



Appeal Decision

Site visit made on 26 May 2026

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 June 2026

Appeal Ref: APP/X3540/C/24/3345362

Land on the south side of 333 High Street, Walton, Felixstowe, Suffolk IP11 9QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Julian Bobbin against an enforcement notice issued by East Suffolk Council.
 - The notice was issued on 2 May 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission the change of use of an animal clinic and boarding facilities centre (former Blue Cross Animal Welfare Centre) to a use for the storage of furniture, builders materials and other items associated with a property development business ("the Unauthorised Use").
 - The requirements of the notice are to:
 1. Permanently cease the Unauthorised Use of the Land.
 2. Permanently remove from the Land any furniture, builders material and other items associated with the Unauthorised Use which are not associated with the lawful use of the Land as an animal clinic and boarding facilities centre.
 - The period for compliance with the requirements is: 4 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (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.
 - **Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**
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The Enforcement Notice

1. Section 55 of the Act provides that development, in the context of a change of use, means "the making of any material change in the use of any buildings or other land." Although the Enforcement Notice (EN) is directed at a change of use, the allegation at paragraph 3 does not specify that the change of use is material.
2. Furthermore, there is no requirement for the notice to identify the previous use of the land. The allegation is therefore corrected to remove the former use and allege a material change of use.
3. The requirement of the EN is to permanently cease the unauthorised use and permanently remove from the land the items associated with the use. However, the inclusion of the word "permanently" in both requirements is unnecessary, as the requirements to cease the use and remove the associated items is sufficient to secure compliance. Moreover, section 181(1) of the Act provides that compliance with any of the requirements contained in a notice does not discharge the notice. The requirements of an EN therefore have an enduring effect. Accordingly, both requirements are varied by deleting the word "permanently".

4. The correction and variations would not cause injustice to either party, as the amendments do not alter the substance of the alleged breach or the requirements of the notice.

The Ground (c) Appeal

5. An appeal on this ground is that the matter alleged, if it has occurred, does not constitute a breach of planning control. It is for the appellant to demonstrate, on the balance of probabilities, that the use does not constitute development, or alternatively, that it benefits from planning permission.
6. Section 55(1) of the Act defines “development” as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”.
7. A material change of use is not defined in statute. However, case law establishes that it arises where there is a change in the character of the use that is material when compared with the previous use. Whether such a change has occurred is a question of fact and degree, to be assessed in each case having regard to the specific circumstances.
8. The appellant contends that both the former and current uses fall within Use Class E. It is therefore argued that no planning permission is required, as movements within a use class do not constitute development.
9. I disagree with the appellant’s reliance on Use Class E and do not consider that the current use falls within that class. Furthermore, whether a use falls within a particular use class, and whether a material change has occurred, depends on the nature and overall character of the activities taking place on the site, which I consider below.
10. The former use of the appeal site was as a Blue Cross animal charity, veterinary surgery and welfare centre. The evidence indicates that this included rehoming and boarding facilities. Such a use would typically involve clinical and welfare-focused activities carried out within a controlled environment, including consultation rooms, treatment areas and animal enclosures, with functions centred on the care and management of animals.
11. Whilst the appellant asserts that the Blue Cross centre closed in 2015 and was not operated as a veterinary or rehoming facility up until its closure, but was instead used primarily for storage, there is no substantive evidence before me to support that claim. In any event, any storage that may have taken place would likely have been incidental to and in conjunction with the primary lawful use of the site as an animal welfare, veterinary and rehoming facility. Such ancillary activity would not, in itself, have amounted to a separate or distinct use of the site. Accordingly, I am not persuaded, on the balance of probabilities, that the lawful use of the site had materially changed to a storage use prior to the cessation of the charity’s occupation.
12. In contrast, the site is now used for the storage of furniture, building materials and associated items linked to a property development business. The internal space is largely occupied by stacked timber, doors, window frames, furniture and sanitary ware, along with a range of construction materials. I also observed loose and piled

items, shelving units, boxed goods and larger fittings distributed throughout the floor area.

13. In my view, the activities taking place now are materially different in character compared to the former use. The current use involves the storage, handling and periodic movement of building materials and furniture associated with building or refurbishment works. This is evident from the nature and range of items on site, including reclaimed timber, fittings and sanitary equipment. The building has therefore shifted from a facility for animal care and rehoming to a storage and logistics space serving a commercial operation.
14. The scale and nature of the storage activity, together with the volume of materials present, result in a distinctly different pattern of use. The associated movements, including deliveries and collections of building materials, would also differ in character from those linked to the former use.
15. Taken together, these factors demonstrate a clear and definable change in the character and function of the site. The current use differs fundamentally in both nature and intensity from the former veterinary and animal welfare use, giving rise to a different and distinct planning character. As a matter of fact and degree, I conclude that a material change of use has occurred. The appellant has therefore failed to demonstrate, on the balance of probabilities, that there has been no breach of planning control.
16. For the above reasons, the appeal on ground (c) fails.

The Ground (d) appeal

17. An appeal on ground (d) is brought on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters stated in the notice.
18. In the cases of breaches of planning control involving a material change of use, section 171B(3) of the 1990 Act makes clear that no enforcement action may be taken after the end of the period of ten years beginning with the date on which the material change of use took place. Thus, it is necessary for the appellant to demonstrate that the material change of use for the storage of furniture, builders' materials and other items associated with a property development business took place on or before 2 May 2014 and thereafter subsisted without interruption for a period of 10 years.
19. The appellant asserts that, following its closure to the public in 2012, the Blue Cross used the building primarily for storage purposes. It is further claimed that since the site was purchased by the appellant it has continued to be used for storage and therefore this use has become lawful. However, this assertion is inconsistent with the documentary evidence before me. In particular, a letter dated 13 February 2017 from the property manager acting on behalf of the Blue Cross which states:

"From opening its doors in 1971, to its closure in 2015, the centre was open to members of the public for the rehoming of animals, we ran a non-for-profit animal clinic for members of the public who couldn't afford the services of a private veterinary surgeon, we had an excellent network of volunteers and our paid members of staff. The centre was a thriving and busy environment."

20. This account indicates that the site remained in active use as an animal welfare, veterinary and rehoming facility up until its closure in 2015, rather than being used primarily for storage as suggested by the appellant.
21. In any event, even if some element of storage had taken place at the site during the period of the Blue Cross's occupation, I am not persuaded that it would have been comparable in nature, scale or purpose to the current use. Any such storage would likely have been ancillary to the primary animal welfare function, limited in extent and directly related to that use. By contrast, the present use of the site is for the storage of furniture, building materials and associated items as a primary activity linked to a property development business. The nature and intensity of the current use are therefore materially different, and any historic ancillary storage would not assist the appellant in demonstrating continuity of the use alleged.
22. In light of the above, and in the absence of any clear and convincing evidence to the contrary, I am not satisfied that the use of the site for the storage of furniture, builders' materials and associated items was implemented on or before 2 May 2014, or that such a use has subsisted continuously for a period of ten years. The evidence instead indicates that the lawful use of the site continued as an animal welfare, veterinary and rehoming facility until its closure in 2015. Consequently, the appellant has failed to demonstrate, on the balance of probabilities, that the breach of planning control is immune from enforcement action.
23. The appeal on ground (d) therefore fails.

Appeal on Ground (a) and the Deemed Application for Planning Permission

24. An appeal under ground (a) is that planning permission should be granted for the matter alleged.
25. The **main issue** is whether the development is in a suitable location, having regard to its effect on the living conditions of the occupiers of nearby residential properties, with particular reference to noise and disturbance, as well as its impact on the local highway network.

Reasons

26. The appeal site is located to the rear of Nos. 333–341 High Street, which are residential properties, with access to the site gained between Nos. 331 and 333 High Street. The boundary of the site adjoins, in part, the side boundary of the residential garden serving No. 4 Longcroft, together with garages serving properties on Longcroft and the side boundary of the garden serving No. 331 High Street. Residential properties are therefore situated in close proximity to the site along these adjoining boundaries.
27. The Council stipulates that the unauthorised use is unacceptable within a predominantly residential area, where noise and impacts on residential amenity are closely considered. However, it does not allege that any harm arises from the unauthorised use in respect of noise or disturbance. Nor has the Council referred to any recorded noise complaints, and there have been no representations submitted by nearby properties in relation to the appeal.
28. It is suggested that noise and disturbance experienced by occupiers of nearby residential properties may be greater than under the former use, owing to the presence of larger vehicles transporting items to and from the site. However, this

assertion is not supported by any substantive evidence. A letter from the property manager acting on behalf of the Blue Cross confirms that the former use generated between 31 and 68 vehicular movements per day, whereas the appellant advises that the current use results in no more than 10–15 daily movements. This represents a clear and significant reduction in comings and goings, and consequently a reduction in associated activity and potential for disturbance. This is consistent with my site observations, which indicated a low level of activity, with items appearing to be stored on site for extended periods and no evidence of deliveries taking place during the course of the visit.

29. Whilst it is acknowledged that the current use may give rise to occasional larger vans or vehicles associated with the transportation of bulkier items, the site is accessed from a relatively busy main road that already accommodates such vehicular movements. In this context, the nature of traffic associated with the appeal use would not result in any material change to the character of the surrounding area or give rise to unacceptable harm. It is also noted that the former Blue Cross use involved regular van movements, typically in the order of 5–15 per day, such that the presence of larger vehicles at the site is not a new or unfamiliar feature of its operation. Furthermore, many of the items stored on site would not require transportation by larger vehicles, and there is no substantive evidence to demonstrate that such vehicles are routinely used.
30. In addition, the current use does not operate with staff permanently based on site, thereby limiting the intensity and duration of activity. Furthermore, unlike the former use, there is no potential for noise associated with animals, including barking, particularly during night-time hours. Taken together, these factors indicate that the appeal use would not give rise to unacceptable noise or disturbance to neighbouring occupiers.
31. Reference has been made to the standard and size of the access to the site being unsuitable for larger vehicles, with potential implications for the safety of highway and pedestrian users. However, this concern is not supported by substantive evidence. The site is accessed from a busy High Street and benefits from a defined access arrangement capable of accommodating vehicles associated with the use. I have no reason to conclude that use of the access by vehicles would give rise to unacceptable harm to the local highway network. Furthermore, there is no evidence to suggest that larger vehicles are routinely used in connection with the appeal use.
32. The Council advises that the unauthorised use does not fall within any of the policy exceptions listed within Policies SCLP11.2, SCLP11.1, SCLP4.2, SCLP3.3 and SCLP3.1 of the East Suffolk Council Suffolk Coastal Local Plan (Local Plan). However, the policies are not exception based and it has not been demonstrated how the development conflicts with the overarching aims of these policies, particularly in respect of safeguarding residential amenity with reference to noise and disturbance.
33. For the above reasons, the development has an acceptable effect on the living conditions of the occupiers of nearby residential properties, with regard to noise and disturbance. It also does not give rise to an unacceptable impact on the local highway network. The development is therefore compliant with Policies SCLP11.2, SCLP11.1, SCLP4.2, SCLP3.3 and SCLP3.1 of the Local Plan, insofar as these seek to safeguard residential amenity with regard to noise and disturbance, protect the amenity of the wider environment and neighbouring uses, secure a good

standard of amenity, and support employment development where it would not have an adverse impact on the living conditions of local residents or the local highway network.

Conditions

34. I have considered the suggested conditions against the requirements of the Framework and the PPG. I have rationalised and reworded the suggested conditions so that only those that are necessary and meet the relevant tests are imposed.
35. A condition restricting the use of the site to the storage and sale of recycled period heritage furniture and architectural materials, with an associated office and reception area, was initially suggested. However, this does not accurately reflect the use alleged, which does not include the sale of items or the presence of a reception area. The use in question is solely for storage purposes. Furthermore, the condition has been amended to ensure that storage remains confined within the building, in order to preserve the character and appearance of the area. The condition has therefore been revised to align with the allegation and to ensure that the use of the appeal site remains appropriate to its residential context.
36. A condition is required to control deliveries and collections from the site to safeguard the amenity of neighbouring occupiers and to minimise potential disturbance arising from vehicle movements and the loading and unloading of vehicles. Furthermore, to protect the living conditions of nearby residential properties, a condition is necessary to control external lighting or other means of illumination.
37. With regard to access, conditions have been proposed to secure improvements and require the implementation of an approved scheme. However, the Council has not demonstrated how the standard and size of the existing access is inadequate or identified specific measures for its improvement. The site benefits from an independent access which previously served the Blue Cross use and could accommodate associated van movements. In the absence of substantive evidence of harm or deficiency, such conditions are not considered necessary or reasonable.
38. A number of additional conditions have been suggested, including restrictions on public access, the use of machinery, and the carrying out of work on site, as well as a prohibition on activities taking place outside the building. A requirement for a validation report in respect of agreed noise levels has also been proposed. Nonetheless, such controls are not justified given that the approved use is limited to storage only. The site does not need to be accessible to the public, and the nature of the use does not involve operational or industrial processes that would give rise to noise or disturbance requiring further regulation.

Conclusion

39. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The EN will be corrected and quashed. The appeal on grounds (f) and (g) do not fall to be considered.

Formal Decision

It is directed that the EN is corrected by:

- The deletion of the words *“Without planning permission the change of use of an animal clinic and boarding facilities centre (former Blue Cross Animal Welfare Centre) to a use for the storage of furniture, builders materials and other items associated with a property development business (“the Unauthorised Use”)”* and their substitution with the words:

“Without planning permission, the material change of use of the Land to the storage of furniture, builders materials and other items associated with a property development business”

And varied by:

- The deletion of the words *“Permanently cease the Unauthorised Use of the Land”* and their substitution with the words:

“Cease the unauthorised use of the Land” in requirement 1. in Section 5 of the EN.

- The deletion of the words *“Permanently remove from the Land any furniture, builders material and other items associated with the Unauthorised Use which are not associated with the lawful use of the Land as an animal clinic and boarding facilities centre”* and their substitution with the words:

“Remove from the Land any furniture, builders material and other items associated with the Unauthorised Use” in requirement 2. in Section 5 of the EN.

40. Subject to these amendments the EN is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the Land to the storage of furniture, builders materials and other items associated with a property development business as shown on the plan attached to the EN at land on the south side of 333 High Street, Walton, Felixstowe, Suffolk IP11 9QL subject to the conditions below:

- (1) The use of the building hereby permitted shall be limited to the storage of furniture, builders’ materials, and other items associated with a property development business, and for no other purpose (including any other purpose within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended).
- (2) Deliveries to and collections from the premises shall be taken at or be despatched from the site only between 8.30am and 18.00pm on Monday to Friday, 09.00am – 13.00pm Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- (3) The use hereby permitted shall not take place other than within the building, and no furniture, builders’ materials, or other items associated with a property development business shall be stored outside.

- (4) Prior to the installation of external lighting or other means of illumination, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting or other means of illumination installation shall then be carried out in accordance with the approved details.

V Goldberg

INSPECTOR