



Appeal Decision

Site visit made on 6 May 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th May 2026

Appeal Ref: APP/P0240/C/24/3354890

The Paddock, Higher Rads End, Eversholt, MK17 9ED

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Project 1 Developments Limited against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 1 October 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the site to a builder's yard, which includes the erection of a boundary treatment fence, the installation of a hard surface, and the creation of an access on to the highway.
 - The requirements of the notice are to:
 1. The cessation of the use of the land as a builder's yard and removal of all associated building materials stored there.
 2. The removal of the boundary fence, marked in green on the attached plan.
 3. The removal of the hard surface, shaded in blue on the attached plan.
 4. The removal of the access onto the highway.
 5. Return the land to its former condition prior to the unauthorised use and operational development.
 - The period for compliance with the requirements is: (1) For step 5(1), two months from the date the notice takes effect; for steps 5(2, 3 & 4) four months from the date the notice takes effect; and for step 5(5), nine months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (c), (f) & (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. As set out above, the enforcement notice was served against the unauthorised material change of use to a builder's yard, along with associated operational development. An appeal relating to the refusal of the Council to grant planning permission for the "*change of use of land to builder's yard to create a parking area of grasscrete surfacing and associated landscaping to screen retained boundary fence*" was allowed on 07 January 2026¹.
3. The red line boundary in relation to that permission crosses over, to some extent, with the red line boundary on the plan attached to the enforcement notice. In effect, the material change of use in respect of the grasscrete parking area and some of the fencing attacked by the enforcement notice now benefit from planning permission. The additional access to the yard and associated hardstanding and fencing to the north-east corner fall outside the area of land for which permission has been granted.

¹ Appeal reference APP/P0240/W/25/3375789

4. Under Section 180(1) of the Town and Country Planning Act 1990 (the Act) where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. In other words, the enforcement notice in this case will cease to have effect insofar as it is inconsistent with the elements for which planning permission were granted in the recent appeal.
5. If I were to uphold the enforcement notice, it is not necessary for me to vary the allegation or requirements to reflect the terms of s180(1) because that section of the Act automatically has the stated effect of over-riding any requirements that are inconsistent with the permission that has been granted.

The Appeal on Ground (c)

6. An appeal on ground (c) is made on the basis that the matters alleged in the enforcement notice do not amount to a breach of planning control. The appellants do not dispute that the material change of use has occurred, nor do they dispute that the fencing and hard surfacing amount to development for which permission was required. Their case is that the vehicular access is not entirely new but is in a similar position of a former field access, being set just behind a former field gate and being slightly wider. Consequently, they are of the view that the creation of the access itself does not constitute a breach of planning control.
7. Two photographs have been provided from Google Street View, one from October 2010 and the other from May 2019. In the earlier image a five bar gate can be seen in the hedgerow, behind a grass verge. It appears to be of some vintage judging by its condition and the field behind was overgrown. By May 2019 the hedgerow had completely taken over to a point where the gate cannot be seen at all. Nonetheless, it does appear that the field gate had been in situ for a considerable period of time.
8. Whether that gate was in the same position as the present access is less clear. There have been significant changes along the lane in the intervening period, including the development at the appeal site and an adjoining site, including a new driveway which runs immediately to the north of the land affected by the notice. The Council contend that Google Earth historic images show that the current access has moved to the north of the previous access, albeit they have not provided those images with their appeal statement.
9. It is also of note that the delegated officer reports refers to a second entrance to the builder's yard had been created "approximately in the location of an old disused agricultural field entrance". Judging from what limited evidence there is, including the street view images, it may be that the new access partly overlaps with the position of the former field gate but is undoubtedly much wider and runs across land not formerly used to provide access across the highway.
10. Looked at in the round, the operation does represent a new access because it is not the same as the previous field entrance in its design or precise dimensions. It does not benefit from 'permitted development' rights under Class B, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because the formation of the access was not required in connection with development permitted by any Class in Schedule 2 of the Order.

11. Consequently, it represents a breach of planning control and the appeal on ground (c) must fail.

The Appeal on Ground (f)

12. The appellants contend that the removal of the fencing and access is not necessary to remedy the breach of control relating to the material change of use of the land to a builder's yard and that could be achieved by ceasing the use and removing all of the hardstanding and materials from the site.
13. However, the erection of fencing was clearly integral to the material change of use that has taken place. It had no other purpose other than to enclose the area used by the builder's yard. The requirements of the notice are clearly aimed at remedying the breach of planning control and not simply the injury to amenity that has been caused.
14. In that context, the removal of the fencing goes no further than is necessary to remedy the breach of control. The appellants also state that the fencing could be re-erected following its removal under permitted development rights. Given that the fencing and gates are over 1m in height and adjacent to the highway that is not the case in respect of the means of enclosure taken as a whole. Whilst a fallback position may be of relevance if there was an appeal on ground (a), I must limit my consideration on ground (f) to whether the requirements go beyond what is necessary to remedy the breach of control. Regardless of whether new fencing could be erected under permitted development rights it does not alter the fact that the fencing in question was unauthorised because it formed an integral part of and facilitated the material change of use. Consequently, its removal goes no further than is necessary to remedy the breach of control.
15. As noted above, the fencing would only need to be removed to the extent that it conflicts with the planning permission granted in respect of the recent appeal. In effect, that amounts to the access gates and fencing in the north-east corner of the site.
16. The appellants accept that the removal of the hardstanding, including that involved in the creation of the access, goes no further than is required to remedy the breach of control but maintain that the requirement to remove the access itself is excessive. However, whilst there may have been a previous gate, the present access is not the same and amounts to the construction of a new access, taken as a whole. The requirement to remove that new access therefore goes no further than is necessary to remedy the breach of control.
17. That is not to say that the terms of the notice would prevent the re-instatement of the former field gate. Requirement 5(5) of the notice allows for the return of the land to its former condition prior to the unauthorised use and operational development. That requirement would allow for the return of the five-bar gate which previously existed in my view.
18. Therefore, taken as a whole, the requirements go no further than is necessary to remedy the breach and the appeal under ground (f) must fail.

The Appeal on Ground (g)

19. The appeal was submitted prior to planning permission being granted for the use of much of the land as a builder's yard in the recent appeal. At my recent site visit,

the land beyond the area for which permission has been granted was not actively in use as part of the builder's yard and was segregated from the main site by fencing. Consequently, given that the use of the affected area (taking account of s180 of the Act) has already ceased, there is no need to extend the period for compliance.

20. The remaining period of four months to remove the fencing and nine months to return the land to its former condition are not unreasonable given the comparatively limited extent of the works now required. Consequently, the appeal on ground (g) fails and I shall uphold the enforcement notice in respect of the timescales set out.

Overall Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Chris Preston

INSPECTOR