



Appeal Decisions

Site visit made on 4 August 2026

by **L Perkins BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 18 August 2026

Appeal A Ref: APP/K2230/C/24/3352876

Appeal B Ref: APP/K2230/C/24/3352877

Land to the west of Sole Street Station (known as Norbond Site), Sole Street, Cobham, Gravesend, Kent DA13 0XY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Storage Box Self Storage Ltd and Appeal B is made by Palm Developments Limited against an enforcement notice issued by Gravesham Borough Council.
- The notice was issued on 4 September 2024.
- The breach of planning control as alleged in the notice is:
Without the benefit of planning permission, the material change of use of the Property from a vacant site to a mixed use of:
 - (a) stationing of storage containers for individual self-storage purposes, in relation to the operation of a self-storage business (Use Class B8), including the stationing of a portacabin, and installation of security paraphernalia;
 - (b) storage and distribution (Use Class B8) in relation to the operation of a scaffolding business; and
 - (c) Sui-Generis Use in relation to the operation of a brickwork and construction business/builders yard
- The requirements of the notice are:
 - (i) Cease the use of the Property for the stationing of storage containers for individual self-storage purposes, in relation to the operation of a self-storage business (Use Class B8)
 - (ii) Cease the use of the Property storage and distribution (Use Class B8) in relation to the operation of a scaffolding business;
 - (iii) Cease the use of the Property for Sui-Generis Use in relation to the operation of a brickwork and construction business/builders yard
 - (iv) Remove all the storage containers from the Property along with all associated paraphernalia that facilitates the unauthorised mixed use (Use Class B8 and Sui Generis Use), including but not limited to:
 - (a) Vehicles, trailers and caravans
 - (b) Satellite dishes and aerials
 - (c) Lighting and CCTV equipment
 - (d) Automated intercom access system
 - (e) Portaloo
 - (f) Portacabin
 - (g) Letterbox from the entrance gates
 - (v) Remove all resultant debris and associated materials generated by the unauthorised development and compliance with the above steps from the Property utilising an authorised waste carrier
- The period for compliance with the requirements is: 6 calendar months
- The appeals are proceeding on the grounds set out in section 174(2)(b), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeals are dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

The Notice

1. The notice alleges a mixed use but, in parentheses, it labels components of the mix with a Use Class. A mixed use is a single sui generis use that, by definition, has no use class. So drawing on my powers under section 176(1) of the 1990 Act, I shall delete from the notice all mention of Use Classes in the allegation and the requirements. In addition, requirements (i), (ii) and (iii) may be simplified to refer to 'the mixed use', rather than relist each component of the mix. I am satisfied the above corrections will not cause injustice to any party. I have no reason to think otherwise.

Reasons

Ground (b)

2. An appeal on ground (b) is that the matters stated in the notice have not occurred as a matter of fact. In a ground (b) appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities.
3. A previous enforcement notice, issued on 10 May 2022, was quashed by a previous Inspector, as it was found to be unclear (Ref APP/K2230/C/22/3299987 and APP/K2230/C/22/3299988, dated 27 March 2024). In reference to that previous appeal the appellant states: *"The outcome of the EN appeal therefore is that the unauthorised development at the site related to buildings and not a material change in use of the land."* In effect, this is a ground (b) point.
4. But regarding the previous enforcement notice, the previous Inspector said: *"It should have treated the containers as buildings and specified their use, and the use of the site, for wider storage purposes."* Therefore, it is not the case that the previous Inspector said that the unauthorised development at the site related to buildings and "not a material change in the use of land". As was obvious at my site visit, the breach of planning control is a material change of use and that use has been facilitated by operational development, including storage containers, lighting, CCTV equipment and an automated intercom access system, each of which I saw.
5. The notice alleges the stationing of a portacabin and requires its removal. But as I saw at my site visit, there is no portacabin on the site, nor (according to the appellant) has there ever been, in connection with the operation of the business. The site operator has an office on the site within two containers that have been designed and fitted out as an office. But this is not the same as a portacabin. So I shall correct the notice in this regard and I am satisfied that doing so shall not cause injustice to any party. I have no reason to think otherwise.
6. The appellant states that the notice itself does not identify the use of the "portacabin" for the purposes of the office. But having established that this office is within two containers and not a portacabin, the relevant question is whether the notice should separately identify its office use. In other words, the issue is whether the office is a primary component of the mixed use (that should be specifically identified in the allegation) or a non-primary, ie incidental, component of the mixed use (which does not need to be identified in the allegation) or if it is a separate planning unit and therefore a separate use altogether.
7. In order to answer this question, I must determine what the relevant planning unit is. The written submissions provided do not address this. So in this regard, I have

reached my own conclusions, based on my own observations at my site visit and the limited relevant information provided in this respect.

8. The site consists of a long stretch of land, bounded by fencing, adjacent to a railway line. It is accessed from Sole Street Railway Station, which is to the east, via a single entrance, with gates, toward the northeast corner of the site.
9. Substantial storage containers line the northern and southern boundaries of the site. An office has been formed within storage containers sited toward the southeast corner of the site. A builders yard is located to the far western end of the site.
10. By the time of my visit, the scaffolding business had vacated the site. But the previous location of this business, an undefined parcel of land toward the site entrance, on the northern side of the site, was pointed out to me at my visit. The strip of land running down the middle of the site, from east to west, between storage containers, provides shared circulation space and parking, for all users of the site. No physical delineation of the site indicated otherwise.
11. In light of the above, I consider the whole site is a single planning unit where the unit of occupation is in a mixed use. That mixed use has been made up of the three activities described in paragraph 3 of the notice, ie the self-storage business, the scaffolding business and the builders yard. Based on the information provided, it is not possible to say that any one of those activities is incidental to any of the others. Nothing has been provided to lead me to any other conclusion.
12. From my observations, the office which has been referred to is not a primary component of the mixed use (or a separate planning unit). From the packing materials displayed within it, it appears to exist only to support the self-storage component of the mixed use. This is entirely consistent with the appellant's own submissions which describe it as: *"The office that is operated to facilitate the self-storage business..."* as well as the observations of the previous Inspector, who wrote: *"I note that a portable office cabin has been brought onto the land and appears to serve as the office for the storage business."*
13. As such, it is not necessary for the notice to have described the office use, as it is merely an incidental part of one component of the mixed use alleged.
14. I conclude the appeals on ground (b) succeed in respect of the portacabin argument and so I shall correct the notice in that regard. But the appeals on ground (b) otherwise fail.

Ground (d)

15. An appeal on ground (d) is that it was too late for the Council to take enforcement action due to the time limits set out in section 171B of the 1990 Act.
16. In a ground (d) appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities and the decision must be made on the evidence provided. If there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
17. The appellant states that the self-storage use is immune, having operated from the site for more than 4 years. But the use that must be addressed in this ground (d)

appeal is the mixed use set out in paragraph 3 of the notice (as corrected). There is no suggestion by the appellant that the scaffolding business or the builders yard business have not occurred, or that they have occupied physically separate areas, such that they ought to be considered as separate planning units. Therefore, the use addressed by the appellant on ground (d) is not correct.

18. In any event, in accordance with section 171B(3) of the 1990 Act, the relevant immunity period is 10 years, beginning with the date of the breach, not 4 years. On the appellant's own evidence, the use they claim is immune has operated since June 2020 and so 10 years' use could not possibly have been achieved by the time the Council took enforcement action in any event.
19. The appellant's argument that the storage containers are immune is an argument to be addressed under ground (f), which I shall return to later. It is of no relevance to whether the use attacked by the notice is immune or not.
20. Taking the above into account, on the balance of probabilities, the appellant's evidence is not sufficiently precise and unambiguous. So the appellant has not succeeded in demonstrating that prior to enforcement action being taken there had been 10 years' continuous use of the land for the use described in the notice (as corrected). Therefore, it was not too late for the Council to take enforcement action in respect of the use, due to the time limits set out in section 171B of the 1990 Act. As such, the appeals on ground (d) fail.

Ground (f)

21. An appeal on 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 those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
22. Under section 173(4) of the 1990 Act, when serving an enforcement notice the Council may seek to (a) remedy the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedy any injury to amenity which has been caused by the breach.
23. Based on the requirements of the notice, the purpose of the notice is to remedy the breach. This is clear from the requirements set out in paragraph 5 of the notice which, in effect, require discontinuation of the use and restoration of the land to its condition before the breach took place.
24. As has been established in case law, including that referred to in the submissions provided (*Murfitt v SSE* [1980] JPL 598), an enforcement notice directed at a material change of use may require the removal of works ancillary or incidental to the unauthorised use, even if such works on their own might not constitute development, or would be permitted development or immune from enforcement action, so the land is restored to its condition before the breach took place. The appellant's arguments in these respects (ie that the CCTV, lighting and intercom do not require permission) therefore make no difference.

25. The appellant states that the CCTV, intercom system and lighting were all on site prior to the “storage” use coming into effect. But no evidence has been provided to substantiate this claim and “storage” is not the same as the mixed use attacked by the notice anyway. So I am not satisfied any of these works were undertaken for a previous lawful use, particularly as the notice identifies the site was vacant and is said to have had a nil use before the breach occurred. Therefore, I am of the view that the lighting, CCTV and intercom, are all ancillary or incidental works, which are part and parcel of the unauthorised mixed use. In other words, they facilitate and enable the unauthorised mixed use. I have no reason to think otherwise and so the notice may require their removal.
26. I take the same view of the storage containers. These clearly facilitate the self-storage component of the mixed use and so the notice may require their removal also. This is the case, even if the storage containers were immune from enforcement action, so that the land is restored to its condition before the breach of planning control took place.
27. In any event, the storage containers are not immune. This is because, based on the information provided, the ‘second bite’ provisions of section 171B(4)(b) of the 1990 Act apply. These provisions operate to stop the clock in enforcement proceedings and they apply in this case because the Council issued a previous enforcement notice, on 10 May 2022. Having read the appeal decision associated with the previous enforcement notice, notwithstanding how that notice was drafted, I am satisfied that it concerned essentially the same breach and the same site that is before me now. So the storage containers did not achieve immunity before enforcement action was taken.
28. The appellant has indicated that the lighting, CCTV equipment and automated intercom access system are all necessary to secure the site to prevent unauthorised occupancy by other parties. But I am not satisfied this is the case as the site may be secured by existing fencing and gates (which are not attacked by the notice). I have no reason to think otherwise.
29. According to the appellant, the railway authority has access through the site at times for the purpose of maintaining the railway and the appellant states that the intercom system allows for control of occupants such that, were it to be removed, an alternative means of controlling access to the site would still be required. But this does not justify retention of the intercom system as access may be controlled simply by means of a lock and key. Nothing has been provided to lead me to any other conclusion.
30. The appellant is of the view that there is nothing to prevent the features attacked by the notice from being reinstalled once removed. But section 181(1) of the 1990 Act provides that compliance with any of the requirements contained in an enforcement notice shall not discharge the notice. The requirements of an enforcement notice thus have an enduring effect. If the enforcement notice is complied with but there is a later breach of the requirements, or the use is resumed not in accordance with the requirements, section 181(1) and (2) mean that this remains enforceable under section 179. Under section 181(3) and (5), if buildings or works are removed in compliance with an enforcement notice, but development is later carried out to reinstate the works, the enforcement notice is deemed to apply to the works as it applied before they were reinstated.

31. Taking all of the above into account, I conclude that the appeals on ground (f) fail.

Ground (g)

32. An appeal on ground (g) is that the period for compliance with the requirements of the notice falls short of what should reasonably be allowed. According to the appellant, a period of 6 months is not sufficient to identify a new location for the self-storage business to relocate to and then arrange transportation of all containers with the items contained within them. But no evidence has been provided to support the appellant's case in this regard.
33. The appellant says that it previously took 3 months to move the containers from a previous site, once an alternative location had been identified and that the process took longer than the compliance period for that previous site. But the information provided indicates that process previously was affected by restrictions relating to the Covid-19 pandemic. It does not mean the process would necessarily take as long again. So I am not satisfied the 12 month compliance period sought in this case is justified.
34. Based on the information provided, I consider that 6 months is sufficient time to look for an alternative site and carry out the requirements of the notice, particularly taking into account that the storage containers are capable of being picked up and moved, as identified in the previous appeal decision. I conclude the appeals on ground (g) fail.

Conclusion

35. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations.

Formal Decision

36. It is directed that the enforcement notice is corrected and varied by:

- the deletion of paragraph 3 and its substitution with:
"Without the benefit of planning permission, a material change of use of the Property from a vacant site to a mixed use comprising self-storage, the storage and distribution of scaffolding and the operation of a brickwork and construction business/builders yard."
- the deletion of paragraph 5(i), (ii) and (iii) and their substitution with:
"Cease the mixed use described in paragraph 3."
- the deletion from paragraph 5(iv) of "(Use Class B8 and Sui Generis Use)"
and
- the deletion of paragraph 5(iv)(f), ie "Portacabin"

37. Subject to these corrections and variations, the appeals are dismissed, and the enforcement notice is upheld.

L Perkins

INSPECTOR