



## Appeal Decision

No site visit made

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 August 2026

**Appeal Ref: APP/P0240/C/25/3363264**

**10 Knolls View, Totternhoe, Dunstable LU6 2BT**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”).
- The appeal is made by Mr Gordon Datlen against an enforcement notice (“EN”) issued by Central Bedfordshire Council.
- The EN was issued on 5 March 2025.
- The breach of planning control as alleged in the EN is: Without planning permission, the erection on the Land of a detached single storey garden outbuilding in the rear garden shown coloured black on the plan and the siting of a metal shipping container in the front garden shown coloured green on the plan.
- The requirements of the EN are:
  1. Demolish the detached single storey garden building; or
  2. Reduce the overall height of the detached single storey garden building, so that no part exceeds 2.5m.
  3. Remove the metal shipping container from the land.
  4. Remove from the land all building materials and rubble arising from compliance with requirements 1 or 2 and 3 above and restore the land to its former condition before the breach took place.
- The period for compliance with all steps in paragraph 5 above is 3 months from the date on which this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the 1990 Act.

## Decision

1. It is directed that the EN is varied by:

- *the deletion of the words in section 5:*
  1. *Demolish the detached single storey garden building; or*
  2. *Reduce the overall height of the detached single storey garden building, so that no part exceeds 2.5m.*
  3. *Remove the metal shipping container from the land.*
  4. *Remove from the land all building materials and rubble arising from compliance with requirements 1 or 2 and 3 above and restore the land to its former condition before the breach took place.*

*and their substitution with the words:*

1. *Demolish the detached single storey garden outbuilding; or*
2. *Reduce the overall height of the detached single storey garden outbuilding, so that no part exceeds 2.5m; or*
3. *Modify the detached single storey garden outbuilding to comply with planning permission CB/23/03928/FULL and its conditions and listed plans.*
4. *Remove the metal shipping container from the land.*

5. *Remove from the land all building materials and rubble arising from compliance with requirements 1 or 2 or 3 and 4 above and restore the land to its former condition before the breach took place.*
  - *the deletion of “The period for compliance with all steps in paragraph 5 above is 3 months from the date on which this notice takes effect” as the time for compliance, and its substitution with “The period for compliance with steps (1), (2) and (4) in paragraph 5 above is 3 months. The period for compliance with steps (3) and (5) in paragraph 5 above is 5 months.”*
2. Subject to the variations, the appeal is dismissed and the EN is upheld.

### **Preliminary Matters**

3. The EN has been appealed under grounds (c), (f) and (g) therefore, the planning merits of the development are not relevant to this appeal. As such, a site visit would not help me reach a decision. Consequently, I advised the main appeal parties of my intention to determine the appeal without a site visit.

### **Appeal on Ground (c)**

4. An appeal under ground (c) is that the matters alleged in the EN do not constitute a breach of planning control. The appellant's ground (c) appeal refers solely to the alleged siting of a metal shipping container. The onus of proof is on the appellant to show there has been no breach of planning control. The relevant test is the balance of probability.
5. The appellant asserts that the siting of the metal shipping container is permitted development under Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”). This permits the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on or adjoining the land in question.
6. Schedule 2, Part 4, Class A of the GPDO does not limit the time for the completion of operations, but it does limit the siting of temporary buildings and structures to the *duration* of the operations being, or to be, carried out.
7. The evidence before me suggests that the shipping container was sited on the land in January 2022 and was used for the temporary storage of materials and tools during the renovation of the dwelling. At this time, the Council accepted the shipping container met the requirements of Schedule 2, Part 4, Class A of the GPDO. However, the Council assert that the renovation works were subsequently completed hence the EN was issued. The appellant has not disputed this.
8. The appellant states that the shipping container is required to support construction activities which remain on hold pending the outcome of a separate appeal. No further details have been provided by the appellant regarding this matter. The Council has directed me to an appeal<sup>1</sup> at the land, however, it was dismissed prior to the EN being issued. Consequently, I am unaware of any undecided appeals involving the land.

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<sup>1</sup> Appeal Ref APP/P0240/D/24/3345683

9. I have not been directed by either main appeal party of any operations currently being undertaken on the land that would necessitate the temporary siting of the shipping container under Schedule 2, Part 4, Class A of the GPDO.
10. I acknowledge that the requirements of the EN would involve either the demolition of the detached single storey garden outbuilding (“the outbuilding”) or amendments to it. Therefore, there is the potential for some works to take place on the land in the future. But I have no guarantee that they will be undertaken. Notwithstanding this, the shipping container must be “*required*” temporarily in connection with the operations. “*Required*” in this instance means “*reasonably required*” and I am not persuaded that a shipping container of this size would be reasonably required to undertake these works.
11. Taking the above into consideration, on the balance of probability, the appellant has not shown that the metal shipping container does not constitute a breach of planning control and therefore, the ground (c) appeal fails.

### **Appeal on Ground (f)**

12. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy the breach of planning control or any injury to amenity.
13. The EN’s requirements state that the outbuilding should either be demolished or its height reduced so that it does not exceed 2.5m in height, and the metal shipping container is required to be removed from the land. The land is also required to be returned to its former condition. Therefore, with reference to the outbuilding the purpose of the EN is either to remedy the breach of planning control or remedy the injury to amenity, depending on which option the appellant chooses to implement. With reference to the shipping container, the purpose of the EN is to remedy the breach of planning control.

### ***Outbuilding***

14. The main appeal parties have directed me to a planning application<sup>2</sup> to amend the outbuilding so that it is sited more than 2m from the boundary of the dwelling’s curtilage. Planning permission was granted on 31 January 2024, and I have nothing before me to suggest that the planning permission cannot be implemented. The appellant asserts that the requirements of the EN should be varied to include an option to amend the outbuilding to comply with this planning permission.
15. I am satisfied that including an additional requirement to allow the appellant to amend the outbuilding to comply with the planning permission is an obvious alternative that would also achieve the EN’s purpose of remedying the injury to amenity with less cost and disruption to the appellant. The Council had an opportunity to comment upon this matter but did not do so, and the alternative option would still achieve the EN’s purpose. Therefore, its inclusion would not cause injustice to the Council.
16. For these reasons, the appeal on ground (f) succeeds to this extent.

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<sup>2</sup> Planning Ref CB/23/03928/FULL

### *Shipping Container*

17. The appellant asserts that the EN's requirement to remove the shipping container is excessive as it is permitted development under Schedule 2, Part 4, Class A of the GPDO. Therefore, they seek for Step 3 to be varied to allow for the retention of the shipping container until construction is complete.
18. I have already found that the shipping container is not permitted development under Schedule 2, Part 4, Class A of the GPDO. Furthermore, any step lesser than the removal of the shipping container would not remedy the breach of planning control. Therefore, to remove this requirement from the EN would cause injustice to the Council.
19. Should the appellant be able to demonstrate that a shipping container was reasonably required in the future, permitted development rights under Schedule 2, Part 4, Class A of the GPDO would temporarily override the EN.
20. For these reasons, the appeal on ground (f) fails to this extent.

### **Appeal on Ground (g)**

21. An appeal under ground (g) is that the period specified for compliance within the EN falls short of what should reasonably be allowed.
22. The period for compliance is 3 months. The appellant requests a period of 12 months. They assert that a longer period is necessary to allow for the resolution of ongoing planning appeals; the completion of essential site works without unnecessary disruption; the proper removal and restoration of the land in an orderly and practical manner; and achieving compliance without undue hardship.
23. No further evidence has been provided to substantiate these matters, and I have not been directed to any outstanding appeals that remain to be determined. Consequently, I am unclear why a 3 month compliance period is unreasonable, or on what basis a period of 12 months is being sought.
24. A specialist heavy goods vehicle would be required for the removal of the shipping container and there would be a lead in time associated with booking it. However, I have no substantive evidence before me to suggest that the appellant would experience problems in hiring the specialist equipment needed to remove the container within the Council's timeframe.
25. The demolition of the outbuilding or the alteration to its roof would likely involve hiring a contractor to undertake the works. However, I have no substantive evidence before me that the works would be complex, or the appellant would experience problems in hiring a contractor to undertake the works within the 3 month compliance period.
26. For these reasons, I am satisfied that steps (1), (2) and (4) of the EN as varied could be undertaken within the prescribed 3 months.
27. As previously stated, I have varied the requirements to include an option to amend the outbuilding to comply with a planning permission<sup>3</sup>. It is my judgement that this would involve works that would be more time consuming than reducing the outbuilding's height or its complete demolition. Consequently, I will vary the time

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<sup>3</sup> Planning Ref CB/23/03928/FULL

for compliance to 5 months for step (3) of the EN as varied. As I have extended the timeframe for this step, I must also extend the time for compliance with step (5) of the EN as varied so that it aligns.

28. For these reasons, the appeal on ground (f) succeeds to this extent.

### **Conclusion**

29. For the reasons given above, I conclude that the requirements of the EN exceed what is necessary to remedy the breach of planning control/the injury to amenity and the period for compliance with the EN falls short of what is reasonable. Therefore, I shall vary the EN prior to upholding it. The appeal on grounds (f) and (g) succeeds to that extent.

*A Berry*

INSPECTOR