



Appeal Decisions

Site visit made on 5 November 2025

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2025

Appeal A Ref: APP/C1570/C/24/3352069

Appeal B Ref: APP/C1570/C/24/3352070

Maidens Farm, High Easter, CHELMSFORD, CM3 1HU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Forest Contracts Ltd and Appeal B by Mr C Matthews against an enforcement notice issued by Uttlesford District Council.
 - The notice was issued on 12 August 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of two side extensions, the installation of a biomass boiler and associated structures.
 - The requirements of the notice are to:
 - Remove the biomass boiler and any structures surrounding the building;
 - Remove the extensions that have been constructed on the southern side of the building and the northern side of the building; and
 - Remove all resultant debris from the site.
 - The period for compliance with the requirements is three months from the date the notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2) (d), (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Two appellants were named on the appeal form. In such circumstances two appeals are made and each is given its own reference number. I have referred to them as Appeal A and B, as set out in the banner heading above. The grounds of appeal are identical in relation to both appeals.
3. Initially, appeals on ground (a)¹ were submitted but those appeals were barred, having regard to s174(2A) of the Act². Consequently, the appeals will proceed under grounds (d) and (f).
4. I have also determined related appeals made against the Council's decision to serve an enforcement notice alleging a material change of use to a use falling within Class B2³. Whilst the matters are clearly related, I have issued a separate decision letter in respect of those appeals given that they relate to a separate notice.

¹ Section 174 (2)(a) of the Town and Country Planning Act 1990 (the Act)

² As explained to the main parties in letters dated 17 September 2024

³ Reference: APP/C1570/C/24/3352073 & 74

Matters Concerning the Notice

5. Within the appeal under ground (f) the appellant contends that the requirements of the notice are unclear. In particular that refers to the phrase “any structures that surround the building” in respect of the biomass boiler. Having viewed the development the phrase is not unduly confusing for anyone with knowledge of the site and clearly relates to associated cladding and the metal framework which essentially form part of the development associated with the biomass boiler.
6. Removing the boiler would inevitably require those elements to be removed and I am satisfied that the terms of the notice are clear enough to enable the appellant to understand what is required, without the need for any corrections.

The Appeals on Ground (d)

7. As with all appeals on legal grounds, the onus rests with the appellants to demonstrate their case, on the balance of probability. If there is no evidence to contradict an appellant’s version of events or make it less than probable, and that evidence is sufficiently precise and unambiguous, it should generally be accepted.
8. In relation to operational development substantially completed prior to 25 April 2024, the time period for taking enforcement action is within 4 years of the date the development was substantially completed.⁴ There appears to be no dispute that the development in question was substantially completed by 25 April 2024. Thus, the matter in dispute is whether the development was substantially completed within four years of 12 August 2024, that being the date on which the enforcement notice was served. In other words, the appellant needs to demonstrate that the development was substantially completed prior to 12 August 2020.
9. The appellant maintains that the biomass plant, extensions and all related equipment had been erected, installed and were operational by June 2020. However, aside from an invoice relating to the biomass plant, little documentary evidence is presented to support that claim. The invoice is dated 15 June 2020. Of itself that does not indicate precisely when the items referred to on the invoice were actually installed. The invoice does not specify a date when works were carried out. Whilst it may be common for invoices to be raised after work has been undertaken it is not necessarily the case, depending on the specific arrangement between purchaser and supplier.
10. In addition, the items listed on the invoice refer to a 340kW wood burning boiler, with a 3.0m, 28m³ conical bottom silo, ceramic flue gas filter and associated boiler ancillaries, including pumps and safety valves etc. Other items include a “tube cleaning system”, a pipework system to supply heat to the workshop and dispatch areas, a heat meter and an air handling unit to supply replacement air to the spray booths.
11. Those items seem to refer to the boiler, the flue and associated internal mechanisms for supplying heat and air, with associated valves and pumps but it is far from clear that the items listed include all external structures and the associated framework. There is some ambiguity in that regard.

⁴ Section 171B of the Town and Country Planning Act 1990, The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

12. I have also been referred to the application for an Environmental Permit which was dated 06 July 2020. Some sections of that application are written in the future tense. For example, Appendix 007, B2.4 refers to “daily logs of the extraction system and skips that are currently used to remove dust and off-cuts from their site”.
13. From the information presented skips were used to remove dust and off-cuts of wood prior to the installation of the new wood burning boiler. As explained at Appendix 008; “the new boiler will fully meet the strict emission requirements of the Government’s Renewable Heat Incentive and work towards Government targets on the use of renewable energy. Skips of dust will no longer need to be removed from the site so removing fugitive emissions from skips in transport. The current dust skips are not fitted with 100% effective dust filtration and the transfer system to the skips will be replaced with a drag link conveyor”.
14. However, as noted by the appellant, other sections of the application are written in the present tense. For example, at Appendix 008 it states that; “The new chimney is fitted with mechanical induced draft which provides better dispersion”. Appendix 004, B2.3, states that “The plant runs free of odour due to the high combustion temperatures and residence time within the boiler”.
15. On reading the details submitted in the round, I gain the impression that the sections written in the current tense tend to be talking about the capability of the new system based on its inherent design characteristics, as opposed to commenting on how it was operating in practice at the site. The sections written in the future tense give an over-riding impression that work was not yet complete. For example, immediately after the sentence which states that, “The plant runs free of odour.....” the document states that, “The boiler *will be* fully compliant” and that, “The only source of emissions from the boiler is the chimney *shown on the plans*”.
16. Consequently, the details submitted with the Environmental Permit application cast some doubt on the suggestion that the works relating to the biomass boiler were substantially complete by June 2020. The use of the future tense in many sections gives the impression that work was ongoing around the time the application was submitted in July 2020.
17. A retrospective application for the “retention and completion of two side extensions to former barn and installation of a biomass boiler for disposal of wood” was submitted in January 2021. The fact that the description included the words “and completion of” indicates that not all work was complete prior to that point. The form stated that work commenced on 01 December 2020 and was not yet complete. The agent acting for the appellant contends that the details inputted were to the best of his knowledge at the time but that he was mistaken and the dates and details were not correct.
18. I appreciate that mistakes can be made and also that it would not have been apparent when filling in that form that the details could have a bearing on any future enforcement proceedings. Nonetheless, it is not readily obvious why the form would state that work was not completed if, in fact, it was. If the agent made a mistake in that respect what information was that based on? Presumably something caused him to reach the position that work was not completed. Whatever that was is not clear from the information provided.

19. What is clear is that further work was carried out externally in order to clad the biomass plant, including the silo, the flue and other metal housing. Having inspected the structure, the cladding is bolted to the metal framework and includes sound insulation in between the timber battens and the external horizontal cladding. The cladding is therefore more than just a visual screen. The sound insulation was part of a range of mitigation measures put forward in an Acoustical Impact Assessment⁵ commissioned by the appellants in 2021.
20. Looked at holistically, the cladding is an integral part of the building operation, being physically attached and functionally related. In fact, the appellants' case in the related appeals in respect of the use of the building relies, to some extent, on the acoustical mitigation as part of the argument that the use falls within Class B1(c) of the Town and Country Planning (Use Classes) Order 1987 (as amended), as opposed to Use Class B2.
21. Based on the evidence presented I agree with the Council that the building operations involved in constructing the biomass plant were not substantially complete until the cladding had been completed. There is no dispute that the cladding was completed within 4 years of the date the enforcement notice was served.
22. In respect of the northern and southern extensions there is a lack of compelling evidence as identified above. The site plan at Schedule 2 of the Environmental Permit⁶ does not depict the extensions to the northern side of the building. That raises doubt as to whether that extension was in place in November 2020 when the permit was granted.
23. I note the photographs submitted by an interested party purportedly showing a timeline of the construction of the development, including an overhead image dated 09 May 2020 with none of the development in question being apparent, one dated 07 August with a silo structure present to the north but no extensions to the north or south, along with subsequent images depicting the cladding being added to the framework of the biomass boiler. Whilst I have no reason to doubt that the images are genuine, the dates have been added manually and it is difficult to verify the source of the data. That limits any weight I can attach to the photographic evidence which has not had a bearing on my decision.
24. The solicitors acting for the same interested party have referred to caselaw which makes clear that an enforcement notice aimed at a material change of use (MCU) may legitimately require operational development to be removed within a ten year period, where that development was integral to the MCU that has taken place. However, in this case, the Council has served two distinct notices, one in relation to operational development and the other in relation to a MCU.
25. It is not alleged by the Council that the operational development was integral to the MCU and it may well be that the MCU had already occurred before the operational development took place. For example, the information referred to above in respect of the Environmental Permit suggests that waste was already being collected in skips and taken away from the site prior to the biomass boiler being installed. That would indicate that the furniture making operations were already taking place. In

⁵ Acoustic Impact Assessment (AIA), produced by Acoustical Control Engineers and Consultants, dated 19 July 2021

⁶ Submitted by the appellant at the Final Comments stage

other words, the MCU had already occurred and the extensions and biomass boiler were not integral to it. Accordingly, the four-year time limit applies.

26. In any event, the appellants evidence is not sufficiently precise and unambiguous to demonstrate that the development was substantially completed prior to 12 August 2020. Little evidence at all has been submitted with regard to the northern and southern extensions and the evidence relating to the biomass boiler installation, with associated structures is ambiguous.
27. Given that the onus rests with the appellant to make their case, on the balance of probability, I cannot conclude that the development had gained immunity from enforcement action due to the passage of time at the point the enforcement notice was served. It follows that the appeals on Ground (d) must fail.

The Appeals on Ground (f)

28. An appeal under Ground (f) is made on the basis that the measures required to be undertaken by the enforcement notice exceed what is necessary to remedy the breach of planning control or the injury to amenity, as the case may be. Given that the requirements of the notice are seeking to remove the operational development in its entirety the purpose of the notice would appear to be remedy the breach of planning control and not simply any injury to amenity.
29. In that sense, the requirements go no further than is necessary to achieve that aim – all of the extensions are unauthorised and nothing short of their removal would remedy the breach of control.
30. The appellant has made arguments to the effect that it is only the biomass boiler/plant which causes any harm to the locality such that the removal of the other extensions could not be justified. However, those arguments may be considered if there was an appeal under ground (a), in combination with ground (f). I am not able to consider the planning merits of the extensions given that the ground (a) appeal is barred. The retrospective planning application for the development was refused and dismissed at appeal.
31. Moreover, in my associated decision, I have found that the use of the premises as a whole is unauthorised. The extensions in question have been erected in association with that unauthorised use. If the requirements of the notice were varied to “under enforce”, as suggested by the appellant, it would leave an uncertain situation whereby extensions constructed for an unlawful purpose would be allowed to remain.
32. Under the terms of s173(11) of the Town and Country Planning Act 1990 (the Act) where an enforcement notice could have required any buildings or works to be removed but does not do so, planning permission is treated as having been granted by virtue of s73A of the Act in respect of development consisting of the construction of the buildings or works. To take that course of action would result in clear conflict with the terms of the enforcement notice in relation to MCU which requires the use of the site for purposes within Use Class B2 to cease. In that situation, precisely what the lawful use of the extensions would be would not be clear.
33. For all of those reasons I am not satisfied that varying the requirements of the notice as suggested by the appellant would be an appropriate course of action.

The requirements of the notice go no further than is required to remedy the breach of planning control and the appeals on ground (f) must fail.

Conclusion

34. For the reasons given above, I conclude that the appeals should not succeed and I shall uphold the enforcement notice accordingly.

Chris Preston

INSPECTOR