



Appeal Decision

Site visit made on 21 May 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2026

Appeal Ref: APP/W1525/C/24/3337730

Former Tennis Pavillion , the Old Rodney , Spring Elms Lane, Little Baddow, Chelmsford, CM3 4SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Paul Murphy against an enforcement notice issued by Chelmsford City Council.
 - The notice was issued on 23 January 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the construction of a hard surface.
 - The requirements of the notice are:
 - 1) Demolish and otherwise scrape clear from the land the hard surfaces – inclusive of the gravel surfaces and facilitative concreted edging/retaining timbers and stones – within the area outlined in blue at the approximate location on the attached plan;
 - 2) Restore the land affected by the works carried out at step 1) to its former condition; and
 - 3) Remove from the land all debris and other waste material resulting from the works carried out at step 1).
 - The period for compliance with the requirements is, in full, within three months of the date in which this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) 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.
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Decision

1. The successful appeal under ground (b) relates only to a small part of the land identified in its entirety. Taking the appeal site as a whole, the appeal is allowed, the enforcement notice is quashed and planning permission is granted for 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 construction of a hard surface on land at the former tennis pavilion, the Old Rodney, Spring Elms Lane, Little Baddow, Chelmsford CM3 4SD, subject to the following conditions:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015, as amended (GPDO) or any Order revoking or re-enacting that Order (with or without modification) no wall, gate or other means of enclosure shall be erected within or along the boundaries of the site without the written consent of the local planning authority),.
 - 2) Within three months of the cessation of the use of the land as a caravan site, the hard surfaces hereby approved shall be removed in their entirety and the land restored to its pre-development condition.

Background and Preliminary Matters

2. The site, the subject of the appeal was, until recently, used for outdoor recreational purposes, with several hard-surfaced tennis courts on the land. In early 2023 the landowner applied to the Caravan and Motor-home Club for an exemption certificate, through which up to five caravans can be stationed on the land without the need for a site licence from the local authority. Moreover, Part 5, Class A of the GPDO allows for such and the use does not require the benefit of express planning permission.
3. Although an exemption certificate was granted it does not allow for the laying of any significant degree of hardstanding or gravel in association with the use, and planning permission is thereby required for such. Nonetheless, the appellant, who says he was unaware of this requirement, arranged for the land to be surfaced with gravel, mainly in the central area between the two rows of caravans.
4. In the circumstances, and because the Council considers the hard-surfacing to be out of keeping with, and harmful to, the intrinsic character of the surrounding rural area, an enforcement notice was issued in an attempt to secure its removal.

The appeal on ground (b)

5. An appeal under ground (b) is that the matters set out in the wording of the allegation – in this instance ‘the construction of a hard surface’ – have not occurred, as a matter of fact. Obviously, in the main, the development has taken place, but the appeal made relates only to a small pocket of land near to the old tennis pavilion building.
6. In a ground (b) appeal – one of the legal grounds available to an appellant - the onus is on the appellant to provide precise and unambiguous evidence to demonstrate, on the balance of probability, that the allegation is flawed.
7. The appellant claims that this piece of land had been grassed over prior to the enforcement notice being issued and, in response, the Council says that it is not in possession of the necessary details from the appellant to confirm the extent of the area of land to which the ground (b) appeal relates.
8. Notwithstanding the burden of proof being on the appellant, in the first instance it is the Council’s responsibility to make sure that the area shown on the plan attached to the notice, within which the alleged breach has occurred/is occurring is itself precise. The Council, in its defence, says that the pocket of land is delineated by concreted edging timbers. This feature, though, is not specifically mentioned in the allegation and, I am of the opinion that it should have been differentiated from the gravel laid. Moreover, as mentioned, the enforcement notice should have been more exact to show, at the date of issue, the extent and significance of the hard-surface referred to.
9. Consequently, I consider the allegation, when related to the area outlined in blue on the plan attached to the notice, is likely inexact. Indeed, when weighing the appellant’s comments against the Council’s apparent uncertainty on this matter, along with my site visit observations when the parties’ representatives pointed out the piece of land at issue, I suggest that the blue outline may have been drawn more out of convenience than with precision.

10. On this basis I am satisfied, on balance, that the appeal under ground (b), but limited only to the small piece of land identified by the appellant, should succeed.

The appeal on ground (a) – the deemed planning application (DPA)

11. Ground (a) appeals are made with a view to securing planning permission for the matters alleged in the enforcement notice, either in their entirety, or in part. Given the Council's reasons for issuing the notice the sole issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

12. The site is a rather secluded enclave, surrounded by mature verdure. Located in the countryside, although with some sporadic residential development in the area, it is reached via a narrow access lane.
13. The Council's case is its consideration that the unauthorised development has materially changed the character of the area, with the new hard surfacing creating a sense of urbanisation. Its written statement mentions a stark contrast between the character of the disused tennis courts and the red and cream gravel finishes and the timber edging. The appellant mentions, though, that the red gravel matches the colour of the tennis court surfacing below. There is also a veiled indication from the Council's representations that, notwithstanding the fact that the exemption licence means that the current stationing of five caravans on the land is permissible by way of the GPDO, the local planning authority is not prepared to facilitate this use with more practicable surfacing.
14. Nonetheless, there have been a number of representations received from interested parties; local residents and also the Baddow Society, all of which generally support the development. Whilst the use is not an issue in this appeal a number commented that the former tennis courts, previously used by Little Baddow Tennis Club, had been badly neglected and fallen into disrepair. Given this, it is understandable that the consensus amongst the comments made is that the small site is now more visually pleasing than what had previously existed. At my site visit I noted that the red coloured gravel contrasts nicely with the cream variety. New planting has taken place, with the individual bays demarcated by small hedgerows and one letter refers also to the access lane having been recently upgraded.
15. In order to back up its reasons for issuing the enforcement notice the Council cites three separate policies from the Chelmsford Local Plan 2013-2016 (LP). First, Policy S11 is concerned with the role of the countryside and says that the requirement for new development within, which would not have an adverse impact on the different roles and character of the countryside, will be balanced to meet identified needs. Here, the gravel laid supports the use of the five caravans on this site and thereby aids tourism, an important role provided by the countryside.
16. Although the local development plan does not have a specific policy relating to tourism I consider that the availability of suitable accommodation, providing that it can be assimilated into the surrounding character of the immediate area – which I consider is the case here - is important to satisfy a need for such. Representations have also been received from persons to this effect.

17. Policy DM10, amongst other things, is concerned with engineering operations. It says that in rural areas, engineering operations will be permitted where they do not adversely impact upon the identified intrinsic character, appearance and beauty of the surrounding area. Further, policy DM23, which serves to secure high quality development, also requires that development is compatible with its surroundings, having regard to scale, siting and materials.
18. Having had regard to the various factors involved in this case, and the site's contextual setting, I am struggling to pinpoint any actual harm resulting from the gravel laid. I am also mindful that this is a very low key use, complemented by the surfacing which the enforcement notice targets. If additional caravans were brought onto the land the Council can address this using remedial powers held.
19. In the circumstances I find that the coloured gravel brought onto the land, along with its purpose is compatible with the surroundings and, moreover, it does not have any significant impact on the intrinsic character of the countryside. I also find no identifiable conflict with LP policies S11, DM10 or DM23. Neither is the development involved at odds in direct conflict with relevant advice in the National Planning Policy Framework.

Conditions

20. I have had regard to the conditions suggested by the Council should be imposed in the event that the appeal is allowed and planning permission granted. First, I agree that normal permitted development rights under the GPDO, which allow for the erection of walls, gates or other means of enclosure, should be removed. This prohibitive condition, or rather the scope of it, is necessary and reasonable in order to retain the land's openness.
21. Second, I also agree that, in the event that the land's use for the stationing of caravans ceases, the hard surfacing shall be removed in its entirety. The hard surfacing aids the current use, and this obviously no longer applies should the use cease. The appellant considers that this would result in an untidy appearance but I am satisfied that, in the absence of any planning permission to use the land otherwise, it would be preferable to uncover and bare the tennis courts underneath.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and, accordingly, planning permission will be granted.

T C King

INSPECTOR