



Appeal Decisions

Site visit made on 26 March 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

Appeal A Ref: APP/P2114/C/24/3354054

Appeal B Ref: APP/P2114/C/24/3354055

Land at Havenbridge Farm, Rowlands Lane, Ryde, Isle of Wight PO33 4EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Colin Budden (Appeal A) and Mrs Joanne Budden (Appeal B) against an enforcement notice issued by Isle of Wight Council.
- The notice was issued on 12 September 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, and within the last four years the material change of use of land to the mixed use of agricultural/ and residential by the conversion and use of a stable building as a dwellinghouse.
Without planning permission and within the last four years an unauthorised engineering operation by the digging out of land and the formation of a pond.
Without planning permission and within the last four years an unauthorised engineering operation by bunding soil from development along the roadside boundary and around the pond.
Without planning permission and within the last 10 years the storage of non-agricultural items on the land.
- The requirements of the notice are to:
 - (i) Cease the use of any part of the Land as outlined red on the attached plan A for residential purposes.
 - (ii) On completion of requirement (i), to remove from the building highlighted blue on the attached plan B and from the Land outlined red on the attached plan A all domestic items to include but not exclusive to kitchen cabinets, cooker, fridge, food, appliances, bathroom to include, toilet shower and sink, and all residential furniture to include but not exclusive to beds, chest of drawers, settees, tables, television.
 - (iii) On completion of requirement (i), to remove from the building hatched green on the attached plan B and from the Land outlined red on the attached plan A domestic items to include but not exclusive to freezer, washing machine, tumble dryer and clothes airers.
 - (iv) To remove from the Land all non-agricultural items to include but not exclusive to telephone boxes, plant pots, garden furniture, vehicles, vehicle parts, tyres, wheels, exhausts and lorry cab shells from the land highlighted yellow on attached plan C.
 - (v) To infill the pond and level off to the original natural land level shown in the approximate location outlined red and denoted by an arrow on the attached photograph 1.
 - (vi) To remove the bunding, remove all spoil from the land and level off the land to the original ground level in the approximate location highlighted purple on the attached plan C.
- The period for compliance with the requirements is: 9 months after the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (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.
- Appeal B is proceeding on the grounds set out in section 174(2) (b), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The enforcement notice is quashed.

The Enforcement Notice

1. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If necessary,

before determining the appeal, I have a duty to put the enforcement notice (“the Notice”) in order.

2. The Notice alleges 4 matters, set out in separate paragraphs such as they read as 4 separate breaches of planning control. In essence these are:
 - (i) The material change of use of the land to a mixed use of agricultural/and residential by the conversion and use of a stable building as a dwellinghouse.
 - (ii) Operational development comprising the digging out of land and formation of a pond.
 - (iii) Operational development comprising bunding soil alongside the roadside boundary and around the pond.
 - (iv) The storage of non-agricultural items on the land.
3. Matters (ii) and (iii) are clearly discrete developments and are clearly identified on the plans attached to the Notice. Matters (i) and (iv) relate to uses of land. While, at its Section 2, the Notice defines the land affected as “the Land”, ‘land’ appears without a capital ‘L’ throughout the allegation. Nevertheless, in the absence of any other definition of what land each part of the allegation might refer to, it must be interpreted that it relates to all of the Land.
4. The Land is a single unit of occupation and there are no defining features or distinct areas in separate uses. Indeed, the Council has described the uses as relatively transient ones that change over time. It is likely, therefore, that the Land – before and after the alleged breach of planning control took place – should be considered as one single planning unit, rather than a situation where multiple new planning units have been formed. That being the case, it is unclear how the Land could have been put to the two separate uses identified in (i) and (iv).
5. That said, I note that (iv) does not allege that a material change of use to storage of non-agricultural items has occurred. This is important, because changes of use are only development within the meaning of the Town and Country Planning Act 1990 (“the 1990 Act”) if they are material. Given the way that it is stated, but not included within the mixed use, it leaves uncertainty as to whether the storage use is an alleged breach of planning control in itself.
6. Having sought clarification from the parties as to what was alleged, the Council has referred to the principles established through *Murfitt v SSE & East Cambridgeshire CC* [1980] JPL 598 whereby an enforcement notice can require the removal of items that facilitate a material change of use, including residential paraphernalia and non-agricultural items connected with an unauthorised use, even when those items are not development themselves. The Council then confirmed that the use of the land arising from the breach of planning control was a mixed residential and agricultural one.
7. This is not a situation, however, where the requirements of the Notice seek the removal of things not set out in the allegation. Rather, the allegation includes the non-agricultural storage as a separate matter. Moreover, while the Council’s comments suggest that the non-agricultural storage may not be a separate use of the land, the Notice identifies that the storage has occurred within the last 10 years, whereas the mixed agricultural and residential use has occurred within the

- last 4. The different periods stated align with the time after which no enforcement action can be taken, as set out in Section 171B of the 1990 Act. If the storage of non-agricultural items were, actually, part and parcel of, or incidental to, the mixed agricultural and residential use, then it would be subject to the same time period.
8. This position is further complicated by the requirements of the Notice, which specify the removal of items connected with those two separate uses from different parts of the Land. Those areas are identified by coloured shading on plans attached to the Notice. Moreover, various specific items are listed for removal, including vehicles and vehicle parts that do not appear to be normally incidental to a residential use, albeit the appellants' grounds of appeal suggest that at least some might be incidental to an agricultural use. The reasons for issuing the Notice also refer to a residential and storage use of agricultural land, and to separate policy conflicts in respect of the uses for residential and storage within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
 9. Read on its face, then, the Notice implies that two separate uses of the Land have occurred (agricultural and residential, and non-agricultural storage). Indeed, the appellants have understood the Notice to relate to two separate alleged uses and, moreover, that they were only alleged to have occurred within the separate areas identified on the plans attached to the Notice, and not across the planning unit as a whole. This is evidenced by comments suggesting that the shaded area relating to the storage use is too large and include areas that have only ever been used for agricultural purposes, or that not all parts of the buildings were in residential use.
 10. While this is a logical interpretation of the Notice, I am not convinced that it is a correct one as it reads words from the requirements into the allegation. However, it does illustrate the uncertainty. Importantly, though, it is unclear how a single planning unit could be put to two different uses where those areas had not been clearly defined in the allegation itself and where there is no obvious physical delineation on the ground. I, therefore, conclude that the Notice does not identify with sufficient clarity what the alleged breach of planning control is and so it is invalid.
 11. In such a scenario, I have powers under section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would cause any injustice to the appellants or the local planning authority.
 12. As noted above, it appears that the Council's position is that the storage of non-agricultural items is incidental to the mixed agricultural and residential use, and that the mixed agricultural and residential use is the only material change of use of the land that has occurred. I could, therefore, simply delete matter (iv), and the Council could seek to rely upon the principles established in *Murfitt* to secure removal of any items incidental to that use. Two potential issues arise here, however.
 13. Firstly, I am not convinced that all of the various non-agricultural items listed within the requirements are reasonably incidental to a mixed agricultural and residential use. Therefore, corrected in this way, the Notice might not properly identify the breach of planning control, causing injustice to the Council. It might be possible for the Council to take further enforcement action against any residual storage uses.

That might prevent injustice arising, but there could be unforeseen implications, such as issues relating to the time for taking any enforcement action. Furthermore, the appellant has not had opportunity to comment on the resultant Notice that would have requirements that do not directly relate to the allegation, including any relevance of *Murfitt*.

14. Secondly, the provisions of Section 173(11) of the 1990 Act may be relevant. While, as currently drafted, the Notice appears to allege a separate use of the Land for the storage of non-agricultural items, it does not require such a use to cease. It only requires the items to be removed from the area shaded yellow. The consequence is that full compliance with the Notice may grant planning permission for the use of the rest of the Land, if not all of it, for storage of non-agricultural items. Deleting the storage use would remove that possibility, putting the appellant in a worse position.
15. Another option would be to correct the Notice such that the storage use was still alleged, but as part of the mixed use of the Land, along with agricultural and residential uses. The need for consistency within the Notice would then require the cessation of the whole mixed use, including storage, which would make the Notice more onerous. The appellant has had no opportunity to make a case in connection with such a use or requirements on any of the grounds of appeal connected with that, so injustice could clearly arise. Moreover, based upon the Council's latest position, that might not be a correct identification of the breach of planning control either.
16. Therefore, even if I were able to correctly identify how the allegation should be described, I cannot make the necessary corrections without causing injustice to the appellant or the Council.
17. For the reasons given above, I conclude that the Notice does not specify with sufficient clarity what the alleged breach of planning control is. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. The Notice is invalid and will be quashed, although it may well be that the Council can use its powers under S171B(4) of the 1990 Act to take further enforcement action if it deems it expedient to do so.
18. In these circumstances, the appeals on the grounds set out in Section 174(2) (a), (b), (f) and (g) and the application for planning permission deemed to have been made under Section 177(5) of the 1990 Act do not fall to be considered.

Formal Decision

19. The enforcement notice is quashed.

M Bale

INSPECTOR