



Appeal Decisions

Site visit made on 13 April 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 01 May 2026

Appeal A Ref: APP/R1010/C/24/3345082

Appeal B Ref: APP/R1010/C/24/3345083

Land South West of Beaumont Cottage, Hilcote Lane, Hilcote, Alfreton DE55 5HR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr David Hunt and Appeal B by Mrs Julie Hunt against an enforcement notice issued by Bolsover District Council.
- The notice was issued on 19 April 2024.
- The breach of planning control as alleged in the notice is: Without planning permission,
3(a) the change of use of The Land from agricultural use to a dog training and exercise facility (sui generis) and the siting of an associated caravan, and;
3(b) unauthorised building and operational development comprising the erection of associated 1.8m high metal perimeter fencing, highlighted green and timber storage buildings edged blue on the attached plan.
- The requirements of the notice are to:
 - a) Cease the use of the land edge red as a dog training and exercise facility.
 - b) Permanently remove the caravan used in associated with the dog training and exercising facility from the land.
 - c) Permanently remove the 1.8m high metal perimeter fencing highlighted green from the land.
 - d) Permanently remove the unauthorised storage buildings edged blue from the land.
- The periods for compliance with the requirements are:
Requirements a) and b), 1 month
Requirements c) and d), 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (b), (c), (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (b), (c), (f) of the Town and Country Planning Act 1990 (as amended).

Summary of Decisions: The appeals succeed in part, and the enforcement notice is upheld with corrections and variations in the terms set out in the Formal Decisions.

Applications for costs

1. An application for costs has been made by Mr David Hunt and Mrs Julie Hunt against Bolsover District Council. This application is the subject of a separate decision.

The Enforcement Notice

2. Section 173 (1) of the Town and Country Planning Act, 1990, as amended (the Act) states that an Enforcement Notice (EN) shall state (a) the matters which appear to the local planning authority to constitute a breach of planning control; and (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls. Section 173 (2) of the Act states that a EN complies with subsection (1) (a) if it enables any person on whom a copy of it is served to know what those matters are. In this case the EN alleges:

- (a) The change of use of the Land from agricultural use to a dog training and exercise facility (sui generis) and the siting of an associated caravan, and;
 - (b) Unauthorised building and operational development comprising the erection of associated 1.8m high metal perimeter fencing, highlighted green and timber storage buildings edge blue on the attached plan.
3. Having regard to paragraphs 4.1 and 4.2 of the EN which reference that the change of use has occurred within the last 10 years and the operational development within the last four years, it is evident that the EN is alleging both a material change of use in the Land and operational development. It is not alleging that the operational development facilitated the material change of use.
4. The breach of planning control alleged in the EN is, *“Without planning permission, the change of use of the Land.....”* Having regard to the meaning of “development” set out in Section 55(1) of the Act, I have corrected the EN to include the word “material” before the phrase “change of use” in the allegation. This correction is made in the interests of precision, and the correction would not result in any injustice to either party.

Appeal A and Appeal B on ground (b)

5. The issue in the ground (b) appeal is whether as a matter of fact the breach of planning control alleged in the enforcement notice (EN) has occurred as a matter of fact. The burden of proof falls on the appellants to make out their case.
6. The appellants’ case is, that whilst the Land has been used for dog training and exercising in the past, that use ceased in December 2022. In addition, with that being the case, the caravan can no longer be associated with that use.
7. S174(2)(b) of the Act is “that those matters have not occurred”. It is thus worded in the past tense, and the question is whether the breach had occurred by the date of issue of the EN as a matter of fact. In this case, the appellants accept that the Land has been used in the past for dog training and exercising. Furthermore, it is also acknowledged that the caravan was initially brought onto the Land to support and in association with the dog walking and exercising use. Thus, on the evidence before me those matters alleged in the notice have occurred as a matter of fact.
8. The appeals on ground (b) fail.

Appeal A and Appeal B on ground (c)

9. The issue in the appeals on ground (c) is that those matters do not constitute a breach of planning control. On this legal ground of appeal, the burden of proof falls on the appellants to make out their case.
10. It is the appellants’ case that the perimeter fencing is permitted development arising from Article 3, Schedule 2, Part 2, Class A.1 (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). Furthermore, they do not consider that the siting of the caravan is a use of land and assert that the siting of the metal storage container is not operational development.

Container

11. The appellant contends that the steel container on the Land is not operational development. I noted on my site visit that there was a small container stationed on the Land adjacent to the small timber shed. However, the steel container does not form part of the alleged breach of planning control and is not required to be removed from the Land in the EN. The container is not therefore a matter for my consideration in this appeal.

Caravan

12. The alleged material change of use of the Land is from agricultural use to a dog training and exercise facility. The breach alleges that the caravan sited on the Land was brought onto the land for use ancillary to the dog training and dog exercise use. There is no dispute that the dog training and exercise use of the Land is unlawful, and nor that the caravan was initially brought onto the Land in association with that unlawful use. That being the case, the stationing of the caravan as alleged in the EN is ancillary to the unlawful use of the Land. No planning permission has been granted by the local planning authority for that use, and a breach of planning control has occurred.

Fencing

13. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO, subject to restrictions set out in Class A.1. Class A.1 advises that development is not permitted by Class A if – *“(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed – (i) for a school.....; (ii) in any other case, 1 metre above ground level.”*
14. A 1.8m high, coated metal fence has been erected around part of the Land. It is the Council's view that where the fence aligns the northern boundary of the Land it is adjacent to a highway and is not, therefore, permitted by the GPDO. Moreover, the Council considers that having regard to Article 3(5) of the GPDO, any permission granted by Article 3, Schedule 2, Part 2, Class A does not apply.
15. Where the fence has been erected along the northern boundary of the site it runs parallel to Hilcote Lane, a highway used by vehicular traffic. Hilcote Lane does not have a pavement in this location. However, between the carriageway edge and the new fence there is a grass verge, approximately 1.5m in width, a mature hedgerow, interspersed with hedgerow trees, and stockproof fencing. Having regard to the distance between the new fence and the highway, including the intervening verge, hedgerow and existing stockproof fence, I do not consider the new 1.8m fence to be adjacent to a highway. The fence is thus permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO.
16. I have had regard to Article 3(5) of the GPDO which states that:
*“The permission granted by Schedule 2 does not apply if
(a) in the case of permission granted in connection with an existing building.....*

(b) in the case of permission granted in connection with an existing use, that use is unlawful.”

However, any permission granted by Class A, Part 2, Schedule 2 of the GPDO is not a permission granted in connection with an existing use. Any existing use of the Land is not relevant to the operation of Class A and thus Article 3(5) is not applicable to the erection of the fence.

17. I have had regard to the Council’s consideration that the fence was erected in association with the dog training and exercise facility. However, the EN alleges the works as a separate operational development breach, and it is not alleged as integral to, or as facilitating the alleged material change of use. I have thus considered the appeal on that basis.
18. For the reasons given above, the 1.8m high fence is permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO and the alleged unauthorised operational development comprising the erection of associated 1.8m high metal perimeter fencing is not a breach of planning control. The appeal on ground (c) succeeds to that extent and I shall correct the breach of planning control to remove the fencing from the allegation and vary the requirements to take account of that correction.

Conclusion on ground (c)

19. For the reasons given above, I conclude that whilst the siting of the caravan is a breach of planning control, the erection of the 1.8m high fence is not. The appeals on ground (c) thus succeed to the extent that they relate to the erection of the 1.8m high fence.

Appeal on ground (a), deemed planning application

20. The appellant advises that the dog training and dog exercise use has ceased and the Land is now being used for the keeping of farm animals, sheep and goats, for which planning permission has been granted by the local planning authority¹. Consequently, the appeal on ground (a) does not seek planning permission for the material change of use to a dog training and dog exercise facility, only for the operational development, namely the perimeter fencing and timber storage buildings on the Land. The appellant is also seeking to retain the caravan on the Land for use in association with the keeping of farm animals.
21. It can be seen by my decision on ground (c) that I have found that the perimeter fencing is lawful. Thus, in so far as the appeal on ground (a) and deemed planning application relates to the perimeter fencing, it does not fall to be considered.

Caravan

22. As set out above, the alleged siting of the caravan is as a use ancillary to the alleged use of the Land as a dog training and dog exercise facility and brought on to the Land to facilitate that use. In the absence of the appellant seeking a ground (a) appeal in relation to that unauthorised use, the siting of the caravan in association with that use is also not for my consideration. However, I shall deal with the appellant’s argument that the caravan should be retained on the Land in

¹ Local Planning Authority Ref: 23/00163/FUL, dated 6 September 2023.

association with its use for the keeping of farm animals in my consideration of the ground (f) appeal.

Timber Buildings

Main Issue

23. The main issue is the effect of the buildings on the character and appearance of the area.

Reasons

24. Two timber buildings have been constructed in the most southern field on the Land. At the time of my visit, the smaller timber shed had straw/hay within it. The larger timber building had the appearance of a stable and comprised two bays. One of the stable bays was filled with straw and the other with feed and a mower. It is understood that both buildings have been erected to provide shelter and to store feed and equipment used in connection with the permitted use of the Land for the keeping of farm animals.
25. The Council do not appear to dispute that the buildings are designed for their intended purpose, i.e. for the keeping of farm animals, and that they are acceptable in terms of their design and appearance in this countryside location. However, they consider that by reason of their positioning on the Land, away from the site entrance and existing development, the buildings are a visual intrusion into the open countryside and harmful to the character and appearance of the area. They also advise that a two-bay timber building, similar in size and appearance to the unauthorised large timber building the subject of this appeal, was granted consent when planning permission was granted in September 2023 for the keeping of farm animals on the Land. That permitted building was to be sited close to the site entrance and neighbouring development. However, although that permission has been implemented and the use commenced, the proposed agricultural building has not been constructed.
26. Policy SS9 of Bolsover Local Plan, adopted 2020 (BLP) makes provision for development in the countryside which is necessary for the efficient operation of agricultural and other land based businesses. Such development should respect the form, scale and character of the landscape through careful location, design and use of materials. Policy SC3 of BLP requires development, amongst other criteria, to accord with and respond to the established character and local distinctiveness of the surrounding landscape.
27. I agree with the parties that the buildings are suitable in terms of their scale, appearance and design for their intended use in association with the keeping of farm animals on the Land. The small shed, by reason of its scale and position in the corner of the field and close to existing field boundaries is not visually conspicuous and does not to my mind have a harmful effect on the character and appearance of the countryside. However, the larger timber building is less sensitively sited, occupying a more isolated location, away from existing built development on Hilcote Lane and eroding the open character of the countryside. The appellant has not provided any evidence that would suggest that this isolated location is essential to the keeping of his animals, nor why the building could not be sited in the location previously proposed by them and approved by the Council for a similarly designed building for the same use. That approved location would

have a less harmful effect on the open character of the countryside, and the Council has suggested that they would have no objections to the larger timber building being re-located to occupy the site of the approved agricultural building (LPA Ref: 23/00163/FUL, dated 6 September 2023).

28. For the reasons given above, the small timber building would not have a harmful effect on the character and appearance of the area and there would be no conflict with Policies SS9 or SC3 of the BLP. On the other hand, considering the scale and its siting in an isolated location, the larger timber building has a harmful effect on the open character of the countryside. However, I agree that the re-location of the building to the site of the agricultural building previously approved, would mitigate that harm. Thus, subject to a condition requiring the large timber building to be re-sited, I conclude that there would be no harm to the character and appearance of the area and the development as a whole would accord with the provisions of the development plan, including Policies SS9 and SC3 of the BLP.

Conditions

29. I have had regard to advice within Planning Practice Guidance and the National Planning Policy Framework in relation to the imposition of planning conditions. In the interests of safeguarding the character and appearance of the area, it is reasonable and necessary to impose a condition to require the larger timber building to be re-located and sited in accordance with the details for the siting of the agricultural building drawing no: 4008-003, approved under Local Planning Authority Ref: 23/00163/FUL, dated 6 September 2023.

Conclusion on ground (a)

30. The appeal on ground (a) succeeds in part and to the extent that it relates to the two timber buildings.

Appeal A and Appeal B on ground (f)

31. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
32. The purpose of the notice is to remedy the breach of planning control since the use is to cease and the operational development referred to is to be removed in its entirety.
33. Having regard to my findings on ground (c) and ground (a), the appeals on ground (f) do not fall to be considered in so far as they relate to the fencing and timber buildings.
34. It is the appellants' case that the caravan on site is now used in connection with the lawful use of the Land for the keeping of farm animals and thus it is excessive to require it to be removed from the Land. However, requirement 5.1 b) requires the permanent removal of the caravan used in association with the dog training and exercising facility from the land. It does not require the caravan in a use ancillary to the lawful use of the Land for the keeping of farm animals to be removed from the Land.

35. Nevertheless, the requirement to remove the caravan used in association with the dog training, etc, does no more than seek to achieve the purposes of section 173(4)(a) of the 1990 Act, it is not therefore excessive and the appeal on ground (f) which relates to the caravan fails.

Overall Conclusion on Appeal A

36. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission for the timber storage buildings, but otherwise I will uphold the notice with corrections and variations and refuse to grant planning permission in respect of the other part of the matters. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 (1) of the 1990 Act (as amended). Section 180(1) provides that: 'Where, after the service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of planning permission, the notice shall cease to have effect so far as is inconsistent with that permission'. Thus, the notice will cease to have effect with regard to the removal of the timber buildings in paragraph 5.1 c) of the notice as corrected.

Overall Conclusion on Appeal B

37. For the reasons given above, the appeal on ground (b) fails, but it succeeds in part on ground (c), and in so far as it relates to the perimeter fencing. I shall uphold the notice with corrections and variations.

Formal Decisions

Decision on Appeal A

38. It is directed that the enforcement notice is corrected and varied by:
- the insertion of the word "material" before the word "change" in paragraph 3 (a);
 - the deletion of the words "erection of associated 1.8m high metal perimeter fencing, highlighted green and" in paragraph 3 (b);
 - the deletion of all the words in requirement 5.1 c);
 - renumber 5.1 d) as 5.1 c); and
 - the deletion of the words "and d)" in paragraph 6.2.
39. Subject to the corrections and variations Appeal A is allowed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the timber storage buildings at Land South West of Beaumont Cottage, Hilcote Lane, Hilcote, Alfreton DE55 5HR and subject to the following conditions:
- 1) Within 3 months of the date of this decision the larger and most southerly sited timber building outlined in blue on the plan attached to the enforcement notice shall be re-sited in the location approved for an agricultural building under planning permission reference 23/00163/FUL, dated 6 September

2023 and as shown on approved Drawing No 4008-003 received by the local planning authority on 9 August 2023.

40. Appeal A is dismissed and the enforcement notice is upheld as corrected and varied and planning permission is refused insofar as it relates to the material change of the Land from agricultural use to a dog training and exercise facility (*sui generis*) and the siting of an associated caravan at Land South of West Beaumont Cottage, Hilcote Lane, Hilcote, Alfreton DE55 5HR on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Decision on Appeal B

41. It is directed that the enforcement notice is corrected and varied by:
- the insertion of the word “material” before the word “change” in paragraph 3 (a);
 - the deletion of the words “erection of associated 1.8m high metal perimeter fencing, highlighted green and” in paragraph 3 (b);
 - the deletion of all the words in requirement 5.1 c); and
 - renumber 5.1 d) as 5.1 c); and
 - the deletion of the words “and d)” in paragraph 6.2.
42. Subject to the corrections and variations, Appeal B is dismissed and the enforcement notice is upheld.

Elizabeth Pleasant

INSPECTOR