



Appeal Decision

Site visit made on 19 May 2026

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

an Inspector appointed by the Secretary of State

Decision date: 05 June 2026

Appeal Ref: APP/Y3940/C/24/3355835

Land at 100 Moot Lane Downton, Wiltshire SP5 3LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Miss Lynne Shave against an enforcement notice issued by Wiltshire Council.
- The notice was issued on 23 October 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the siting of a container structure on The Land.
- The requirements of the notice are to permanently remove the container structure from The Land.
- The period for compliance with the requirement is: 2 months from the date the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary matters

1. While the appeal was made only on ground (f), the appellant's submissions implied that the siting of the container may not have been a breach of planning control. That is a matter relevant to an appeal on ground (c). I have, therefore, sought the parties' detailed views as to the need for planning permission such that I can consider the appeal on ground (c) without causing injustice to either party.
2. At my site visit I observed that there were two containers on the land to which the enforcement notice ("the Notice") relates. I was accompanied at the site visit by a representative of the appellant and the Council and both parties agreed that the Notice targeted the container closest to Moot Lane, the other one having been placed on the land after the Notice had been served.

Ground (c)

3. The container is sited on land within the curtilage of a dwellinghouse. The Council's contention that it should be considered a building operation is not disputed by the appellant, who suggests that it is 'permitted development', benefitting from the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO").
4. The GPDO, Schedule 2, Part 1, Class E provides that various structures within the curtilage of a dwellinghouse are 'permitted development', subject to the limitations listed in paragraph E.1. The container is around 2.9 metres high with a flat roof. Buildings with a flat roof are permissible under Class E up to 3 metres in height. However, paragraph E.1, sub-paragraph (f) excludes development where the height of the eaves of the building would exceed 2.5 metres.

5. The appellant suggests that the container, being a typical shipping container with simple vertical corrugated walls, a completely flat roof with no overhang or projecting edges, has no eaves. However, the Government's Permitted Development Rights for Householders – Technical Guidance (2019) states that for a flat roof, the eaves height is measured from the ground level at the base of the outside wall to the point where that wall would meet the upper surface of the flat roof; any overhang or parapet should be ignored.
6. Whether or not the container is intended to be habitable space or, as in this case, simply used for storage, makes no difference, as the relevant limitations refer only to the shape and size of the building. Although the design of the container means that the roof and its edges are not visible from the ground, I cannot see any practical difference between that and a situation where the walls of any other building extend up to or beyond a flat roof, such as to form a parapet.
7. I, therefore, conclude that for the purposes of considering GPDO Schedule 2, Part 1, Class E, the container subject to the Notice should be deemed to have eaves. Even if the underside of the roof would be a more appropriate measurement than the upper surface, it has not been shown that the roof of this container would be below the required 2.5 metres from the ground at the point that the walls would meet the roof.
8. The above situation does produce some potential for inconsistency within the limitations of Class E, because a building with a flat roof can be constructed up to 3 metres in height. My approach above would prevent any building with a single flat roof attaining a height over 2.5 metres. Nevertheless, I do not see that, in itself, to be a reason to find that the container, or any other differently constructed building of similar shape would not have eaves. Moreover, while it is not for me to produce a design solution, it is conceivable that there may be some building designs that can use a combination of roof forms where there might be more commonly designed eaves details as well as a flat roof. Such inconsistency need not, therefore, necessarily arise.
9. The appellant has previously obtained a Certificate of Lawful Proposed Use or Development ("LDC") for a building that could enclose the container. While larger, the development certified as lawful would have a pitched roof design that had a lower eaves height. It is materially different to the container and, while the overall height would be greater, it would comply with the limitations of the GPDO. The presence of this LDC does not, therefore, indicate that the container on its own would be lawful.
10. In conclusion on this ground, for the reasons given, I find that, for the purposes of the GPDO, the container does have eaves and they exceed 2.5 metres in height. Criterion (f) of GPDO Schedule 2, Part 1, Paragraph E.1 is not met, so the matter alleged in the enforcement notice does not benefit from the planning permission granted by the GPDO. I have been given no other substantive reason to find that it might not be a breach of planning control. Accordingly, the appeal on ground (c) must fail.

Ground (f)

11. Ground (f) is 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 the matters alleged, or, as the

case may be, to remedy any injury to amenity which has been caused by such a breach.

12. The purpose of the Notice is to remedy the breach of planning control. Therefore, it is not relevant whether any injury to amenity could be remedied through lesser or alternative steps, including the enclosure of the container by a building such as that detailed in the LDC. The single step to remove the container from the land targets the matter alleged and nothing else. No obvious lesser step could remedy the breach of planning control.
13. I understand that the appellant would prefer a pragmatic solution, deeming the building detailed in the LDC to be bigger and, therefore, more harmful to amenity. However, the planning merits of the container, including any comparison to an alternative development that could be carried out, are a matter for consideration through an appeal on ground (a). No such appeal was made, and in the absence of the required fee for that ground, I cannot consider it now.
14. For the reasons given, I find that the steps required to be taken do not exceed what is necessary to remedy the breach of planning control alleged. Therefore, the appeal on ground (f) must fail.

Formal Decision

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

M Bale

INSPECTOR