



Appeal Decision

Site visit made on 28 April 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Appeal Ref: APP/U1105/C/25/3361991

Land at Broad Down, North of Linhay Farm, Seaton Road, Southleigh, Colyton EX24 6JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Robert Norris Hobson against an enforcement notice issued by East Devon District Council.
 - The notice was issued on 16 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission and within the last four years, the siting and storage of non-agricultural items on the land (including a static caravan, shipping containers, a portacabin, a grey storage/toilet block and commercial vehicle) in the approximate positions shown edged in blue on the location plan enclosed with the notice.
 - The requirements of the notice are: (I) Permanently cease the use of the land for the siting and storage of non-agricultural items. (II) Permanently remove all non-agricultural items including the static caravan, shipping containers, portacabin, grey storage/toilet block and commercial vehicle from the land. (III) Permanently remove all materials and debris associated with compliance of (sic) steps (I) and (II) above from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee had not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. It is directed that the enforcement notice is corrected by:

- In paragraph 3 ('the matters which appear to constitute the breach of planning control') deleting the alleged breach and substituting it with the following allegation: '*Without planning permission and within the last ten years, the making of a material change of use of the land to use for general storage and associated operational development comprising the setting up of portable buildings.*'

and varied by:

- In paragraph 5 ('what you are required to do'), step (I) after '*...land*' deleting the remainder of the step and substituting it with '*for general storage.*'

Subject to the above correction and variation the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Where an enforcement notice alleges carrying out development without the required planning permission in paragraph s171A(1)(a) of the 1990 Act, it should distinguish between operations and a material change of use. Reference in the

allegation to the breach occurring '*within the last four years*' implies that the notice is solely directed at operational development. However, subsequent reference to '*the siting and storage of non-agricultural items*' points to the notice also being directed at a material change of use. Step (I), which requires such use to cease, provides further support for the notice being directed at both a material change of use and operational development. This is reinforced by the Council's reasons for issuing the notice, which refer to operations and a material change of use. Therefore, the notice does not state the alleged breach of planning control with sufficient precision.

3. In the circumstances, after seeking comments from the main parties I shall exercise the power in s176(1) of the 1990 Act to correct any defect, error or misdescription in the notice or to vary its terms, by substituting the allegation so that it refers to a material change of use as well as operational development, with a corresponding variation to step (I) to reflect the use described in the corrected allegation. There would be no injustice, either to the appellant or the Council, in varying the notice accordingly.
4. The appeal was initially made on ground (c)-'*that those matters (i.e., the matters stated in the notice) do not constitute a breach of planning control.*' However, the appellant's claim that the appeal site is used solely for agricultural purposes is relevant to ground (b)- '*that those matters have not occurred.*' Consequently, after seeking comments from the main parties I shall deal with the appeal as if it had also been made on ground (b). There would be no unfairness, as the Council have been afforded an opportunity to comment on the hidden ground of appeal.
5. There is no ground (a) appeal and the relevant fee has not been paid. Therefore, planning merits considerations, including whether the matters alleged in the notice conserve the East Devon National Landscape, cannot form part of my deliberations.

Ground (b) and (c) appeals

6. The burden is firmly on the appellant to show why their appeal should succeed on ground (b), or failing that, on ground (c), the relevant test of the evidence in both grounds of appeal being on the balance of probability.
7. The site is a substantial open field. Portable structures, including seven metal shipping containers, a portacabin, a toilet block and another portable building- described as a 'welfare unit'-have been set up in a corner of the field, with a static mobile home stationed nearby. The portable structures are located close to the site of a former barn, which I understand was destroyed by a fire during 2021. Vehicles, including a flatbed lorry, tractors and a mini digger, were positioned close to the portable structures when I visited.
8. The appellant claimed that the portable structures, along with the mobile home and lorry, are all associated with the agricultural use of the field. The definition of 'agriculture' set out in s336(1) of the 1990 Act, includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.

9. I am given to understand that the appellant intends to develop a livestock enterprise centred on the field. Even so, there is scant evidence of an ongoing use of the field for any of the purposes which fall within the statutory definition of agriculture. Little substantive agricultural activity seemed to be taking place when I visited and the majority of the field had a somewhat neglected appearance.
10. The shipping containers are being used to securely house a wide variety of items and equipment, a significant portion of which could be employed in agricultural activity. However, this does not necessarily mean that the items and equipment are used for agriculture at the field, or would be so used in future, and does not equate to an agricultural use. Besides, the agricultural utility of a substantial amount of the contents of the shipping containers, which include heating and plumbing system components, along with bicycles and motorbikes amongst many other things, is questionable. A considerable number of the items and equipment housed in the shipping containers have little obvious agricultural use or else are equally capable of being put to use for purposes other than agriculture.
11. Nor do the contents of the toilet block, which include sink and drainer units and bathroom fittings, have an obvious agricultural purpose. The toilet block is unserviceable. The portacabin and welfare unit also show little obvious signs of recent active use. The former is in a state of disrepair and contains items including bedframes, mattresses and household furniture. Part of the latter contains items including boxed up sanitary ware. The appellant did not explain how the contents of the shipping containers and the other portable structures are directly related to an agricultural use of the field. Whether any use of the mobile home or the lorry is contemplated in the short term is unclear. The mobile home is evidently not currently in use, as it is not fully fitted out internally. The lorry is clearly immobilised. The foregoing all points, as a matter of fact and degree, towards the field having a primary use for general storage purposes, with the portable structures, mobile home and lorry either being part and parcel of and integral to that use, or otherwise ancillary or incidental to it.
12. Consequently, based on the available evidence, I am not persuaded that the portable structures, along with the mobile home and lorry, are ancillary or incidental to an agricultural use of the field. As the appellant has been unable to show that the matters alleged in the notice have not occurred, the ground (b) appeal fails.
13. Turning now to the ground (c) appeal. Use of the field for general storage is materially different in character to an agricultural use. The on-site and off-site effects of the storage use are distinct from what would generally be associated with a use for agriculture. Also, storage use falls within Class B8¹; use for agriculture on the other hand is *sui generis*, or in a class of its own. Therefore, also as a matter of fact and degree, the use for general storage has involved the making of a material change in the use of the field.
14. The making of a material change in the use of any buildings or other land falls within the definition of development, set out in s55(1) of the 1990 Act. Planning permission is required for the development of land, having regard to s57(1) of the 1990 Act. The definition of a breach of planning control in s171A(1)(a) of the 1990 Act includes carrying out development without the required planning permission.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

15. There is little to suggest that the mobile home does not meet the statutory definition of a caravan². Established case law³ confirms that a caravan stationed on land and used for purposes incidental to the lawful use of that land does not involve development. Also, I am aware that a different caravan has previously been stationed in the field; a Lawful Development Certificate (LDC) under s191 of the 1990 Act was granted by the Council in July 2024 for the stationing at the site of a caravan for use as a rest facility in association with agricultural use.⁴ Even so, there is little firm evidence that the mobile home and lorry are other than incidences of the general storage use.
16. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Article 3, Schedule 2, Part 5, Class A only permits the stationing of a caravan to provide seasonal accommodation for farm workers employed on that land; it does not permit the permanent stationing of a caravan to provide such accommodation. Nor does Part 5 permit the stationing of a caravan for a seasonal worker where, as in this instance, there is no farming operation taking place on the land. Therefore, the GPDO provides little assistance to the appellant's case in relation to the mobile home.
17. The appellant also argued that the setting up in the field of the portable structures did not involve the carrying out of building operations. The definition of a building in s336(1) of the 1990 Act includes any structure or erection and any part of a building. Three primary factors are determinative of a building—that it is of a size to be constructed on site, as opposed to being brought onto the site; permanence, and; physical attachment to the ground. No one factor is decisive.
18. The portable structures are of significant size, individually and cumulatively, even if their footprint is appreciably smaller than that indicated on the plan attached to the notice. The shipping containers are each around 6m in length, about 2.4m wide and approximately 2.4m high, the welfare unit and toilet block being not dissimilar in terms of their dimensions. The portacabin is around 10m in length and about 3m wide, its height corresponding to that of the other portable structures. Each portable structure is not dissimilar in scale to many other constructions, for example garden outbuildings, which clearly fall within the statutory definition of a building.
19. I am given to understand that the portable structures were initially brought to the field individually in a completed form on the back of a lorry, before being lowered into position using a crane. The use of specialist equipment and the degree of care and precision likely to have been needed to position the shipping containers onto their concrete block supports, along with any levelling up required, shares some of the key attributes of building operations. Similar care and precision is likely to have been required in terms of siting the other portable structures to ensure a stable, level resting place on the ground. Therefore, in terms of the size and the operations involved in their setting up in the field, the portable structures have a number of characteristics that would normally be associated with buildings.
20. Permanence should be construed in terms of its significance in the planning context. Whilst the portable structures might well be capable of being moved around the field, there is no firm evidence that they have been so moved. As far as I was made aware, the portable structures have been in similar positions since

² In s29 of the Caravan Sites and Control of Development Act 1960

³ *Wealden DC v SSE & Day* [1988] JPL 268

⁴ Council Ref: 24/0432/CPE

being brought to the field around three years ago. The portable structures would have to be moved around the field by employing a larger vehicle fitted with lifting equipment; the appellant suggested that a metal coupling would be used to allow the shipping containers to be lifted onto a trailer by a farm front-end loader. Alternatively, a lorry with a crane or hoist could be used. Moving the shipping containers would also involve removing the concrete block supports and setting them up in the new position. None of this suggests that the portable structures are capable of more or less immediate, relatively easy movement.

21. Besides, along with their significant size the portable structures are constructed of permanent materials. The setting up of the portable structures has made a substantial physical change to the field. As there is no limit on how long the portable structures might remain, the physical change to the field is largely permanent. The ability to move the portable structures does not reduce the significance of their presence in planning terms. Even if the portable structures were to be moved around the field, that is unlikely to appreciably affect the physical change made.
22. Not being fixed to foundations or connected to services, the portable structures have little physical connection with the ground, other than by their own weight. However, probably weighing in at around a couple of tonnes each, the weight of each portable structure is likely to be substantial. Even when empty, the weight is likely to be sufficient to stabilise and affix the portable structures to the ground, thereby providing them with qualities of attachment similar to those of a building.
23. Accordingly, again as a matter of fact and degree, having regard to their size, extent of permanence and physical attachment to the ground I am not persuaded that the portable structures are anything other than buildings. It follows that the setting up of those structures in the field has involved the carrying out of building operations, falling within the definition of development.
24. No Class in any Part of the GPDO grants planning permission for the setting up of the portable structures. Even if the field were to be used as a temporary campsite in future, Part 4, Class BC of the GPDO does not permit the permanent stationing of moveable structures or the stationing of a caravan.
25. Therefore, the appellant has been unable to show that the matters stated in the notice do not constitute a breach of planning control. The available evidence shows otherwise. The ground (c) appeal also fails.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and a variation.

Stephen Hawkins

INSPECTOR