



Appeal Decisions

Site visit made on 4 February 2026

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2026

Appeal Refs: APP/H0520/C/25/3374868 (Appeal A) & 3374869 (Appeal B) Land North West of 2 Thrapston Road , Catworth, Cambridgeshire PE28 5AD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended)(the Act).
- Appeal A is made by Elmarsh Logistics LTD and Appeal B is made by Mr Kudzai Maluku against an enforcement notice issued by Huntingdonshire District Council.
- The notice was issued on 22 September 2025.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from agricultural use to storage of lorries, vehicles and other paraphernalia.
- The requirements of the notice are to:
 - (i) Cease the storage use of the land
 - (ii) Remove all lorries and other vehicles and any items stored on the land in connection with the unauthorised storage use
 - (iii) Restore the land to its condition before the unauthorised storage use took place
- The period for compliance with the requirements is: 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (e), (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.
- Appeal B is proceeding on the grounds set out in section 174(2)(b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decisions

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (e)

2. An appeal under ground (e) is made on the basis that copies of the enforcement notice were not served as required by section 172 of the Act. Section 172 of the Act provides that a copy of an enforcement notice shall be served on the owner and on the occupier of the land to which it relates and on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
3. The Council has provided me with Land Registry documentation for the site, which shows the state of the title plan on 9 September 2025, which is shortly before the enforcement notice was issued. The notice is stated to have been served on the landowner. The Council advise that an enforcement notice was also served on the directors of Elmarsh Logistics Ltd, which is the company operating from the appeal site. It therefore seems likely that the notice was served as required by section 172 of the Act.

4. Significantly, the appellants, including Elmarsh Logistics Ltd, have made an appeal, including an appeal under ground (a). Section 176(5) of the Act sets out that, where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
5. Even if the notice was not served as required by section 172, it has not been shown that the appellants, or another person required to be served with a copy of the enforcement notice has been substantially prejudiced by any failure to serve them. The appeals under ground (e) therefore fail.

Ground (b)

6. An appeal under ground (b) is made on the basis that the matters stated in the notice have not occurred. In a legal ground of appeal, such as ground (b) or (c), the burden of proof is firmly on the appellant to make their case, to the civil standard, which is the 'balance of probabilities'. The appellants assert that the description is inaccurate and that the notice is based upon limited observation. They state that the site is not an uncontrolled storage yard and that all vehicles belong to or are under contract to the appellants. The use is stated to be a structured operational parking area linked to an active logistics business and no abandoned or unrelated items are stored.
7. Within their appeal statement, the appellants confirm that the land is used to support a small scale logistics operation, which comprises parking of HGVs and staff vehicles and occasional overnight static storage or operational equipment. During my visit, I saw that a significant number of different vehicles are located at the site, including HGVs, vans and cars. Other items, such as tyres and machinery were also present within the site. While my site visit was carried out some time after the enforcement notice was issued, I have no reason to believe that what I saw is not typical of how the site was being used at the time the notice was served.
8. I have considered whether the description in the allegation, which is storage is correct, or whether the term 'parking' should be used. From the appellants' description of the activities on site, it seems vehicles are brought to the site and prepared for export, after which they are transported to ports of exit. All vehicles are stated to belong to or be under contract to the appellants. Vehicles are located across the site and appear positioned to maximise the space, rather than located in a designated bay or area, as is typical of a parking use. Some of the vehicles would need to be moved to enable other vehicles to leave the site. The term 'storage', in my view, fairly reflects the activities which are being carried out at the site.
9. A nearby resident has written in support of the appeal and states that since moving there they have always considered it a brownfield site. They state that the site was used when the A14 was being constructed and the site was used for storing vehicles and equipment. As a result of it being used as a storage site, a large number of concrete pads are stated to have been constructed and, once it was vacated, nothing more was done to the site and it was not returned to its original state, nor was it used for agriculture or pasture.

10. The resident states that the site has been used as a dumping site for rubbish, attracting vermin, and that it was only when the current owner took over the site that the situation improved. However, the representation is not signed or witnessed, nor is it clear how the individual knows that the site has not been used for agriculture following its use during the 1980's and early 1990's, as they state they only moved to the property 22 years ago. I therefore afford it limited weight.
11. The appellants assert that the land has been 'non-agricultural and hard surfaced since the 1990s', however, it is not clear how the appellants know this and whether they have direct knowledge of the site at that time, as it seems ownership of the site changed in 2018. Furthermore, if the land was used for agriculture in the 1990's, this points towards it being used for agriculture after it was used in connection with the construction of the A14 (which the Council suggests took place during the 1980's – early 1990's), suggesting this was the last lawful use of the site.
12. Even if I am wrong, a notice alleging a material change of use does not have to identify the previous use. Had it been shown, on the balance of probabilities, that the previous use was not agriculture, it would be possible to delete it from the allegation. However, the appellants have not shown this and so I consider such a correction is not necessary in this case. From the evidence before me, it seems, on the balance of probabilities, that the use of the land for the storage of lorries, vehicles and other paraphernalia vehicles has occurred as a matter of fact and so the appeals under ground (b) must fail.

Ground (c)

13. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. The main thrust of the appellants' case under ground (c) is that there has been no material change in the use of the land. The concept of a material change of use is not defined in statute or statutory instrument. The basic approach is that, for a material change of use to have occurred, there must be a significant difference in the character of the activities from what has gone on previously, as a matter of fact and degree.
14. I have been provided with a photograph of the site prior to the appellants' clearance of it, which shows what appears to be hardstanding in the site. However, the photograph is not dated, and I have limited detail as to how the site was used prior to its use by the appellants. The Council has provided me with a copy of a Stop Notice, dated 4 May 2018, which identifies the formation/alteration of a vehicular access to a highway, piping a ditch and laying hardcore/handstandings. It seems planning permission was then sought for the use of land for parking and cars and stationing of two portable buildings, however, this was refused on 5 June 2021.
15. While the land may have been used during the construction of the A14 in the late 1980's, early 1990s, a significant period of time has passed since then. It is not clear whether any use of the land would have been permitted by a Development Order, or, if not, whether any such use would have become lawful by virtue of the passage of time. Furthermore, the presence of some hardstanding within the site is unlikely to have prevented the entire site from being used for agricultural purposes.

16. The use of existing hardstanding for vehicle parking is asserted to not materially alter its character. However, even if the extent of hardstanding within the site has not significantly changed, the vehicles which are located within the site are clearly visible outside of it and, in my view, have likely to have significantly changed the character and appearance of the area. Vehicle movements will also create noise, disturbance and highways impacts which, it seems are unlikely to have been generated by the site prior to its use for the storage of lorries, vehicles and other paraphernalia.
17. In my judgement, it is likely, on the balance of probabilities, that a material change of use has occurred. The appeals under ground (c) must therefore fail.

Ground (a)

18. An appeal under ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

Main issues

19. The main issue of the ground (a) appeal is the effect of the development on the character and appearance of the area.

Reasons

20. The appeal site comprises an irregular shape plot which is used for the storage of lorries, including HGVs and an area which, at the time of my visit, was used for the storage of cars. The appeal site follows the line of the river on one side and Thrapston Road on the other. I saw that there are two entrances into the site, one close to the junction with Brington Road, and the other further along Thrapston Road. Metal gates have been erected at the accesses, with close boarded wooden fencing and/or vegetation bounding the rest of the site.
21. Policy LP10 of Huntingdonshire's Local Plan to 2036 (adopted 2019)(the HLP) sets out that development in the countryside will be restricted to the limited and specific opportunities as provided for in other policies of the plan and that development must, amongst other things, recognise the intrinsic character and beauty of the countryside. Policy LP11 of the HLP seeks development that responds positively to its context and policy LP12 seeks development which contributes positively to the area's character and identity.
22. Although there is some development along Brington Road and in the nearby settlements of Brington and Molesworth, the appeal site is located in a generally rural area. Vegetation and fencing which has been erected limits views into the site. However, by virtue of their height, HGVs stored within are clearly visible from Thrapston Road and Brington Road and cars and HGVs are visible from the entrances. The storage of vehicles is at odds with the rural character of the area and harms the character and appearance of the area as a consequence.
23. As discussed above, it seems from the evidence that the site was historically used for the storage of vehicles and equipment during construction of the nearby A14 trunk road in the late 1980s and early 1990s. A photograph provided by the appellant is asserted to show there was some form of hardstanding prior to their development of the site. However, the photograph is not dated. I have limited

evidence regarding any historical use of the site and consider it unlikely it would be possible to resume using it in this way, given the construction of that part of the A14 has long since been carried out. There is no fallback in this regard.

24. The appellant suggests that the use is low intensity, with intermittent vehicle movements of 12 to 15 vehicle movements per month and numerous days with no traffic at all. However, while this may be less than logistics operators elsewhere, the effect of the use on the character and appearance of the area is adversely affected by the storage of the vehicles within the site itself. Even if there was previously hardstanding within the site, from the photographs provided by the appellant the site appears to have been overgrown and so it is unlikely to have been widely visible from outside of the site and would have had a much less urbanising effect on the character and appearance of the area.
25. The appellant states that there are two established HGV related businesses which operate within approximately one mile of the site and have done so for several years. However, no details have been provided as to what these comprise, or the circumstances surrounding their development, including the policy context. It has not been demonstrated that any such businesses are comparable to the appeal site, nor does it justify such development in this location.
26. The National Planning Policy Framework 2024 (the Framework) seeks to build a strong, competitive economy and advises that significant weight should be placed on the need to support economic growth and productivity. However, while the appeal site supports two full-time jobs and around 10 indirect jobs, the appellant has not demonstrated that the business could not be located elsewhere, within a site which is not harmful to the character and appearance of the area.
27. While the appeal site is a limited distance from the A14, reducing the need for HGVs to travel through villages, attempts to explore the availability of other sites appear limited. Furthermore, it is not clear whether they were progressed. For example, emails with M1 Agency shows that a query was raised and provides details of another site at Bury St Edmunds. However, it is not clear whether this was looked into further. I therefore afford this matter limited weight.
28. The appellant states that they are willing to accept conditions on vehicle numbers, hours of operation, lighting, height and extent of external storage and landscaping. However, vegetation along Thrapston Road is already mature and so the extent to which additional planting can be carried out is likely to be limited. The vegetation which is *in situ* is deciduous and so allows views into the site during the winter months. It would be undesirable to require that native vegetation is replaced with evergreens, which may not be native, since this may harm the character and appearance of the area. Furthermore, HGVs, by virtue of their substantial height, would still be visible from outside the site, even if limited in number or position within the site, and so would still harm the character and appearance of the area.
29. Limiting the hours of operation and lighting is likely to do little to mitigate the harm to the character and appearance of the area, as vehicles stored within the site would be visible from outside the site, even when the site is unmanned. Limiting the height of storage is unlikely to address the harms I have identified, since it would be unreasonable to restrict heights below that of a standard HGV.
30. It is suggested that the land has been previously associated with anti-social behaviour and that the absence of a lawful use leaves it vulnerable to further

unauthorised activity. However, the appeal use is unlikely to be the only means of addressing concerns regarding anti-social behaviour and so I afford this matter very limited weight.

31. Measures introduced to address highway concerns, such as the provision of warning signs and use of the entrance close to the junction with Brington Road, rather than the access point close to the bend, and restricting operating hours to no later than 20:00 and other measures, such as the erection of bird feeders and engagement with the local community do not outweigh the harms I have found.
32. While the breach may not have been intentional, I have found that the use harms the character and appearance of the area, contrary to the requirements of policies LP10, LP11 and LP12 of the HLP, the requirements of which are set out above.

Ground (a) conclusion

33. For the reasons set out above, I find that the appeal scheme is harmful to the character and appearance of the area. The benefits arising from the modest levels of employment generated by the use do not outweigh this harm and so the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits. The appeal scheme conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan.

Ground (f)

34. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice 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.
35. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. Since the requirements are to cease the storage use, remove vehicles and return the land to its condition before the breach took place, I consider the purpose of the notice is to remedy the breach.
36. It is asserted that the steps are unreasonable and disproportionate because (it is asserted) the land has not been agricultural for over three decades and restoration would require removal of long-established hardstanding. However, the notice does not explicitly require hardstanding to be removed, nor does it require the land to be restored to agricultural condition (whatever that means). What the notice does require is for the land to be restored to its condition before the unauthorised storage use took place. The appellants are best placed to know what the condition of the site was before the material change of use took place.
37. The appellants raise matters concerning the planning merits of the appeal scheme, including whether planning concerns could be addressed through regulation rather than cessation, which I have considered under ground (a) above. There are, in my view, no lesser steps that would remedy the breach and so the appeals under ground (f) must fail.

Ground (g)

38. An appeal under ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. The appellants suggest that a six month compliance period is inadequate and request that eighteen months is given, to enable them to secure suitable alternative premises.
39. As discussed under ground (a) above, the appellants have made some attempt to secure alternative premises. However, the appellants' attempts seem limited and do not appear to have explored a range of commercial agents and landowners, as suggested by the Council's Economic Development Officer. Although compliance with the notice may compromise the viability of the business and jeopardise employment, six months would, in my view, give the appellants a reasonable period of time to find an alternative site.
40. Significantly, six months is likely to be sufficient time to remove the vehicles and to restore the land and is, in my judgement, reasonable and proportionate. Although thefts at the premises may have affected the company's financial ability to relocate, extending the compliance period to eighteen months is excessive, particularly given the harms I have identified above to the character and appearance of the area. The appeals under ground (g) therefore fail.

Overall conclusion

41. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Savage

INSPECTOR