



Appeal Decision

Site visit made on 29 May 2026

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

an Inspector appointed by the Secretary of State

Decision date: 7 August 2026

Appeal Ref: APP/L3815/C/24/3358007

Plot 2, First Acre, Ham Road, Sidlesham, West Sussex, PO20 7NS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Tara Dexter against an enforcement notice issued by Chichester District Council.
- The notice was issued on 19 November 2024.
- The breach of planning control as alleged in the notice is *'without planning permission the erection of a metal container building, two wooden sheds and four raised planters.'*
- The requirements of the notice are:
 - 1) Remove the metal container building (shown in the approximate position edged in blue on the attached plan) from the Land;
 - 2) Dismantle and remove the 2no timber buildings (shown in the approximate position edged in brown on the attached plan) from the Land;
 - 3) Break up and remove the 4no timber planters (shown in the approximate position edged in purple on the attached plan) from the Land; and
 - 4) Following steps 1) to 3) above break up and remove the concrete hardstanding and concrete plinths, together with all resultant debris, from the Land.
- The period for compliance with the requirements is four months after this notice takes effect.
- The appeal is proceeding on the ground[s] set out in section 174(2) (a), (c) and (f) 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.

Decision

1. It is directed that the enforcement notice is corrected with the deletion of steps 2) and 3). Accordingly, Step 4, now step 2, is reworded with the deletion of any reference to any requirements other than step 1). Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appeal site is an agricultural smallholding (one of three), with an area of 0.21 hectares. The site is secured by post and wire stock fencing along its boundaries which the appellant purchased in early 2024. At the site she keeps chickens, geese, sheep and pigs and grows crops within. She has registered the smallholding with the Rural Land Register, DEFRA, the Rural Payments Agency, and the livestock are registered with the Animal and Plant Health Agency. The appellant does not reside at the site but obviously, she requires that it is kept secure.
3. The history relating to the appeal site is of importance here. The appellant, in her representations, says that a shipping container was moved on to the land in March 2024. Subsequently, in August 2024, an application for retrospective planning permission, which described the development as *'Erection of agricultural container,*

shed and animal shelters' was submitted to the Council, and planning permission was refused in October 2024. Following this, in November 2024, the Council issued the enforcement notice, the subject of the current appeal, and an appeal was then lodged against this in December 2024.

4. In context with the above, the Council's decision to refuse planning permission was appealed in April 2025, and the decision was subsequently upheld in September 2025. In reaching her decision the Inspector found the container harmful to its rural setting and uncharacteristic thereof.
5. The s78 and the s174 appeals overlapped, but the submissions were not linked and the unsuccessful s78 appeal was determined nearly 12 months ago.
6. Since the provisions of the Levelling Up and Regeneration Act 2023 (LURA) came into force the ability to appeal an enforcement notice under ground (a) and thereby generate a deemed planning application (DPA) has been limited. The restriction applies in instances where an application for planning permission has already been made to regularise the breach, but it does not apply to appeals against enforcement notices that were issued before 25 April 2024. More specifically, ground (a) is barred if the enforcement notice was issued after this date, and after the making of a related planning application – as is the case here - unless the two limited exemptions in s174(2AB) of the amended 1990 Act apply. Neither do apply in this instance.
7. On the above basis, this appeal appears to be ground (a) barred. However, notwithstanding the description on the application form in paragraph 4 of the s78 appeal decision letter (APP/L3815/W/25/3363566) the Inspector states:

'The decision notice and appeal relate solely to the installation of the agricultural container. Accordingly, this decision will be determined on this basis.'
8. In the circumstances, the current appeal is only ground (a) barred insofar as the container is concerned, and the other elements targeted by the enforcement notice, namely two wooden sheds and four raised planters, should they fail to satisfy the legal ground (c), would fall to be determined by way of the deemed planning application.
9. During the appeal process, in August 2025, the Council adopted its new development Local Plan, known as the Chichester Local Plan 2021-2039.

The appeal on ground (c)

10. An appeal under ground (c) is that the appellant, whilst accepting that the works have taken place, does not accept that this constitutes a breach of planning control as they do not require the benefit of planning permission. In other words, the claim will involve that the works are permitted by way of the Town and Country Planning (General Permitted Development) Order (England) 2015, as amended (GPDO) or, alternatively, they do not constitute development.
11. Section 55(1) of the 1990 Act sets out the meaning of 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'*. There is no suggestion here that the proposed development represents a material change of use. The question is whether or not it constitutes operational

development. If the proposal involves the erection of a building, this is indicative of operational development.

12. The term 'building' is defined within section 336(1) of the 1990 Act to *include 'any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building'*. The definition is thereby broad in scope. The Courts have held that in assessing whether or not an object is a building, regard must be had to size, permanence and physical attachment with none of these factors being decisive in themselves.
13. The appellant makes the point that the container rests on, but is not affixed to, the concrete blocks positioned directly underneath. Neither are the blocks affixed to the ground. Photographs have been provided to illustrate this.
14. In terms of size, the container is 10.3m x 3.2m and, in view of the concrete blocks below, it stands to a height of some 2.9m. It is, therefore, of some significant size.
15. As to permanence, this is construed in terms of significance in the planning context i.e. that an item has been in situ for long enough to be of significance. The Courts have held that an object need not be permanent in the sense of having an everlasting presence but rather that there are degrees of permanence. A greater degree of permanence points toward an object being more likely to be deemed a building.
16. In terms of physical attachment I accept that the container could be moved in one piece. It is currently held in place by its own very significant weight such that it would require specialist craned equipment to move it.
17. The container has running water and toilet facilities due to a piped connection to a water tap at the site's boundary. Foul water is connected to a septic tank that sits on the ground underneath the container. There is also an electrical connection. Given this I would suggest that it would no longer be practicable to move the container. Also, I note that it is partly timber clad.
18. Drawing all of these matters together I find, as a matter of fact and degree on the available evidence, that the assessment of the shipping container as against the factors of size, permanence and attachment points toward it constituting a building.
19. An appeal decision (*APP/V0728/W/23/3314720*) is cited by the appellant where a large number of shipping containers at a self-storage facility were found to not represent operational development. However, the assessment is a matter of judgment in each case and there are obvious factual differences in the referenced decision as compared to this case including that the self-storage facility was a hard surfaced area and the evidence before the Inspector indicated that the containers in that location could be removed swiftly and easily.
20. Turning to the two wooden 'sheds' (one of which is actually a hen-house), they are dimensioned 2.5m x 1.8m and 1.7m x 3.3m respectively, and have a pitched roofs with a central ridge to a height of 2.6m. They are, therefore, modest in size, and neither shed is affixed to a permanent base. The four raised planters are similarly of limited size, and the appellant comments that they have been moved to another part of the site during the appeal process.
21. I find then, again as a matter of fact and degree, that the two sheds, given their dimensions relative to the size of the plot, the fact they are moveable, their purpose

and function, and also their contextual setting, are consistent with the agricultural use of the land. Accordingly, I am satisfied that the sheds are reasonably necessary for an established agricultural operation, and they do not require the benefit of planning permission.

22. I also consider the four planters as merely incidental to the use of the land. In planning terms they are *de minimis* in that their size means that their impact or effect is so minor as to be negligible or even trivial. Again, no planning permission is here required.
23. In contrast, for the reasons given, the metal container represents operational development in respect of which planning permission has not been granted, and so it is not lawful in planning terms.
24. The appeal under ground (c), therefore, succeeds in part only.

The appeal under ground (a); the deemed planning application (DPA).

25. Given my findings that the sheds and planters in situ do not constitute unauthorised development the DPA does not need to be assessed.

The appeal on ground (f)

26. An appeal made under ground (f) involves the appellant's claim that the enforcement notice's stated requirements go beyond that which is reasonably necessary to remedy any harm being caused by the breach of planning control.
27. In this particular instance, given my findings that the sheds and planters are such that no planning permission is required for their retention, the ground (f) appeal here relates only to the container.
28. In the absence of a ground (a) appeal, though, the scope of a ground (f) appeal is strictly limited and cannot be used to argue the general planning merits or seek the grant of planning permission for the development. Because no "deemed planning application" is triggered without ground (a), there is no legislative authority to evaluate planning policy or accept alternative schemes that amount to a different development which would also require planning permission. Instead, a ground (f) appeal in cases such as this depends entirely on the stated purpose of the enforcement notice under section 173(4) of the Town and Country Planning Act 1990.
29. The previous Inspector commented that although there may be a functional need for welfare facilities, secure storage and facilities for educational visits from children it had not been demonstrated that the same benefits could not be achieved in a less harmful way. Given the limitations of the current appeal, and as there are no alternative scheme before me, I have seen no supporting representations relating to the educational aspect. Moreover, in light of the previous unsuccessful s78 appeal and the provisions of LURA, I am not able to reassess the planning impacts and merits of the development.
30. Accordingly, the appeal under ground (f) does not succeed.

Overall Conclusions

31. I have reached my decision on the ground (c) appeal on the basis of evidential fact, planning legislation and also case law. Accordingly, with regard to the metal

container, my decision is not an attempt to thwart the agricultural use of the land. It requires, though, an alternative solution to facilitate the use and, in that respect, I have referred to the comments of the Inspector on the previous unsuccessful appeal.

32. The appellant has not made any appeal under ground (g) ie that the stipulated period for complying with the required steps – in this instance, four months from the date of this decision – is unreasonably short. I am mindful that some degree of inconvenience may arise given the close connection of the container to the agricultural use but, in the absence of any appeal lodged on this matter, I am unable to consider this aspect of the enforcement notice.

T C King

INSPECTOR