



Appeal Decisions

Inquiry held on 24 March 2026

Site visit made on 23 March 2026

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Appeal A: APP/B1550/C/25/3372995

Land at Limehouse Nursery, The Drive, Rayleigh, Essex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Sandra Poole against an enforcement notice issued by Rochford District Council.
 - The notice was issued on 20 August 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of land in the Metropolitan Greenbelt from use for the storage of caravans as approved under 02/00879/LDC to a use for the stationing of shipping containers used for private rented self-storage (the shipping containers are shown in the approximate area marked 'A' and crosshatched on the attached plan).
 - The requirements of the notice are:
 1. Permanently cease the use of the land for the stationing of shipping containers used for private rented self-storage.
 2. Permanently remove from the site all the shipping containers.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) 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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Appeal B: APP/B1550/C/25/3375598

Land at Limehouse Nursery, The Drive, Rayleigh, Essex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Sandra Poole against an enforcement notice issued by Rochford District Council.
 - The notice was issued on 6 October 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the carrying out of operational development, namely the erection and siting of metal shipping containers used for private rented self-storage business use (the shipping containers are stationed in the area shown in the approximate area marked 'A' and crosshatched on the attached plan).
 - The requirement of the notice is to permanently remove from the site all the shipping containers.
 - The period for compliance with the requirement is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Application for Costs

1. An application for costs was made by Mrs Sandra Poole against the Rochford District Council. This application is subject of a separate Decision.

Background and Preliminary Matters

2. The parties were invited to submit any further comments with regard to the revised National Planning Policy Framework (2026) which was published following the

close of the Inquiry. No comments were received. I have taken the revised Framework into account in reaching my Decision.

3. Appeals A and B both relate to the same appeal site within which a number of shipping containers have been sited and are collectively in use for the operation of a self-storage facility. When initially lodged Appeal A included ground (e) and Appeal B included ground (d), but these grounds were withdrawn prior to the Inquiry.
4. Through the course of the appeal, and as confirmed in the completed Statement of Common Ground, the parties agreed the red line attached to the two enforcement notices had been drawn inaccurately and should be revised showing a smaller area. A final minor revision¹, again slightly decreasing the site area, was agreed at the Inquiry. The final revised plan is consistent with my own observations during my visit to the appeal site and no injustice would result by its substitution for those attached to the notices.
5. The two notices have been issued by the Council in the alternative. The notice in Appeal A (Notice A) alleges the development is a material change of use of the land for stationing of shipping containers used for private rented self-storage, while the notice in Appeal B (Notice B) alleges the siting of the shipping containers is operational development.
6. The appellant considers the siting of the containers to constitute a use of land (although not a material change of use), and not operational development, supported by her appeals on ground (c) in Appeal A and on ground (b) in Appeal B.
7. Regardless of whether I find the breach should allege operational development or a material change of use, I should quash Notice B in these circumstances and correct the allegation and requirements in Notice A if required, provided that no injustice to any party would result. In that way the appeal on ground (a)/deemed application for planning permission in Appeal A can be considered in either scenario.

Reasons

Whether or not the containers are operational development - Appeal B ground (b)

8. The meaning of development is set out in s55(1) of the Act and includes the carrying out of building, engineering, mining or other operations in, on, over or under land. For the avoidance of any doubt s336(1) of the Act makes clear that “building” includes any structure or erection, and “use” in relation to land, does not include the use of land for the carrying out of any building or other operations on it.
9. Caselaw² indicates that when determining whether a structure constitutes a building, three principal factors are to be considered, none of which is individually determinative: (a) that it is of a size normally to be constructed on site, as opposed to being brought onto the site; (b) the degree of permanence; and (c) physical attachment to the land.
10. With regard to size, each of the 47 shipping containers is a rectangular metal box construction, fully formed as a single whole structure, and brought onto site by lorry. They are substantial in size mostly measuring 6.1(l) x 2.4(w) x 2.6(h) metres,

¹ Revised to omit the “A+ stonemason unit”

² *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102 and *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385

with two measuring 12 metres in length. Using specialist lifting equipment the containers were positioned adjacent each other in rows, with two of them double-stacked vertically. They are not physically attached to the land by way of any connecting structure or mechanism, but simply rest upon it under their own weight.

11. With regard to permanence, the containers are capable of being moved using lifting equipment in the same way as they were sited. However, they have been on site since 2022 and are being used for the operation of a self-storage facility to customers who rent them, and planning permission is now sought in this appeal which would include their permanent retention. This indicates to me the nature of their siting as being permanent. Furthermore, permanence in these circumstances also relates to their significance in a planning context. In this regard the siting of 47 large shipping containers, overtly industrial in appearance, on land previously used primarily for storing private owners' caravans, has in my view resulted in a physical change to the character and appearance of the land. Even if their positions were to be altered, that physical change will be permanent while the containers remain anywhere within the appeal site.
12. The existence of an undecided outline planning application for 142 dwellings carries little weight in this context given there is no way of knowing whether permission would be granted, or even if granted, that the containers would be removed within a relatively short space of time.
13. In support of allowing the appeal reference was made to a previous appeal Decision APP/V0728/W/23/3314720³ in which it was found that shipping containers on a site in Redcar were found not to be buildings.
14. However, I do not know from that appeal Decision what the size/s were of any of the proposed internally or externally sited containers (paragraph 1 of the Decision refers to approved plans of conditions 1 and 2 relating to internal layout of proposed units 1 and 2, and to "container types and sizes"; no dimensions are referred to in paragraph 7 of the "98 containers located externally"). Since the differing types and sizes are unknown I am unable to make a reliable comparison with the container sizes in this current appeal. I also note the pre-existing use of the larger Redcar site was for a 'building supplies depot'. That is a different site context to this current appeal in terms of considering whether the siting of containers on the land made any significant change to its physical character and appearance.
15. Consequently, while I recognise the need for consistency in decision-making, and recognising there are undoubtedly some similarities with Redcar, I am not convinced that the particular circumstances in Redcar can be said to be the same as those before me, such to set any precedent. I place greater reliance on the tests endorsed in *Skerritts* and which need to be applied in the particular site-specific circumstances of each individual case, as I have done so.
16. Taking account of all the evidence before me, including from my own observations of the appeal site, I find as a matter of fact and degree that although the containers were not constructed on site and are capable of being moved, they are substantial in size, have been on site for some time, and likely to be so for the foreseeable future, and have resulted in physical change to the character of the land, all of which is of a permanent nature rather than being fleeting or short-term. I conclude

³ Appendix 2 to Mr Leigh's Proof of Evidence

overall therefore that in the particular circumstances of this case the shipping containers are buildings and operational development.

17. For these reasons the matters stated in the allegation in Notice B have occurred as a matter of fact and the appeal on ground (b) in Appeal B must fail.

Appeal A – ground (c)

18. The appeal on ground (c) argues the siting of the containers used for private rented self-storage did not result in a material change of use of the land. However, while there is no dispute that the use the containers are put to is for private rented self-storage, the primary development that has taken place is the siting of the containers (buildings) as operational development, as I set out previously in ground (b) of Appeal B. It is therefore the operational development that constitutes the breach of planning control and which should form the allegation in the notice.
19. No appeal was made on ground (c) in Appeal B that the shipping containers, as buildings, did not constitute a breach of planning control. Consequently no injustice arises by correcting the allegation in Notice A to allege operational development. The appeal on ground (c) in Appeal A therefore fails.
20. As I set out earlier regarding notices issued in the alternative, I will correct the allegation and requirements in Notice A by replacing them with those as set out in Notice B, and will quash Notice B. Appeal A therefore continues on the basis of corrected Notice A (as operational development) on grounds (a), (f) and (g).

Appeal A - ground (a)/deemed application for planning permission

Main Issues

21. The main issues for this ground of appeal are:
- (i) whether the development is inappropriate development in the Green Belt;
 - (ii) the effect on the character and appearance of the area;
 - (iii) the effect on living conditions of nearby local residents;
 - (iv) if inappropriate development in the Green Belt, whether other considerations, including any fall-back position, clearly outweigh the harm to the Green Belt and any other harm, so as to constitute very special circumstances.

Issue (i) - Whether inappropriate development in the Green Belt

22. Policy GB1 of the Rochford District Core Strategy (2011) and Policies DM10, DM11 of the Rochford District Council Development Management Plan (2014) relating to Green Belt do not fully reflect latest national policy on Green Belt in the recently published Framework. As such, I place greater weight on the Framework.
23. The Framework sets out that the objective of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential features of Green Belts are their openness and permanence.
24. Development in the Green Belt is inappropriate unless it falls within one of the categories in Framework Policy GB7. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

25. An exception to being inappropriate development at Policy GB7:1e is the *redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential), which would not cause substantial harm to the openness of the Green Belt.*
26. There is no dispute between the parties and I also agree that the siting of the containers would amount to the redevelopment of previously developed land.
27. With regard to the effect on openness this should be considered in both a spatial and visual context, and with regard to the effects over and above the baseline position; that is the site as it previously lawfully existed. The appeal site's previous commercial uses included most recently use for storage of private caravans, that benefitting from a lawful development certificate (LDC). Other B1 and B8 uses were also included within the LDC. Various aerial images before me of the appeal site and its surroundings show these commercial uses and related buildings at particular points in time over a number of years, also referred to by Mr Poole in his evidence.
28. With regard to spatial openness, and having regard to the size, number, and siting density of containers on site, two of which are double stacked, compared to its previous use for storing caravans, the degree to which spatial openness is reduced by the development is moderate. In terms of visual impact, the appeal site sits mostly adjoining or close to other development comprising commercial uses and related buildings and hardstanding immediately to the north and south with a track and Lime House to the east, and dwelling houses to the west separated by the main access track (The Drive) and mature boundary vegetation. While visibility of the site is mainly from The Drive there is nonetheless a reduction in openness which results in a moderate level of harm to the Green Belt. I would emphasise here that while the containers might be regarded by some as appearing unattractive, that is not the same consideration as the effect on openness.
29. Taking account of all the above factors, contrary to the appellant's case of no harm,⁴ and contrary to the Council's case of harm resulting from a brutal visual intrusion,⁵ I find the development to have no more than a moderate overall level of harm to the openness of the Green Belt. This falls short of being "substantial harm", within Policy GB7:1e. Consequently the development is not inappropriate development in the Green Belt.
30. The appellant argues alternatively that the development would be an exception under Framework Policy GB7:1g which relates to whether the site can be considered as 'grey belt' land and also meets the requirements, in this case, at criteria (i) to (iii) of GB7:1g. In this regard, noting the site has a lawful commercial use and largely surrounded with other commercial uses and buildings as I set out earlier, I find that the land does not strongly contribute to purposes (a) or (b) in Framework Policy GB2, and there is no dispute that it does not strongly contribute to purpose (d). Hence the appeal site constitutes 'grey belt' as defined.
31. Having regard to the evidence before me I consider the development would also not fundamentally undermine the five purposes in GB2 (taken together) of the remaining Green Belt across the area of the plan, and, notwithstanding the unmade up physical surface of The Drive, it would be in a sustainable location. Hence the

⁴ Proof of Evidence - Hammonds

⁵ Proof of Evidence - Goodrich

requirements of GB7:1g(i) and (iii) would be met. As to requirement (ii) the 'type of development proposed' is operational development, comprising the siting of metal shipping containers. While there is evidence before me of a need for employment floorspace,⁶ that identified need relates more particularly to storage and distribution warehousing. As such, I am not convinced that the identified need incorporates the type of development subject of this appeal. Consequently, it would not meet requirement (ii) and hence would not be an exception within GB7:1g. However, even if I am wrong on this point, the development nonetheless is not inappropriate development by way of being an exception within GB7:1e as I set out earlier.

32. Since the development is not inappropriate within the Green Belt there is no need for me to consider issue (iv) I listed earlier in the Main Issues.

Issue (ii) - Character and appearance

33. Other than the various commercial uses (some being unauthorised) which have taken place within the wider former garden centre site, the predominant character of the surrounding area to these developments is of a more open and/or semi-rural character and appearance separating the residential development edges of Rayleigh and the built-up area of Eastwood. The developed area of the appeal site itself, albeit adjoining some other commercial uses and buildings as previously described, is closest to the western edge of residential properties along The Drive. This row of residential properties extending to the north and south of the appeal site is a principal element of the predominant character of the area I have described.
34. The principle for storage use of the site is acknowledged by the Council. However, given the form, size and number of shipping containers, I consider they are not a high-quality designed form of industrial storage building(s) that responds well or positively in any way to the character and appearance of the area. I accept that existing boundary foliage limits their visibility to some extent, but nonetheless, contrary to that set out by the appellant⁷, they are significantly harmful to the character and appearance of the area. I have considered whether planning conditions would adequately mitigate the harm, including for further planting, prohibition of double-stacking, and painting of containers, but they would not do so. The previous use of the site, primarily for the storage of private caravans, would be much less harmful in my view and so does not represent a fall-back argument in support of allowing the appeal.
35. For these reasons I find the development is poorly designed and detrimental to the character and appearance of the area, thereby failing to integrate well with its surroundings. As such it results in significant harm to the character and appearance of the area in conflict with Framework Policy DP3.

Issue (iii) - Effect on living conditions

36. Local residents have complained about noise relating to the use of the containers, although the appellant considers these may have been conflated with other commercial activities in adjacent units. While that may or may not be the case it seems likely to me that given the close proximity of residential occupiers there is potential for noise levels and disturbance resulting from the use of the containers over and above that which might be expected from its previous lawful use.

⁶ Economic Development needs Assessment

⁷ Proof of Evidence and appendices - Hammonds

37. In this regard the appellant's noise assessment⁸ relates to desk-top modelling based on another site in a different location at Ipswich. As such, it does not measure, or therefore take account of, actual background ambient noise levels or activity noise levels throughout the day and night in respect of this appeal site which has been operating for some time.
38. In light of there being no actual site-specific data assessment, I am not satisfied there are no harmful effects on local residents resulting from noise and disturbance related to the use of the containers. Since this matter would be critical to the principle of granting permission for the containers to be sited, it is not a matter than can be resolved by way of a planning condition. Consequently, in the absence of convincing evidence to the contrary, I find there would be harm from noise and disturbance to local residents resulting from the use of the containers in conflict with Framework Policy P3.

Planning Balance

39. The siting of the shipping containers is a poor design solution impacting negatively on the character and appearance of the area and to which I attach substantial weight against allowing the appeal. There would also likely be related adverse noise and disturbance effects on the living conditions of nearby residential occupiers from the use of the containers for self-storage, to which further weight is added.
40. Consistent with Core Strategy Policy ED3 there are some economic benefits, including employment opportunities for local people, increased business rates revenue and support for local supply chains through the use of transport and maintenance services. However, while I accept the presence of a viable business contributes to the economic vitality of the area and promotes use of previously developed land, I find these benefits collectively to be relatively moderate. As such, they add correspondingly moderate weight in support of allowing the appeal.
41. As clarified by the recent *Titchfield*⁹ judgment, the lawful use of the site could resume. However, I am not convinced that the effects of the former use of the land would result in the same or greater harm than I have found in respect of the development subject of this appeal. This does not therefore add any material weight in support of allowing the appeal.
42. Although the development was carried out without planning permission it does not in this case fall to be considered as 'intentional unauthorised development'. This becomes clear from the fact that the appellant's appeal on ground (a) was secondary to her appeals on grounds (b) and (c); that in Appeal A she considered there was no material change of use, and in Appeal B she considered that operational development had not occurred. As such, this matter does not add any weight against allowing the appeal.
43. In accordance with the Framework's presumption in favour of sustainable development I find on balance that the benefits of the development are substantially outweighed by its adverse effects, and is in conflict with the Council's Development Plan taken as a whole.
44. The appeal on ground (a) therefore fails.

⁸ Noise Impact Screening Assessment – Oakridge Environmental Services

⁹ *Titchfield Festival Theatre Ltd v SSHCLG* [2026] EWCA Civ 368

Appeal A, ground (f)

45. The appeal on ground (f) in this case is that the requirements of the notice exceed what is necessary to remedy the breach of planning control.
46. The requirements of an enforcement notice cannot require the removal of development that has become immune through the passage of time.¹⁰ Mr Leigh's evidence on behalf of the appellant, relying on Google aerial images, considered at least one shipping container had been present on the land in excess of 10 years. At the Inquiry Mr Poole stated that two shipping containers had been present.
47. However, in respect of both references these were made in respect of the original larger plan attached to the enforcement notices, rather than the smaller plan area as agreed to be substituted at the start of the Inquiry. On the basis of the corrected plan it is not clear to me that any of the shipping containers subject of the corrected notice have been in place for more than the requisite 4 years. Moreover, whether development is immune from enforcement action is a matter for ground (d) which was not pursued in either Appeal A or B.
48. Since the notice requirements go no further than seeking the removal of the shipping containers that have been sited on the land, they do not exceed what is necessary in order to remedy the breach of planning control.
49. The appeal on ground (f) fails.

Appeal A, ground (g)

50. An appeal on this ground is that the period of time for compliance with the notice requirements falls short of what should reasonably be allowed. The notice requires removal of the shipping containers within 3 months, the appellant seeks a period of 12 months.
51. No information or evidence relating to any contractual notice periods with customers for removing stored items is before me. As such I am not persuaded this consideration justifies an extend period of time.
52. While finding an alternative site to operate the business may not be a simple task, I am also mindful that the breach of planning control and its harmful effects should be remedied as soon as possible.
53. Overall, I consider a period of 6 months would be more reasonable. The appeal succeeds to this extent and I will vary the notice accordingly.

FORMAL DECISIONS

APPEAL A

54. It is directed that Notice A be corrected by:

- in Section 2 deleting the word "blue" and replacing it with "red";
- in Section 3 deleting all of the words therein and replacing them with:
"Without planning permission, the carrying out of operational development, namely the erection and siting of 47 metal shipping containers used for private

¹⁰ *Mansi v Elstree Rural District Council* (1965) 16 P&CR 153

rented self-storage business use in the area shown marked 'A' and crosshatched on the attached plan";

- in Section 5 deleting all of 5.1 and re-numbering "5.2" as "5.1"; and
- replacing the plan attached to the notice with the one at Annex A of this Decision.

It is directed that the notice be varied by:

- in Section 6 replacing "3 months" with "6 months".

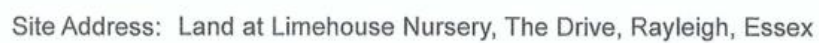
55. Subject to the corrections and variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

APPEAL B

56. The notice is quashed.

Thomas Shields

INSPECTOR



APPEARANCES

FOR THE APPELLANT:

Mr Mark O'Brien O'Reilly, Counsel	Francis Taylor Building
He called:	
Matthew Leigh BA (Hons) MA MRTPI	Landmark Town Planning Services
Ian Beatwell	Landmark Town Planning Services
Rosie Hammonds BSc (Hons) MA CMLI	Associate Director Landscape, Iceni Projects
Alexander Poole BSc (Hons) FRICS ICIOB CMaPS CIWFM	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Mr Giles Atkinson, Counsel	6 Pump Court
He called:	
Talent Masuku MSc MRTPI	Team Leader Planning Enforcement
Harry Goodrich BSc	Senior Planning Officer

DOCUMENTS SUBMITTED AT THE INQUIRY:

ID1	Revised enforcement notice plan A
ID2	Revised enforcement notice plan B (2 nd revision)
ID3	Council Allocations plan showing extent of Green Belt
ID4	Appellant's submission regarding Economic Development Needs Assessment update report dated 9.10.2025

DOCUMENTS SUBMITTED AFTER THE INQUIRY

ID5	Closing submissions for the local planning authority
ID6	Closing submissions for the appellant
ID7	Appellant's costs application
ID8	Council's costs rebuttal
ID9	Appellant's costs response