



Appeal Decision

by **Felicity Thompson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/W1525/C/24/3348180

Land at Alfmill (formerly known as Land Opposite Greenacres) De Beauvoir Chase, Downham, Billericay, Essex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Kirsty Bradley against an enforcement notice issued by Chelmsford City Council.
 - The notice was issued on 14 June 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a building (shown outlined in blue at the approximate location on the plan attached to the enforcement notice).
 - The requirements of the notice are to:
 - i. Demolish the unauthorised building shown outlined in blue at the approximate location on the attached plan.
 - ii. Remove from the land all material resulting from step (i).
 - iii. Restore the land affected by the works carried out at steps (i) and (ii) to its preconstruction condition.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

2. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the parties have submitted sufficient evidence to understand the nature of the site and development given the ground of appeal and dispute.

The appeal on ground (d)

3. An appeal on ground (d) is on the basis that, at the time the notice was issued, it was too late to take enforcement action against the matters stated in the notice.
4. Where there has been a breach of planning control consisting of operational development, in this case the erection of a building, where the building was substantially complete before 25 April 2024, by virtue of section 171B(1) of the 1990 Act, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
5. To succeed on ground (d) the appellant would need to demonstrate, on the balance of probabilities, that the building was substantially completed more than four years before the material date, being the date of the issue of the notice.

6. The building subject of the notice is constructed from corrugated metal sheeting enclosed on all sides. The appellant on their appeal form stated that the site has been used in its current form including any buildings and storage containers for more than 10 years. They stated that dated aerial photography shows this use from 2013. However, the notice is directed at the erection of a building, and the appellant provided no photographs nor any substantive evidence to support their case.
7. In their response to a Planning Contravention Notice (PCN) it was stated that works to construct the building had commenced and were completed in 2017.
8. However, photographs taken by the Council during visits dated 26 September 2012, 24 April 2013, and 20 September 2016, show an open sided structure formed of timber poles with a corrugated sheet roof. Photographs dated 5 October 2017, and 16 November 2017 show that pre-existing structure was extended to approximately double its size but was of the same, open sided form.
9. An aerial image dated April 2020 shows a larger building however, there is no evidence of the building subject of the notice, until the aerial image dated March 2022, which appears to show that the previously existing building had been demolished, and a new larger building constructed in its place.
10. The Council's photographs taken during their visit on 22 June 2023 show the building, subject of the appeal. Accordingly, based on the evidence before me, it seems probable that works to construct the building were completed at some point between April 2020 and June 2023.
11. In an appeal on ground (d) the burden of proof lies with the appellant. In the absence of contrary evidence, I have no reason to doubt that the building was not substantially completed more than four years before the date of the enforcement notice. Consequently, the appellant's ground (d) claim cannot succeed.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Felicity Thompson

INSPECTOR