Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2026

Appeal Ref: APP/C3810/C/24/3354985
Land at Highground Lane, Barnham, Bognor Regis, West Sussex PO22 0BT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr Albert Brazil against an enforcement notice issued by Arun District Council.
- The notice was issued on 10 October 2024.
- The breach of planning control as alleged in the notice is: a) The material change of use of the Land from agriculture to the storage of vehicles. b) The operational development at the Land by the importation of waste materials to raise land levels and form hardstanding, including a track. c) The operational development at the Land by the erection of shed structures. d) The operational development at the Land by the erection of electrical power points. e) The operational development at the Land by the formation of bales functioning as screening bunds. f) The operational development at the Land by the erection of a streetlamp.
- The requirements of the notice are: a) Cease the use of the Land for storage of vehicles by removing all vehicles not reasonably required for the purposes of agriculture within the Land. b) Remove all imported waste material used to raise the land levels and form hardstanding (including the track), returning the land levels to what they were. All material that was used should be correctly screened and disposed of and advice should be sought from the Environment Agency beforehand. c) Remove all shed structures apart from the approved agricultural shed marked black on the plan in section 2. This is from the approval BN/7/17/PL (on plan 3217:1) described as Single storey shed with pent roof, double doors to front. Used for shelter for goats with store for tools and animal feed. d) Remove all electrical power points and associated development. e) Remove all bales that are functioning as screening bunds. f) Remove the streetlamp.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d), and (g) of the Act.

Summary of Decision: The appeal succeeds to the extent that the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

The notice

1. It is claimed that the notice is in need of correction and cannot be corrected without causing injustice. It is also claimed that the notice is a nullity. These are separate matters. I have the power under section 176(1) of the Act to correct any defect, error or misdescription in the notice or to vary the terms of the notice if I am satisfied that doing so will not cause injustice to the appellant or the Council. Alternatively, if the notice is a nullity, it is defective on its face and does not comprise an enforcement notice as described in the Act.

2. The notice alleges 6 breaches of planning control which I shall refer to individually as Alleged Breach A to F, consistent with how they are labelled within the notice.

3. It is claimed that the notice does not identify the correct material change of use which had occurred at the date the notice was served. This is an argument relevant to the appeal on ground (b) in respect of Alleged Breach A, which I will deal with

below. Even if the appellant is correct in this regard, this would not render the notice a nullity.

4. Alleged Breach B refers to the importation of waste materials to raise land levels and form a hardstanding. It is claimed no waste materials have been imported. This is a matter relevant to the appeal on ground (b), which I shall also address below. It is claimed that the failure of the notice to specify any sub-bases to the hardstanding means they benefit from section 173(11) of the Act, but the second step required to be carried out by the notice is quite clear in requiring the removal of all imported waste materials used to raise the land levels and form hardstanding. In any case, the absence of an express reference to any sub-base does not render the notice a nullity or invalid and in need of correction, as it remains clear from the face of the notice what Alleged Breach B is and what needs to be done to remedy it.

5. It is claimed that Alleged Breach C is unclear as it does not specify which specific structures are referred to. Alleged Breach C refers to all 'shed structures' on the land, and Step c) of the notice clarifies that they are all required to be removed, apart from an agricultural shed marked on the plan attached to the notice, which was approved by planning permission reference BN/7/17/PL. Alleged Breach C is therefore in need of correction, as it should not refer to that permitted structure. It can easily be corrected to omit reference to the permitted structure, consistent with Step c), which would not cause injustice to any parties as it would reduce the scope of the notice. Apart from that permitted structure, Alleged Breach C is clear in referring to all shed structures on the site. For the reasons set out below in respect of the appeal on ground (c), there is no need for me to correct the description of Alleged Breach C as it will be deleted from the notice.

6. Alleged Breach E refers to '*the formation of bales functioning as screening bunds*'. However, the submissions show that all parties are aware that the formation of the bales is not what is alleged to be in breach of planning control, and that what is alleged would be more appropriately described as the erection of screening bunds comprising wrapped bales of hay. The hay bales had been removed by the time of my visit and Step (e) has therefore been complied with. I shall correct the description of Alleged Breach E without causing injustice as the wording outlined above more accurately describes the operation identified by the notice and does not materially enlarge its scope or affect the case advanced by either party. As Step (e) has been complied with there is no need for me to consider Alleged Breach E further.

7. Finally, in respect of the claimed shortcomings of the notice, the third paragraph of the stated reasons for issuing the notice explains that '*none of the development appears reasonably necessary for the purposes of agriculture…*'. The use of the phrase 'appears' is perfectly reasonable in this context and reflects the provisions of section 172(1) of the Act.

8. The notice is not therefore a nullity, and nor is it invalid and incapable of being corrected without causing injustice.

The evidence

9. In the appeal on grounds (b), (c) and (d), the onus is on the appellant to make out their case to the standard of the balance of probabilities. Their evidence should not be rejected simply because it is not corroborated. If there is no evidence to

contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

The appeal on ground (b)

10. To succeed on this ground of appeal the appellant needs to show the alleged breaches have not occurred, as a matter of fact.

11. Dealing first with Alleged Breach A, the alleged material change of use of the land to the storage of vehicles (the MCU), it is claimed by the appellant that the land has never been used as such, that it has been in a mixed use with agriculture forming a main use, and that no vehicles were stored on the land on the date the notice was issued. Section 174(2)(b) of the Act is worded in the past tense, and the relevant issue is whether the MCU had occurred prior to the notice being issued, rather than whether any vehicles were being stored on the land on the date the notice was issued. None of the above claims are supported by sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the MCU had not taken place prior to the notice being issued. It has not been shown that an alternative mixed use of the land had been taking place, which the notice should have referred to.

12. In respect of Alleged Breach B, it is claimed that waste material was not used to repair or improve the track referred to, as the material used had been purchased after having been sorted for reuse elsewhere. The evidence shows clean building rubble was laid to create a raised hardstanding forming a track, which is consistent with what I saw during my site visit. That material was a waste product, even though it had been processed, sorted, and purchased by the appellant rather than created as a waste product by any activity within the site. Therefore, as a matter of fact, Alleged Breach B has taken place.

13. Alleged Breach C refers to the erection of shed structures without identifying their location on the land. This is not imprecise or unclear as all shed structures on the land are attacked by the notice, although the description of the alleged breach is in need of correction as set out above. The evidence shows shed structures were present on the site prior to the notice being issued, and I saw 2 of them during my site visit in addition to the permitted structure. The matter of whether any of the shed structures were temporary and/or mobile is relevant to the appeal on ground (c), rather than ground (b), but Alleged Breach C has taken place, as a matter of fact.

14. The appellant's submissions do not address Alleged Breach D. I saw various electrical power points skirting fencelines within the site during my visit. It has not been shown that Alleged Breach D has not taken place.

15. There is no dispute that a streetlamp has been erected, and Alleged Breach F has therefore also taken place.

16. The evidence shows that the alleged breaches have all taken place, as a matter of fact. The appeal on ground (b) must therefore fail.

The appeal on ground (c)

17. To succeed on this ground of appeal the appellant needs to show that the alleged breaches do not constitute breaches of planning control.

18. Section 57 of the Act sets out that planning permission is required for the carrying out of any development of land. Section 55 provides the relevant meaning of development which includes 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. Subsection (2)(e) of section 55 clarifies that the use of any land for the purposes of agriculture shall not be taken to involve development.

19. No evidence has been provided to suggest that Alleged Breaches A, B, or D, did not constitute development requiring planning permission, or that planning permission exists for any of these alleged breaches. On the evidence, I see no reason not to find that these alleged breaches all comprise development which does not benefit from planning permission. In summary, the alleged change of use from agriculture to the storage of vehicles was a material change in the use of the land on account of the change in the character and nature of the use of the land; the raising of land levels and forming of hardstanding comprised an engineering operation on account of the vast extent of the hardstanding, including its height; and the erection of the electrical power points also comprised an engineering operation on account of the nature of the works carried out to install and connect the points.

20. It is claimed that the shed structures forming Alleged Breach C were moved at least twice in the 2 months preceding the submission of the appeal final comments. They are claimed to be used for lambing and kept empty when sheep are off the site.

21. Apart from the permitted shed structure, 2 shed structures were present on the site during my visit. These were the structures shown in the evidence to have been present on the hardstanding and arranged side-by-side prior to the notice being issued. They were located in separate paddocks at the northern end of the site during my visit, and the internal and surrounding ground conditions indicated that they had recently been moved, which was made possible by sturdy skids and towing points incorporated into the metal frames forming their bases. They also had electrical light fittings, switches and connections, and one had a cable with plug fittings running between the structure and one of the electrical power points forming Alleged Breach D.

22. These are large, twin stable units with pitched roofs and bare interiors, with no fixed floor. Photographs show they previously had gutters fitted. As simple structures within a large field, they lack the degree of permanence that might ordinarily be associated with stables erected in situ. Based on everything I have read and seen, they are temporary moveable structures which are not fixed to the ground, do not have footing foundations, are capable of being moved freely around the extensive site, and evidently have been moved into significantly different positions at various times. They are typical of the kind of structures used to provide shelter for animals.

23. With regard to the relevant tests[1] set out in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102, I find that the placing of the shed structures on the site did not comprise operational development as described in Alleged Breach C. Moreover, the evidence indicates, as a matter of fact and degree, that they are used for agricultural purposes. As such, Alleged Breach C has not involved development requiring planning permission, and the notice will be varied

[1] Size, permanence and physical attachment

accordingly. It will be a matter for the Council to consider whether there is any breach of planning control if these structures are used for non-agricultural purposes in the future.

24. The streetlamp in Alleged Breach F is of significant size and operates on a timer. Its installation in the field comprised building operations constituting development and requiring planning permission. It is claimed that the streetlamp benefits from planning permission granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, no specific Class has been identified which may permit such development, and I am not aware of any it may accord with. It has not therefore been shown on the balance of probabilities that the streetlamp is not in breach of planning control.

25. The appeal on ground (c) therefore fails except in respect of Alleged Breach C.

The appeal on ground (d)

26. To succeed on this ground of appeal the appellant needs to show, on the balance of probabilities, that at the date when the notice was issued no enforcement action could be taken in respect of any of the alleged breaches.

27. The appellant claims under this ground that by the time the notice was issued, Alleged Breach A had ceased. As set out above, that is of no consequence in this appeal because section 174(2)(b) of the Act is worded in the past tense.

28. What is relevant to the appeal under ground (d) is whether any of the alleged breaches were carried out at least 4 or 10 years before the notice was issued, with regard to section 171B of the Act and the relevant transitional provisions[2].

29. It is claimed that the sub-base to the hardstanding referred to by Alleged Breach B had existed for more than 4 years before the notice was issued. I note a photograph provided by the Council which is dated April 2023 and labelled '*supplied by Appellant*'[3], showing part of the sub-base, which is consistent with an aerial photograph dated April 2023[4]. However, the aerial photographs dated September 2019 and April 2015 do not give indications of the existence of any hardstanding in the relevant areas. Overall, the appellant has not provided sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that Alleged Breach B was substantially complete at least 4 years before the notice was issued.

30. There is no evidence that any of the alleged breaches took place at least 4 years before the notice was issued.

31. The appeal on ground (d) must therefore fail.

The appeal on ground (g)

32. To succeed on this ground of appeal the appellant needs to show that 3 months falls short of what should reasonably be allowed for the notice to be complied with.

33. The appellant has suggested a 6-month period would be reasonable, considering the reported seasonal flooding of the site. The site is in flood zone 3 and I have

[2] The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024
[3] Figure 5 to the Council's Statement of Case
[4] Figure 3 to the Council's Statement of Case

seen photographs showing significant flooding. There is nothing in the submissions which leads me to doubt the appellant's claims that a 6-month period would be reasonable to comply with the notice over winter months on account of the machinery needed to remove items from the land. The removal works in this case are therefore likely to be far more time consuming than the installation works were. I shall extend the period of compliance to 6 months.

34. The appeal on ground (g) therefore succeeds.

Conclusion

35. For the reasons given above, I conclude that Alleged Breach C is not in breach of planning control and the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeal on grounds (c) and (g) succeed to that extent.

Formal Decision

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

- The deletion of the text 'c) The operational development at the Land by the erection of shed structures' at section 3 of the enforcement notice;
- The deletion of the text 'formation of bales functioning as screening bunds' at section 3 of the enforcement notice and the substitution of the text 'erection of screening bunds comprising wrapped bales of hay';
- The deletion of Step c) in its entirety at section 5 of the enforcement notice; and
- The deletion of the text 'Three (3)' at section 6 of the enforcement notice and the substitution of the text 'Six'.

Subject to the corrections and variation, the enforcement notice is upheld.

L Douglas

INSPECTOR