



Appeal Decision

Site visit made on 4 February 2026

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2026

Appeal Ref: APP/E0535/C/23/3332551

Land at The Pig Unit (Former Mushroom Farm), Harthay Farm, Thrapston Road, Ellington PE28 4NJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by East Anglian Farming Contractors Limited against an enforcement notice issued by Cambridgeshire County Council.
- The notice was issued on 5 October 2023.
- The breach of planning control as alleged in the notice is unauthorised material change of use from agriculture to a use for the importation, storage, processing and export of inert waste materials and the deposit of waste in an engineering operation to raise the land, without the necessary planning permission.
- The requirements of the notice are to:
 - Step 1: Cease importation of waste materials, deposition and storage on the land.
 - Step 2: Cease processing and exporting of inert waste materials.
 - Step 3: Remove all processed inert waste and other waste materials from the land.
 - Step 4: Remove all deposited materials forming a raised roadway.
 - Step 5: Remove all deposited and stored waste materials from the land.
 - Step 6: Return the land to the level of the adjacent land.
- The periods for compliance with the requirements are:
 - Step 1: Within 1 day.
 - Step 2: Within 1 day.
 - Step 3: Within 28 days.
 - Step 4: Within 6 months.
 - Step 5: Within 6 months.
 - Step 6: Within 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), (g) 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.

Decision

1. The enforcement notice is quashed.

Matters concerning the Notice

2. The enforcement notice alleges the unauthorised material change of use from agriculture to a use for the importation, storage, processing and export of inert waste materials and the deposit of waste in an engineering operation to raise the land, without the necessary planning permission. Section 55(1) of the Act sets out the meaning of development. Development comprises two limbs: (1) The carrying out of building, engineering, mining or other operations in, on, over or under land; and (2) The making of any material change in the use of any buildings or other land.
3. The tipping of waste materials is generally held to constitute a material change in the use of land rather than operational development, unless the tipping has some purpose other than waste disposal. The appellant raises concern as to whether

‘deposit of waste in an engineering operation to raise the land’ should have been a separate allegation related to operational development, or whether it is related to the material change of use allegation.

4. The Planning Practice Guidance is clear: An enforcement notice should enable every person who receives a copy to know exactly what, in the local planning authority’s view, constitutes the breach of planning control and what steps the local planning authority require to be taken, or what activities are required to cease the remedy the breach. Given the penalties associated with non-compliance with an enforcement notice, it is essential that a notice is clear and that a recipient knows what they have done wrong and what they must do to remedy it. Enforcement notices should therefore be drafted with care.
5. The reasons within the Notice, refer to the breach of planning control having occurred within the last 10 years. However, where the allegation relates to operational development and the date of the breach was before 25 April 2024, the relevant period is four years. While this introduces some ambiguity, given the wording of the allegation, which is ‘the deposit of waste in an engineering operation to raise the land’, it seems, from the four corners of the notice, that the Council is alleging both a material change of use and operational development.
6. The appeal site comprises a rectangular plot of land which is accessed via a track which serves a limited number of other properties. During my visit, I saw that the appeal site occupies a generally elevated position (notwithstanding arguments as to whether the land has been raised) compared with the surrounding land and includes a number of old buildings and structures, which are at an elevated position, suggesting that the land (at least in part) was elevated prior to their erection. The access into the appeal site is likely to have served the buildings/structures and so is likely to have sloped upwards.
7. At the time of my visit, a substantial ditch had been constructed along much of the southern boundary of the site and through the western part of the site. A substantial bund had also been erected, separating the very western part of the site from the area laid with hardstanding and buildings. The Council refers to the bund as at the western boundary in its final comments, Photo 3. However, from my inspection of the site, I consider the bund lies well within the appeal site, and is likely to be located along the boundary of the appellant’s ownership, as shown in Land Registry documentation (provided by a third party), Title Number CB99067 (and as shown on the prior approval notification submitted by the appellant, reference 22/01499/AGDET).
8. The appellant has provided photographs of the site, dated May 2021, which show the remains of derelict buildings and debris. These photographs are stated to have been taken around the time the appellant purchased the site. Aerial photographs, dating back to 1997/1998, show that the site comprised some sort of hardstanding, with buildings also visible in an aerial photograph dated 2003. Much of the site appears to have been overgrown, with what appears to be modest piles of material in the north western part of the site. An access track can be seen leading up to buildings within the southern part of the site. The south western part of the site appears to have been used for agriculture.
9. While there is some dispute as to the historic use of the site, from the evidence it seems that hardstandings and buildings were present within the site prior to the

appellant's acquisition of it. By 2019-21, an aerial photograph shows that much of the site had been cleared of vegetation, with stockpiles of material evident and what appear to be building materials within the site. The access track appears more defined in this photograph, though it seems to be on a similar alignment to the track on earlier aerial photographs. What can be seen in the 2019-21 aerial photograph appears consistent with photographs taken on 10 August 2022.

10. The Council has provided a number of photographs, taken by the Environment Agency on 12 April 2022, which are asserted to show 'land raising and levelling of the site'. Photograph 1 of Appendix 2 of the Council's Statement, shows the north/north eastern boundary of the site, which is at a higher level compared with the adjacent field to the north. A modest number of trees can be seen growing along the slope.
11. On 17 June 2022, the EA is stated to have confirmed to the Council that they had visited the site on 13 June 2022 and that the land had been raised significantly by about 2m over a large area, when compared with the previous land levels at the appeal site, which are stated to have been known to the local farmer who used to own the site and comparing them to the land levels of the adjacent open agricultural field.
12. Photographs provided by the Council appear to show bare material, which has been flattened, sloping towards the north eastern boundary of the site. It seems likely that the land has been raised in places, to create a (relatively) level platform, across the site. However, it is far from clear when any raising of the land took place, or its extent. Prior to the appellant's acquisition of the site, it seems that much of the site was vegetated, which would (most likely) have obscured any differences in land levels between the appeal site and the adjacent field.
13. Mature trees along the northern elevation which were still present during my site visit appear to have grown on land which is higher than the adjacent field, suggesting that differences in land levels have been present within this part of the site for a significant period of time. A photograph of an old pig unit shed (Appendix 4, EA Photographs of the Site), appears to show material being laid over some sort of membrane, at a similar level to the shed. The pig unit shed appears dilapidated, which points towards land levels within that part of the site, having been at a similar level for a considerable period of time.
14. Given the difference in land levels between the appeal site and the adjacent land, it seems likely that the land has, at some point, been raised. It is, of course, possible, that the land was historically raised in some parts of the site and not others. However, it is far from clear which parts of the site the Council considers should be attacked by the notice. The inclusion of photographs in the Council's appendices does not provide sufficient clarity and, without clearly articulating this in the notice, it leaves the appellant unclear as to what they have done wrong and what they must do to remedy the breach.
15. It is clear from the appellant's submissions that they do not understand exactly what it is that the Council is concerned about. While it may be possible to address this by identifying the areas and extent of landraising the Council is concerned with on a plan and inserting it into the notice, correcting the notice in this way would deprive the appellant from making an appeal under ground (d). It may also have implications for other grounds of appeal, including those already pleaded, and may

require consequential corrections to the requirements. I am not satisfied that correcting the notice to provide the clarity needed would not cause injustice to either the appellant or the Council.

16. Correcting the notice to delete reference to 'engineering operation' would not, in my view, be appropriate, since it seems from the evidence before me and from my inspection of the site, that the alteration of land levels (whether carried out by the appellant or historically by a previous landowner) have been carried out to create a level platform and are likely, as a matter of fact and degree, to comprise operational development rather than a material change of use. In my judgement, the Notice is invalid and cannot be corrected without causing injustice.

Conclusion

17. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
18. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

M Savage

INSPECTOR