



## Appeal Decision

Site visit made on 4 April 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 30<sup>th</sup> April 2026

**Appeal Ref: APP/J1535/C/23/3334233**

**Land at Paslow Common Farm, Ingatestone, Essex CM4 0JZ**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act").
- Appeal A is made by Mr Douglas Padfield against an enforcement notice issued by the Council of the London Borough of Epping Forest.
- The enforcement notice was issued on 27 October 2023.
- The breach of planning control as alleged in the notice is the material change of use of the land for storage.
- The requirements of the enforcement notice are to:
  - (1) Cease the use of the land for storage.
  - (2) Remove from the land all containers, plant and other machinery, vehicles, materials, and any other item not used in connection with the lawful use of the land for agriculture.
  - (3) Scrape clear from the land and/or otherwise remove the hard surface formed to facilitate the unauthorised use across the land.
  - (4) Restore the land effected by the works at step (iii) by seeding the ground with grass seed.
- The period for compliance with the requirements is 3 months.
- The appeals are proceeding on the grounds set out in section 174(2) (d), (a), (f) and (g) of the Act.

### Decision

1. It is directed that the enforcement notice be varied by the deletion of the text "3 months" in section 6 time for compliance and the substitution therefor by the following text "6 months". Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

### The appeal site

2. The appellant has resided at Paslow Common Farm for significant period although since about 1980 agricultural activities declined and the farm evolved into a commercial yard. Planning permission for a light industrial and general storage use was granted in around 2000. The appeal site forms a separate parcel of land and has an inverted triangular shape. A public footpath runs along its western boundary. The site is accessed from the main road via a narrow track, which serves commercial and residential development. It is situated to the south of former commercial unit since developed for housing. The site is largely an open field covered in earth and growing vegetation over remnants of hard standing. Agricultural machinery is also scattered around the site, but the storage activity takes place in open air and there are several shipping-style containers. Heras fencing has been erected giving a compound-like appearance.
3. In May 1998 the Council issued an enforcement notice in relation to land at Common Farm Paslow Common alleging the laying of crushed concrete and other hardcore. The subsequent appeal by this appellant to the Secretary of State against that notice was dismissed on grounds

(c) and (d)<sup>1</sup>. I shall refer to this appeal decision as “the 1998 Decision”. The Inspector’s decision describes the land to which that notice relates and it appears to me that the land is the same as the site before me or forms a significant part of it. As the Secretary of State must be aware of their own decisions and, where relevant, take them into account, I consider that the 1998 Decision is a relevant consideration.

### **The immunity claim**

4. For an appeal to succeed on ground (d), the onus of proof is firmly on the appellant to show that the alleged material change in use of the site from agriculture to storage occurred on or before 27 October 2013 and that use continued without significant interruption. That is the relevant date. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant’s version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant’s evidence alone is, on the balance of probability, sufficiently precise and unambiguous.
5. The appellant says that the site’s main storage use existed for a very long time. They refer to aerial images from 2005 onwards, which is before the relevant date. However, there is little detail as to what exactly had been kept on the land and for what purpose. The aerial images demonstrate the site’s limited and low in scale use. The limited number of items on display seem to confirm the open-air storage activity was linked to the agricultural use of the wider land or holding. In addition, an interested party, who operated a business from a unit at Paslow Common Farm, also casts doubt upon the claim that the site was intensively used for storage purposes. They say that until 2010 they saw low level of items stored on the site including waste. Furthermore, Council officer’s site visits from 2010 to 2013 and contemporaneous photographs also cast doubt over the intensity of the site use. These images clearly show storage of limited number of items mainly used in connection with agriculture.
6. It is not uncommon for agricultural items, plant or machinery to be kept on different parts of a working farm, but that type of use is probably ancillary to agriculture because there is a functional link. To my mind, the quantum of evidence presented undermines the appellant’s claim that the site was primarily used for storage purposes from 2005 onwards because the nature and scale of storage activity was low key. Although a snapshot in time, the aerial photographs combined with the Council and interested party evidence sufficiently contradicts the appellant’s claims to render it imprecise and ambiguous.
7. I find the aerial images from 2017 particularly instructive of the incremental change in use of the site. The quantum of evidence presented demonstrates to me that the site’s use as a depository markedly changed from low in scale linked to agriculture to open-air depository of plant, machinery and building type material. Over time the storage activity intensified once shipping-style containers were placed on the land and compounds were created. That was the circumstance at the date of the notice’s issue. In my assessment, the increase in the storage activity represents a dramatic change in the character of the site’s use from low in scale to a primary storage use. The placing of containers, open-air storage of material, plant and machinery and creation of compounds represents a physical change to the site’s layout. In addition, there is off-site effects given the site’s location.
8. The appellant considers the hardstanding to be lawful due to the passage of time, but it is integral to the unauthorised use and facilitates the storage activity. In any event, lawfulness has a specific meaning in planning law, which is found at s191(2) of the Act. This explains operations are lawful if - (a) no enforcement action may then be taken in respect of them and (b)

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<sup>1</sup> Appeal Ref T/APP/J1535/C/98/651333 - 27 July 1998 appeal against issue of a notice alleging laying of crushed concrete and other hardcore dismissed.

they do not constitute a contravention of any of the requirements of any enforcement notice then in force. Given the implications of the 1998 Decision, the latter applies to the hardstanding laid on the land.

9. Pulling all the above points together, I find that the totality of the evidence presented shows to me that the definable character in the site's agricultural or ancillary use changed from 2017 onwards. Based on the available evidence, I am not satisfied that the material change in use to storage occurred on or before the relevant date and it continued thereafter for a period of 10 years without significant interruption. Ground (d) must fail.

### **The deemed application**

10. In ground (a), planning permission is sought for the storage use of the site, which is located within the Metropolitan Green Belt. The main issues are as follows: 1) Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies 2) effect on openness 3) effect on character and appearance, and 4) Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the storage use of the appeal site.
11. Inappropriateness: The Framework states that development within the Green Belt is inappropriate with several exceptions, but commercial development on grey belt land should not be regarded as inappropriate subject to several factors. The Council's local plan (LP) policy DM4 relates to the Green Belt and is broadly consistent with the Framework. There is agreement between the appeal parties that the development does not fall within the exception categories set out in Framework 154 sub-section a) to g). I have no reason to take a different approach.
12. I disagree with the proposition that the shipping-style containers, Heras fencing forming compounds, and non-agricultural storage represent a relatively minor spatial impact on the openness of the Green Belt. While the site may have been used for open-air storage of plant and machinery in the past, as I have said elsewhere, the overwhelming evidence points in the likelihood that type of use was connected to the former agricultural use. Even if the site is used for the storage of plant and machinery linked to an agricultural use of land beyond the appellant's ownership, in my assessment, the open-air storage use fails to preserve openness as it reduces the open aspect of this part of the Green Belt and has a negative visual effect upon openness given the site's edge of settlement location. Contrary to the appellant's argument, I consider that the storage use of this site has an unwarranted and unacceptable urbanising effect and represents encroachment in this part of the countryside, which conflicts with purpose in Framework 143(c).
13. Although the site falls in proximity of buildings and commercial unit, it was part of agricultural holding and is excluded from the definition of previously developed land (PDL). It has not been lawfully developed. However, given the location and position of the site, it does not make a strong contribution to either checking unrestricted sprawl, preventing neighbouring towns from merging nor does it function to preserve the setting and special character of historic towns. The site passes the grey belt gateway.
14. Framework 155 explains that the development of commercial or other development in the Green Belt should also not be regarded as inappropriate provided the criteria set out in sub-paragraph a) to d) are satisfied: the latter being irrelevant. Arguably, while there is concern about encroachment, the development does not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan given the site's location and setting. That said, the evidence presented does not clearly show alternatives are not available

nor does it show to me there is a demonstrable unmet need for the type of open-air storage use in this location. In addition, having regard to Framework 110 to 115, I am not persuaded that the site is suitably located for this kind of development and its storage use is likely to encourage unsustainable pattern and mode of transportation. Criterion (b) and (c) are breached.

15. I too find that the development constitutes inappropriate development in the Green Belt. Accordingly, taken as a whole, the alleged development utilises grey belt land. However, it is at odds with the Framework 154 a) to h), 155 and the Council's policy DM4. As I have already assessed implications on openness, there is no need to consider this matter further.
16. Character and appearance: LP policy SP6 relates to landscape character and states that the character and appearance of the countryside will be conserved and enhanced. Although there is built development nearby, the site is located on the edge of the settlement surrounded by open countryside. The development forms an incongruous addition especially when seen from the adjacent footpath. The introduction of storage use visually detracts from pleasant rural setting and appears out-of-keeping with the rural edge of settlement character. Accordingly, the change in use of the site conflicts with the main aims of policy SP6 and Framework 135(c).
17. Other considerations advanced in support: Storage use has economic and social benefits because it supports local businesses, but the development causes significant environmental harm. I also attach minimal weight to the previous use arguments as an ancillary farm-related activity does not justify the development in this location or setting. The argument is that the hardstanding might be used in connection with agriculture, but I am concerned about its size and scale. The covered area is extensive and little, if any, evidence is before me to show the extent of the surfaced area is necessary or linked to storage of agricultural plant, machinery or equipment.
18. Planning balance: Substantial weight is given to the inappropriate nature of the development and harm to openness. The development conflicts with at least one purpose of designating land inside the Green Belt, which is a serious planning objection. There is conflict with Green Belt protection policies in the Framework and LP cited above. Significant weight is attached to harm caused to character and appearance. On the other side, I attach minimal weight to the advanced, as summarised above, economic and social benefits, and very minimal weight to the previous use of the site and limited weight in support of the alternative argument advanced in favour of retaining the hardstanding.
19. Refusal of planning permission and upholding the notice is likely to impact the storage operations but I attach limited weight, if any, to human rights implications. In my planning judgement, the advanced considerations in support of the appeal, whether taken individually or cumulatively, do not, on balance, clearly outweigh the conflict with planning policies designed to protect the Green Belt so as to justify the grant of planning permission on the basis of very special circumstances. In all the circumstances, it is not disproportionate to refuse permanent planning permission.

### **The steps required by the notice**

20. The notice shall specify the steps to be taken, or the activities to cease, to achieve, wholly or partly, any of the purposes set out in s173(4)(a)(b) of the Act. For example, remedying the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place, or remedying any injury to amenity which has been caused by the breach. The steps required by the notice seek to remedy the breach of material change in the use of the land as described in the notice.

21. The nub of the appellants case relates to requirement set out in section 5(3), which, essentially, requires the removal of hardstanding. The argument is that the land remains agricultural and the hard surface can be used in connection with that lawful use. However, as I have said elsewhere, the hardstanding is the subject of an extant enforcement notice. Even if an alternative view prevails, given the extent and scale of the hard surfaced area, the latter has clearly facilitated the unauthorised storage activity and is part and parcel of the material change in the use of the site.
22. A ground (f) case to retain the hardstanding cannot succeed just because the appellant says the hard surfacing could serve an agricultural use. The evidence before me does not clearly show that the hardstanding's use, at the date of issue, was connected to an agricultural purpose nor is there any precise information to show that it could be used for that purpose in future if the unauthorised storage activity ceases. Additionally, I have given careful thought to retaining hardstanding as part of ground (a) but find the extent of area covered to be unacceptable in terms of planning terms. To under-enforce would fail to remedy the breach and, potentially, undermine expediency.
23. Contrary to the appellant's arguments, section 5 sub (2) clearly refers to all the items that need to be removed from the site. It is a matter for the appellant to demonstrate compliance and that any container, plant and other machinery or item is in fact used in connection with the lawful use of the land for agriculture. The notice does not need to specify which item should remain as that would potentially introduce significant confusion and imprecision in the steps required.
24. Drawing all the above points together, in my considered opinion, the appellant's arguments are unpersuasive as the lesser steps advanced would not remedy the breach of planning controls and nothing short of total compliance would achieve that purpose. To my mind, the requirements are not disproportionate nor excessive. Ground (f) must fail.

### **Ground (g)**

25. The steps required by the notice includes removal of the hardstanding. In addition to the need to give adequate notice to those who store items at the site, and find alternative accommodation, an extended 6-month period would be reasonable. This is a proportionate response. It would strike a fair balance between the competing interests of the wider public interest and this case. I am content that there would be no violation of the appellant's rights. I consider 3 months is too short and 6 months is a reasonable period of compliance. Ground (g) succeeds to this extent only.

### **Conclusion**

26. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (d), (f) and (a) and planning permission is refused. As I have varied the period of compliance, ground (g) succeeds to that extent.

*A U Ghafoor*

INSPECTOR