



Appeal Decision

Site visit made on 5 August 2026

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2026

Appeal Ref: Appeal Ref: APP/Z1585/C/25/3361052

Land known as land adjoining Willow Tree House, Braintree Road, Sible Hedingham, Essex, CO9 3RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Ian Tutton against an enforcement notice issued by Essex County Council.
 - The notice was issued on 21 January 2025.
 - The breach of planning control as alleged in the notice is Without the benefit of planning permission, a material change of use of the
 - Land from agricultural to land used for the importation, deposit, storage and spreading of inert waste materials, namely soils containing construction and demolition waste (together the 'waste materials'), raising the levels of the Land ("the unauthorised development").
 - The requirements of the notice are to: a) Cease the use; b) Remove from the Land all imported materials; and c) Restore the Land to its condition and land levels prior to the commencement of the unauthorised development.
 - The periods for compliance with the requirements are: in relation to a) – 1 day; in relation to b) – 9 months; and in relation to c) – 12 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Reasons

2. The appeal is made under Ground (f), which is that the steps required to be taken or the activities required 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.
3. The start point in this assessment is to identify the purpose of the Notice. In this case, it is clear that the purpose of the Notice is to remedy the breach of planning control.
4. The Appellant's Statement of Case sets out that when he purchased the land, he inherited a situation where the previous owner had imported, stored and deposited large quantities of inert material on the land. This created irregular steep-sided slopes across the Land.
5. In February 2024, the Appellant applied for, and secured, a Waste Exemption Registration ('WER') for the purpose of importing inert materials to restore and thereby improve the Land for beneficial agricultural use. Between April and October of that year he imported materials in accordance with the WER and graded and reprofiled the land.

6. He explains that the works that the Council required to be done would expose solid non-hazardous waste that had previously been tipped on the land. The lesser works that he proposes as being more appropriate would be to further grade and reprofile the imported material across the land, and on his adjoining land to create suitable land levels for his agricultural enterprise. This would be undertaken in accordance with a masterplan and might require the submission of a legal undertaking under s106 of the 1990 Act. This, he says, would be a more appropriate and sustainable approach that would take into account biodiversity matters. He has submitted a number of surveys and appraisals, covering a range of environmental issues, in support of his position.
7. Where there is no ground (a) appeal, to gain planning permission for what is alleged in a Notice, and the purpose of a notice is to remedy the breach of planning control, any lesser step that would not remedy the breach cannot be accepted through ground (f). As such, I cannot deal with general planning considerations through ground (f). The Appellant's case is based on such considerations, so I cannot take them into account.
8. I saw at my site visit that a fairly large agricultural style building was being constructed on land towards the north corner of the main area of land that is the subject of the Notice, as shown on the Plan attached thereto. I have no information on this building, but if it benefits from a planning permission or similar then this would supersede the terms of the Notice on that area of land.
9. For the reasons given above, the Ground (f) case fails.

Ground (g)

10. Although no Ground (g) case has been made, that the time allowed for compliance with the requirements of the Notice falls short of what might be reasonably allowed, it is open to an Inspector to look at the merits of extending the period. In this case, it might allow for the submission of a planning application to the Council for the development set out in his appeal submissions.
11. Given the nature of the work, in the form of studies and reports, that has been undertaken by the Appellant, that it seems the Council has not had an opportunity to consult on and formally assess, there might have been merit in extending the period for compliance. However, I am aware of the terms of s70C of the 1990 Act. It gives a local planning authority the power to decline to determine an application for planning permission for the development of any land if granting planning permission would involve granting, in relation to the whole or part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
12. My extending the period could not usurp that statutory provision, so it would be academic to do so. Notwithstanding this, the terms of s173A(b) of the 1990 Act allows the Council to waive or relax any requirement of such a notice and, in particular, may extend any period specified. If it feels that there might be merit in the Appellant's case, given the survey work that has been undertaken, it might allow an opportunity for an application to be made. That, however, is a matter for the Council, rather than me.
13. For the reasons given, I shall not extend the period for compliance.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Curnow

INSPECTOR