open air storage" is not precise and could be taken to include an allegation of an active commercial use involving items being kept on the land temporarily and moved on and off the land regularly as a business activity.
8. The appellants do not contest that the items referred to in the notice have been kept on the land. What appears to have occurred is that most of these items were brought on to the land several years ago with the intention of using them on the land and that they have not been moved since then (with the exception of the tank described as an oil tank, which had always been empty and has since been taken away). The two shipping containers were brought on to the land in 2003. In my view this is a use that constitutes "open air storage" but only to the extent that it is the long-term storage of items on the land for possible future use there. I have corrected the allegation to make this clear.
9. I have deleted the references to "hardstanding" in the notice for the following reasons. The allegation maintains that "hardstanding" has been laid to facilitate the storage use and the notice requires it to be removed. The allegation is incorrect in this respect and is at odds with the Council's appeal statement which indicates that the building materials were already on the land when the alleged "hardstanding" was created. In fact, the stored items do not stand on any hard surfaces. The "hardstanding" is intended to refer to the hardcore that has been laid to provide a roughly-surfaced access track leading from Ivy Park Road into part of the land. This was not laid to facilitate the storage use; it was probably related to proposals for housing development on the land that existed at the time, but it also facilitates access to the agricultural unit as a whole, since the unit has no other vehicular access from the road network.

10. The ground (b) appeal has therefore succeeded to the extent stated in paragraphs 8 and 9 above.

Ground (c)

11. Under ground (c), the appellants maintain that all the items identified in the notice are on the land in connection with agricultural development permitted by the General Permitted Development Order. There is doubt about the precise size of the agricultural unit here, but I have dealt with ground (c) on the basis of the appellants' calculation that the unit exceeds 5 hectares in area when the dykes on its boundaries are taken into account.
12. Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 permit:
- "A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—
- (a) works for the erection, extension or alteration of a building; or
 - (b) any excavation or engineering operations,
- which are reasonably necessary for the purposes of agriculture within that unit."
13. This permission is subject to the limitations set out in A.1 and the conditions imposed by A.2, and is to be interpreted as specified in D.1. If the unit has an area of "approximately between 4.7-4.8ha", as the Council have assessed it to be, Class B would apply and the range of permitted development would be less. In particular, the erection of a building would not be permitted.
14. The unit is lying fallow at present and is overgrown. The appellants describe it as good-quality farmland that has previously been used for growing crops. It might be used in the future for various agricultural purposes. At present, it is being considered by the appellants for possible future use for organic farming. The building materials on the unit might then be used to construct parts of an agricultural store in the north-eastern part of the unit in connection with this possibility. Trench work and land drainage works might also be required on the unit in the future, for which the excavator already on the unit might be used.
15. There is no requirement in Class A that proposed works or operations must be needed in connection with an agricultural activity that already exists on the unit, but the appellants must be able to demonstrate that the proposed works or operations are reasonably necessary for the purposes of agriculture within the unit. At present, the possible future agricultural uses of the unit and of the proposed building are too nebulous for this test to be satisfied. In addition, the building would also be subject to the prior approval conditions in A.2(2).
16. I have therefore concluded that the appeal on ground (c) should fail.

Ground (f)

17. I have considered what has been stated about ground (f) in the Council's statement and in the appellants' final comments. It appears to me that two issues have arisen. The first is that the appellants maintain that there are two separate pieces of land within the unit and that the notice should only apply to the smaller area near to Ivy Park Road. I do not consider that this is the case

since there is only one planning unit here, which is the agricultural unit as a whole. The second is the appellants' contention that the requirement to remove the "hardstanding" is excessive. Since I have decided under ground (b) that the references to "hardstanding" in the notice should be deleted, the appeal on ground (f) has already succeeded to this extent for the reasons I have given.

18. I have also made other changes to the notice, pursuant to ground (f). Firstly, the requirement to remove "all items stored" is vague; the items have been comprehensively identified and are already listed in Requirement 1. I have therefore changed "including" to "namely" in this requirement. Secondly, the requirement to "restore the land to its previous condition that existed prior to the breach occurring" is unnecessary; the land was unused and overgrown agricultural land at the time of the breach, as it is now and will remain so when the items have been removed.

Ground (g)

19. The ongoing appeal referred to by the appellants in their final comments has since been dismissed and, as they have indicated, they will need to consider the future use of the land. They have therefore asked for an extension of the period for compliance with the notice to one year.
20. This request is reasonable (i) having regard to the time it is likely to take them to reach conclusions and obtain any authorisations that may be required for future uses and (ii) taking into account the fact that there is no current activity on the land and the stored items only have a limited effect on the character and appearance of the area and on residential amenity. I have therefore extended the compliance period as requested by the appellants.

D.A.Hainsworth

INSPECTOR