



Appeal Decision

Site visit made on 20 November 2025

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2026

Appeal Ref: APP/V2255/C/23/3319501

Land at The Tractor Shed, Provender Lane, Norton, Faversham ME13 0SL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Albert Connor against an enforcement notice issued by Swale Borough Council.
 - The notice was issued on 21 February 2023.
 - The breach of planning control as alleged in the notice is "Without planning permission the material change of use of land from agriculture to the stationing of storage containers."
 - The requirements of the notice are:
 1. Cease the use of the Land for the stationing of storage containers except those marked "A" and "B" on the attached plan.
 2. Permanently remove from the Land all the storage containers except for those marked "A" and "B" on the attached plan.
 - The period for compliance with the requirements is six (6) months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). 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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Decision

1. The enforcement notice is quashed.

Matters concerning the notice

2. It is incumbent upon me to put the notice in order. The notice alleges that a material change of use of the land *"from agriculture to the stationing of storage containers"* has occurred. There is no evidence to suggest that the land edged red on the plan attached to the notice was in agricultural use before the containers were stationed on the land. There is however no need for the former use to be identified in the allegation and therefore *"from agriculture"* could be deleted without causing injustice.
3. There is no suggestion within the allegation that any operational development has occurred. It is reasonable to assume therefore that the Council consider the storage containers to be moveable structures, like caravans. It is therefore the purpose for which the storage containers are stationed that constitutes the use of land, not the *"stationing"* itself.
4. Section 173(1)(a) of the 1990 Act requires a notice to include the matters which appear to the local planning authority to constitute a breach of planning control. Section 173(2) confirms that a notice complies with section 173(1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
5. The purpose for which the storage containers are stationed on this land is not discernible from the wording of the allegation. The reasons for issuing the notice

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however refer to *"the use of the land for the storage of containers"*. Storing containers is a use of land, however this is not the same as what has been alleged. The 'storage of containers' would infer that containers come and go from the land, and that they are not themselves put to any purpose while being stored.

6. I saw during my site visit that the storage containers are not themselves being stored. Many are numbered and the appellant explained that he rents them out, in effect as self-storage units. I was also shown inside a container by the person renting it. Their container was being used to store fishing tackle, and materials and equipment they said are used in the operation of their business. This activity is clearly independent of the use of the building, which the appellant rents out to Garden and Orchard Mowers.
7. Further, a fence divides the land into two parts. The part not containing the building has building materials stored on it and waste materials stored in skips, as well as 3 containers. The landowner advised that 2 of these containers were rented from him, while the tenant has brought on the additional container.
8. The allegation as set out in the notice is incorrect. Given the discrepancies between what is set out in the notice and what I saw on site, I sought the appellant's and Council's clarification as to what activities were taking place on the land at the time the notice was issued. I also sought their views on whether the allegation could be corrected to accurately describe those activities without causing injustice.
9. In terms of activities taking place on the land, the Council confirms that, at the time the notice was issued, the first floor of the building was in use as a personal training studio. The studio has the benefit of planning permission (application reference 17/502661/FULL). They are aware that Garden Orchard and Mowers occupy the ground floor of the building and use outside areas for the display of goods and for storage. They confirm the landowner's Planning Contravention Notice response refers to the containers being rented out for storage purposes. They also advise that in June 2021 a case was raised with the enforcement team which has the description 'waste'.
10. The Council do not however consider the land has been divided or that part of it is being used as a builder's yard. They refer to the use of the land having *"fluidity"* and confirm that the notice is directed at securing the removal of containers used for storage purposes.
11. The appellant confirms the containers are used for storage purposes and have been used as such since before 2013. The exclusion of the area of land where building materials etc are being stored would fundamentally alter the purpose of the notice, as would finding that a mixed use has occurred. The appellant raises significant concerns that such changes to the notice are fundamental and would cause them injustice.
12. Both main appeal parties have however indicated that they would not object to the allegation being corrected to read *"Without planning permission, a material change of use to a mixed use comprising the sale and repair of mowers and tractors, and the stationing of containers for storage purposes"*. However, I am no longer convinced that such a description encompasses all the uses taking place on the land.

13. Both the appellant and Council remain of the opinion that the land forms a single planning unit. Accepting that fact and having regard to what I saw and the comments received, the land edged red on the plan attached to the notice was clearly being put to several primary uses at the time the notice was issued. The land was therefore in a mixed use, and it is necessary to identify all its component uses.
14. Garden Orchard and Mowers occupy the ground floor of the building, they have at least one container used for incidental storage purposes and make use of the accesses, parking area and other outside space. The containers used for storage purposes occupy identifiable areas of the land, but people renting those containers have use of the accesses, parking area and other outside space.
15. The personal training studio occupies the first floor of the building. I have not been provided with any details to show how the first floor is accessed or whether customers make use of outside areas for parking and access. It is not therefore clear whether the personal training studio use is a component part of the mixed use.
16. It is not disputed that skips containing waste were located on the land. It is not clear however whether they constitute a primary use or are incidental to other activities taking place on the land.
17. Taking the above factors together, the land is, on the balance of probabilities, in a mixed use. The component parts of that mixed use are not clear from within the 'four corners of the notice' or from the additional information I have been provided with. To correct the notice without being able to precisely identify the component parts of the mixed use would cause injustice to the appellant and conflict with section 173(2) of the 1990 Act.

Conclusion

18. For the reasons given above, I conclude that the enforcement notice does not specify the alleged breach of planning control with sufficient clarity. It is not open to me to correct the allegation in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended) as injustice would be caused were I to do so. The enforcement notice is therefore invalid and shall be quashed.
19. In these circumstances, the appeal on the grounds set out in section 174(2) (b), (a) (f) and (g) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act does not fall to be considered.

M Madge

INSPECTOR