Planning Inspectorate

Appeal Decisions

Site visit made on 1 October 2026

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2026

Appeal A Ref: APP/H2265/C/24/3348689
Appeal B Ref: APP/H2265/C/24/3348690
Merrybrook Estate Land East of Riding Lane, Hildenborough, Tonbridge, Kent TN11 9QL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Zilvinas Rubinas and Appeal B is made by Mrs Elizabeth Rubinas against an enforcement notice issued by Tonbridge and Malling Borough Council.
- The notice was issued on 24 June 2024.
- The breach of planning control as alleged in the notice is A) The change of use of agricultural land to land used for the storage of a caravan and B) The erection of a building.
- The requirements of the notice are to:
  A) To cease the unauthorised use of the site for the storage of a caravan(s) and remove from the land all caravan(s) as showing in Photograph TMBC 1.
  B) To demolish and remove the building and all arisings from the land. The building is shown in Photograph TMBC 2.
- The period for compliance with the requirements is: Three Calendar months from the date the Notice take effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (e) of the Town and Country Planning Act 1990 (as amended).

Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The postcode and county in the address are taken from the appeal form and have been added to the address in the banner heading for completeness.

3. The site visit was arranged as an accompanied visit. However, the Council did not attend, and I inspected the site unaccompanied after the appellant provided access.

4. The building identified in Photograph TMBC 2 was no longer present at the time of my visit. Although a metal-framed mesh chicken enclosure containing a small timber shelter remained on the land, it was materially different in form, construction and appearance from the solid-sided building with a window shown in Photograph TMBC 2. I have therefore considered the appeals on the basis of the building identified in Photograph TMBC 2.

The Ground (e) appeal

5. This ground of appeal concerns whether the enforcement notice was served on all persons with an interest in the land.

6. Section 172(2) of the Act requires a copy of the notice to be served on the owner and occupier of the land to which it relates, and on any other person with an interest in the land that is materially affected by the notice.

7. The appellants assert that the notice was not correctly served because they had previously indicated that email was their preferred and agreed method of communication, but the notice was not sent by email. They further assert that no attempt was made to confirm or update their current address, and that the post box used is not a registered letterbox and therefore does not meet the requirements for official postal delivery.

8. The Council had sought details of the ownership of the land, and of any other persons with an interest in it, by means of a Planning Contravention Notice, but received no response. It therefore served the enforcement notice on the appellants, as the registered owners of the land, at the address recorded by HM Land Registry by first class post. The certificate of service also records that further copies, addressed to the appellants and to the owner or occupier of the site, were delivered by hand to the letterbox attached to the gate at the entrance to the appeal site.

9. Although email may have been the appellants' preferred method of correspondence, the Council was not required to serve the notice by email. Moreover, the evidence demonstrates that the Council took reasonable steps to establish the relevant ownership details and served the notice at the appellants' registered address, as well as delivering a copy to the appeal site. The appellants' concerns about the status of the letterbox do not demonstrate that service was defective.

10. I am therefore satisfied that the notice was served in accordance with section 172(2) of the Act. Both owners became aware of the notice and exercised their rights of appeal. They have been able to advance their respective cases and there is no evidence that they, or any other person required to be served, suffered substantial prejudice. The appeals on ground (e) therefore fail.

The Ground (b) and (c) appeals

11. An appeal on ground (b) is made on the basis that the matters alleged in the notice have not occurred, whereas ground (c) proceeds on the basis that, even if they have occurred, they do not constitute a breach of planning control. The burden of proof rests with the appellants, on the balance of probabilities.

12. The appellants contend that the land remains in agricultural use and that the caravan provides welfare facilities for agricultural workers rather than being stored on the land. They therefore maintain that the alleged change of use has not occurred or, alternatively, that the presence of the caravan is ancillary to the agricultural use and does not constitute a breach of planning control. They further assert that the structure is not a building because it has no foundations and no excavations were undertaken.

13. Turning to allegation A, the appellants have provided no sufficiently detailed or dated evidence to demonstrate that the caravan was being used to provide welfare facilities for agricultural workers when the notice was issued. My observations at the site visit, although made considerably later, do not lend support to their account. At the time of my visit, the caravan was locked, appeared unused and

was not connected to any services. There were also no workers present who might have used it.

14. While the appellants assert that further agricultural activities have been undertaken on the land, I saw no evidence of such activity during my visit. The surrounding field was largely covered by long grass and other vegetation, and there were no livestock, cultivated crops or other clear signs of active agricultural operations. Furthermore, the chicken enclosure was dilapidated, overgrown and showed no visible signs of current use. The evidence therefore does not demonstrate that the caravan had been used by agricultural workers or that its presence was ancillary to an active agricultural use when the notice was issued.

15. With reference to allegation B, Photograph TMBC 2 appended to the notice shows a solid-sided structure with a window. Having regard to its form, size and apparent permanence, I am satisfied, on the balance of probabilities, that it was a building and that its erection had occurred as a matter of fact. The appellants have provided no substantive evidence to demonstrate otherwise or to show that its erection was permitted or otherwise lawful. Indeed, their case appears to relate to the chicken enclosure on the site, rather than to the building that has since been removed.

16. As the building identified in Photograph TMBC 2 was no longer present on the site, I find that requirement B of the notice, which requires the demolition and removal of the building and all associated arisings, has been complied with. Nevertheless, the notice remains effective, and the building could not be reinstated without contravening its requirements.

17. I therefore find, on the balance of probabilities, that the caravan was being stored on the land when the notice was issued and that the change of use alleged in part A of the allegation had occurred as a matter of fact. Its storage introduced a separate use that had no demonstrated functional relationship with agriculture and altered the character of the use of the land to a material degree. It has not been demonstrated that the caravan was ancillary to agriculture or that its presence on the land was otherwise lawful. Furthermore, I find that the building identified in Photograph TMBC 2 had been erected and that it has not been demonstrated that its erection was permitted or otherwise lawful.

18. The appeals on grounds (b) and (c) therefore fail.

Conclusion

19. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice. The appeals are dismissed.

V Goldberg

INSPECTOR