



Appeal Decisions

Inquiry held on 25-26 November 2025

Site visit made on 26 November 2025

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal A Ref: APP/L2250/C/25/3369822

Appeal B Ref: APP/L2250/C/25/3369823

Appeal C Ref: APP/L2250/C/25/3369825

Land at Yew Tree Farm, Stone Street, Stanford, Ashford, Kent TN25 6DH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Neil Buckley of Innov8 Training Ltd, appeal B is made by Mr David Holt and appeal C is made by Mr Toby Clifton-Holt against an enforcement notice issued by Folkestone and Hythe District Council.
- The notice was issued on 20 June 2025.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of land from agriculture to use for the provision of training in the use of construction plant and machinery; and the creation of earth mounds.
- The requirements of the notice are to:
 - I. Cease the use of the land edged red on the attached plan for the carrying out of training in the use of construction plant and machinery.
 - II. Remove all vehicles, plant, machinery, storage containers, materials and miscellaneous items associated with the use of the land for the provision of training in the use of construction plant and machinery from the land.
 - III. Remove the earth mounds and restore the land to its previous condition.
- The period for compliance with the requirements is: 3 months.
- The appeals are proceeding on the grounds set out in section 174(2)(d) and (g) of the Town and Country Planning Act 1990 (as amended).

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

Applications for costs

1. An application for costs was made by Mr Neil Buckley of Innov8 Training Ltd, Mr David Holt and Mr Toby Clifton-Holt against Folkestone and Hythe District Council. This application is the subject of a separate Decision.

Preliminary Matters

2. The description of the breach of planning control and requirements of the notice refer to earth mounds. This relates to mounds created during the course of training activities carried on at the site by Innov8 Training Ltd. These are temporary structures required as part of the training. The appellant and Council have agreed that these do not comprise operational development. On that basis, if I were to uphold the notice, I would correct it to remove reference to these mounds. The requirement to restore the land to its previous condition would remain and would ensure the removal of any earth mounds created during the course of the training activities.

3. There was some discussion as to whether the mounds might include the ramp used for training activities in the yard. However, that would be covered by the requirement of the notice to restore the land to its previous condition in any event.
4. All evidence at the Inquiry was given on oath or affirmation.

The Appeals on Ground (d)

5. An appeal under this ground is that, at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control which may be constituted by those matters. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability. Case law indicates that evidence does not need to be corroborated by independent evidence to be accepted, but does need to be sufficiently precise and unambiguous, even if there is no evidence to contradict it.
6. The use would become lawful were it to have continued for a period of 10 years beginning with the date on which the use had started. If I find that period to have ended prior to the notice being issued on 20 June 2025 the appeal must succeed, and the enforcement notice be quashed.
7. The use set out in the notice has taken place on the yard at Yew Tree Farm and adjacent section of field. These areas are used for training in the use of construction plant and machinery by Innov8 Training Ltd, whose clients include various companies and individuals in the construction industry.

Use beginning

8. The company was set up in or around 2012 and began training on client sites. They subsequently began using a yard in Lamberhurst. By October 2014 they were renting the Barn at Yew Tree Farm as an office and as a classroom for theory training. At around that time, they also set up the outside practical training area, which is the area to which the enforcement notice refers (the site).
9. A certificate was issued under the Construction Plant Competence Scheme (CPCS) on 10 December 2014. That relates specifically to Yew Tree Farm and allows practical training on a variety of machinery within the site. That was based on a site visit and assessment by the Area Monitor. On their visit, they were able to see different surfaces on which machinery would be used. These included unmade ground in the field to do certain activities in different machinery, such as digging and trenchwork. In addition, a ramp, wall and kerb had been provided in the yard.
10. Use of the site has varied over time. The agreement between Innov8 Training Ltd and their landlord means that they pay per day the site is used. Records have been supplied, either through invoices or monitoring. In early years, the evidence does not demonstrate the amount of use of the yard separately from the field.
11. An invoice from Holt Stores, owner of the farm, refers to the “hire of field and yard for 350 excavator from 01.10.2014 to 30.12.14”. It demonstrates use of the land over that 3 month period to have taken place on 5 occasions. Over the following 8 months, the site was used 12 times. The use of the site in this period was somewhat limited. However, it was laid out for use with the provision of ramp, wall and kerb permanently located on the site solely for use in the training activities. Whilst the training may have been somewhat infrequent, these have meant that

there was opportunity for the Council to issue an enforcement notice even during times when training was not actively taking place.

12. There was a significant increase in the number of days when the use took place following that time. During September to December 2015 the site was used for training on 15 occasions. In recent years the use of the site has increased to over 100 days per year. This reflects initial growth of the business followed by reasonable consistency since 2021.
13. The yard at Lamberhurst continued use until spring 2015, concurrently with use of the site. The Council suggest that use of the site was minimal at that time and not sufficient to take enforcement action. I accept that it was likely there would have been an increase in activity at Yew Tree Farm with the ending of activity at Lamberhurst. Nevertheless, I consider that the use of this site had started prior to the cessation of use of Lamberhurst. Given the provision of permanent facilities, the use was more than minimal.
14. Social media posts have been provided that appear to focus on training courses at Lamberhurst around 2015-16. There is limited evidence of use of the site until March 2016 from the social media posts. I understand that the social media accounts were managed by the appellant's business partner at that time, who was also responsible for training courses at Lamberhurst. On balance, I consider this does not indicate the use had not commenced in 2015.
15. My attention has been drawn to the spring crop on the field area during 2015. At the Inquiry, I was told that the crop was harvested in July or August. Until that point, the training operations comprised driving machinery along the tram lines created by farm vehicles across the field. The machinery would progress across the surface of the field, giving drivers the required opportunity to experience driving on varied terrain, and turn in an area that was indicated on the edge of the aerial photograph dated April 2015.
16. I note that the field was primarily intended for digger training and trenchwork and that was clearly not taking place whilst the spring crop was in the ground. I understand that this area is not used in inclement weather and use is reduced during the winter months. Nevertheless, the site comprises the whole of the area such that the more limited use of part of the site during this period does not affect the accrual of lawfulness.
17. Evidence on oath or affirmation was consistent in showing that the site was used for training purposes since October 2014.
18. Taking account of the need for the CPCS prior to the use of the site for training, on the balance of probability I consider the use of the site began with the issue of that certificate on 10 December 2014.

Other uses

19. Colas used an area of land between the training yard and field for storage and parking from a time before the use commenced until approximately 2022. Colas carry out highway maintenance works and used this yard to store materials for that purpose and park their vehicles overnight.
20. There is some indication there may have been some encroachment of the Colas use onto the site from time to time. The yard is essentially open such that it would

be easy for the uses to mix. Nevertheless, any encroachment between the area used by Colas and Innov8 Training Ltd appears not to have been to any material extent.

21. A number of containers are located on part of the site. In 2019 a planning application was made for the change of use of land for stationing of 23 storage containers for storage and distribution (Class B8). That application was approved. Those containers are located to the side of the yard and are within the site area identified on the plan attached to the enforcement notice. The planning consultant involved in that application supplied a letter indicating that he was instructed to deal with those containers. He confirmed that, whilst he may advise his clients regarding other development on sites, including material changes of use, he does not refer to them in planning applications unless necessary. The plan attached to that application appears to have identified only the land on which the containers were located as the application site.
22. There has always been access through the site to the rear of the farm store by agricultural vehicles, the area used by Colas and the containers. If there was a mixed use of this access it was solely for access, specifically to the farm store and area occupied by Colas. It was not any other use of land, such that the cessation of occupation by Colas did not result in any material change of use of the site.

Covid lockdown

23. On 21 March 2020 training activities by Innov8 Training Ltd ceased due to the lockdown announced by the government the previous evening. Other activities, such as booking courses, continued, albeit from Mr Buckley's home address. Nevertheless, the site was not used by the company for 70 days. The character of the use and size of the planning unit did not change before or after the break in the use.
24. An interruption in the period could take the form of a cessation in activity or change in the character of the use or size of the planning unit. The length of the break was sufficient that it could have been considered that the use had ceased such that the Council were not able to take enforcement action in this period. Whether that is the case is a matter of fact and degree taking account of the circumstances.
25. The ramp, wall and kerb remained on the site during this period. No alternative use took place on the land, such as any agricultural use of the field area for planting crops, demonstrated in the aerial photograph dated May 2020. The site remained available for use for training by Innov8 Training Ltd, albeit subject to the legal restrictions. They had the intention to continue the use and the business operated to the fullest extent it was able but were prevented from doing so by the prevailing laws at the time. There was no intervening use.
26. The evidence demonstrates that the practical training use does not operate consistently every day. The numbers demonstrate there are many days when it doesn't operate, including over weekends. Nevertheless, it is clear that the 70 day break was unusual.
27. The Council suggest, based on *Jones v Isle of Anglesey CC* [2025] JPL 6 (*Jones*), and *Miles v National Assembly for Wales* [2007] JPL 1235 (*Miles*), that the 70 day period should be considered without reference to Covid restrictions. However, in both cases the reasons for the break was taken into account. In the case of *Jones*,

the court held that the prohibition of visitors to an information centre by the relevant Covid Regulations did not break the continuity of use as it was not lawful for the visitor centre to receive visitors. *Miles* related to an 18 month break in use due to foot and mouth restrictions.

28. The period of time referred to in *Miles* was significantly longer than either *Jones* or here. For that reason alone, I consider it can be distinguished from this case. Whilst *Jones* related to the same period and for the same reason as this case, I consider it is not wholly comparable. It related to the implementation of a planning permission for use of a building as a visitor centre and whether the use had begun. The court considered that the works that had taken place to the building prior to the Covid shutdown was sufficient to implement the use, notwithstanding that the building did not receive any visitors. The court accepted that the centre was physically ready to receive visitors and that was in the intention of the operators of it. It was accepted that the prohibition of visitors by the Covid Regulations did not break the continuity of use. Both cases relate to development in Wales. Taking these into account, I need to come to a decision on the individual merits of this case.
29. Taking account that there was no intervening use of the site, the built facilities remained on the site and the site remained available for the use to continue, subject to compliance with relevant Covid restrictions, as a matter of fact and degree I consider that the 70 day break was not so significant as to lead to a cessation in the use. The Council could have taken enforcement action during that period.

Conclusion

30. I have concluded that the use of the site for the provision of training in the use of construction plant and machinery began on 10 December 2014. I have not identified any alternative use of the land during this period and nor has there been any material cessation of the use, including during the Covid shutdown. As a result, the use continued for a period of at least 10 years prior to the issue of the enforcement notice, beginning with the date on which the use had started.
31. For these reasons, I conclude that the appeal under ground (d) should succeed. The enforcement notice will be quashed.
32. In these circumstances, the appeals on ground (g) do not fall to be considered

Formal Decisions

33. The appeals are allowed and the enforcement notice is quashed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Asitha Ranatunga, Counsel instructed by Matt Judge, Judge Architects Ltd

Neil Buckley of Innov8 Training Ltd Appellant

David Holt (attended online) Appellant

Toby Clifton-Holt Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson, Counsel instructed by Head of Law, Folkestone & Hythe District Council

Ross McCardle BA(Hons) MA PGDip MRTPI Principal Planner

INTERESTED PARTIES:

Graham Horner Stanford Parish Council

Stephen Cave Neighbour

DOCUMENTS SUBMITTED AT THE HEARING/INQUIRY:

Document 1: Enforcement Notice Authorisation Report