

Section 174 Town and Country Planning Act 1990- Enforcement Notice Appeal

Statement of Facts and Grounds of Appeal

Appeal Site: Land on the east side of Dedham Road,
Stratford St Mary, Suffolk

Appellant: Guy Lindsay Lennox

Local Planning Authority: Babergh District Council

LPA ref: EN/26/00216

Enforcement Notice Appeal Appendices

APPENDIX 1 – Enforcement Notice dated 24TH June 2026 and Enforcement Notice Plan

APPENDIX 2A – HM Land Registry office copies - Register

APPENDIX 2B - HM Land Registry office copies – Plan

1. Enforcement Notice

- 1.1. This is an appeal against an enforcement notice issued by Babergh District Council (“the LPA”) dated 24th June 2026 in relation to land known as Land on the east side of Dedham Road, Stratford St Mary, Suffolk (“the Appeal Site”) (“the Enforcement Notice”). A copy of the Enforcement Notice and Enforcement Notice Plan is at APPENDIX 1.
- 1.2. This statement also sets out the Appellant’s representations on the procedure which should be used in this appeal.
- 1.3. The Enforcement Notice specifies at paragraph 2 the following alleged breach(es) of planning control:

“Without planning permission, the material change of use of agricultural land for vehicle parking and commercial activities for more than 28 days within a calendar year.”

- 1.4. The Enforcement Notice states at paragraph 3, the reasons for issuing the Enforcement Notice, these are summarised as follows:
 - It appears to the Council that the above breach of planning control has occurred within the last ten years.
 - The use of the land for vehicle parking and commercial activities has taken place for more than 28 days within a calendar year. This exceeds the temporary use allowance granted under Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council considers the exceedance to give rise to a material change in the use of the land.
 - The development is contrary to Joint Local Plan Policies SP09 (Enhancement and Management of the Environment), SP10 (Climate Change), LP16 (Biodiversity and Geodiversity), LP18 (Area of Outstanding Natural Beauty), LP27 (Flood Risk and Vulnerability) of the Babergh and Mid Suffolk Joint Local Plan, Part 1 (2023).
 - Furthermore, the development on the land is contrary to Paragraphs 135 (Achieving well-designed places), 170, 176 (Planning and Flood risk), 187, 189, 190 (Conserving and enhancing the natural environment) and 193 (Habitats and biodiversity) of the National Planning Policy Framework published in December 2024.
 - The material change of use of the land does not benefit from planning permission, and results in unacceptable harm to the character and nature of the surrounding area and the Dedham Vale National Landscape.

- 1.5. The requirements of the Enforcement Notice, specified at paragraph 4 are:

- a. *Cease the use of the land for vehicle parking and commercial activities.*
- b. *Remove from the land all associated paraphernalia brought onto the Land in connection with the unauthorised use.*

c. Restore the Land to its former condition.

- 1.6. The time for compliance with the requirements of the Enforcement Notice are specified at paragraph 5. The compliance period for steps a. to c. is one (1) month from the date the Enforcement Notice takes effect. The Enforcement Notice is stated to take effect on 22nd July 2026 unless an appeal is made against it beforehand.
- 1.7. This appeal is made on grounds (a), (b) and (c) of S174(2) Town and Country Planning Act 1990 (as amended) (“the Act”).

2. Property Ownership

- 2.1. The extent of the Appeal Site is shown edged red on the plan to the Enforcement Notice (see Appendix 1).
- 2.2. The land which forms the Appeal Site is registered at HM Land Registry under title number SK405941. The Appellant is registered freehold proprietor of the Appeal Site
- 2.3. A copy of the Land Registry Official Copy of register of title and plan is at Appendix 2.

3. The Appeal Site

- 3.1. The Appeal Site is situated within a rural setting on the edge of the village of Dedham on the northern side of the River Stour. It is surrounded by fields to the north, east and west and sits adjacent to Dedham Road.
- 3.2. The Appeal Site is used by the Appellant for the grazing of cattle and cattle can be found grazing on the Appeal Site for the majority of the year. The Appeal Site is in agricultural use.
- 3.3. On a limited number of occasion during any 12 month period, and for less than 28 days, the field gates to the Appeal Site may be opened up to provide access for overflow car parking. The Village of Dedham, the River Stour and the surrounding area is a popular tourist destination. This is especially so on weekends in the summer months when there are periods of good weather. The current provision of public car parks do not have the capacity to provide sufficient parking for the number of tourists visiting the village on a busy weekend. On occasions an ice cream van will be located on the Appeal Site.
- 3.4. There is filed access to the Appeal Site from Dedham Road. This provides for a spay and gates slightly set back into the field. Immediately to the north of this field access is a holding pen used for the management and transportation of cattle. The access arrangement can be seen on the aerial and street view images reproduced below:



- 3.5. The full extent of the Appeal Site is shown edged red on the arial image below. It measures approximately 23 hectares in size. The extent of the field access that is set back into the Appeal Site is approximately 0.1 hectares in size.



4. Relevant Planning History

- 4.1. The Service of the Enforcement Notice under appeal ref **EN/26/00216** – dated 24th June 2026 is the only planning history for the Appeal Site.

5. Approach to Evidence

Onus and standard of proof

- 5.1. An enforcement notice is a statement that, in the local planning authority's opinion, a breach of planning control appears to have taken place. Before issuing an enforcement notice, an LPA will give careful consideration as to what it considers to be the breach of planning control and is required to clearly describe the breach in the enforcement notice. The onus at appeal is not on the LPA to show that the appeal should be dismissed, although in practice that may well constitute the LPA's main line of argument to any legal ground of appeal.
- 5.2. By the very nature of an enforcement appeal, the case that the appellant is required to meet is derived from the enforcement notice itself. In this case it is the LPA's allegation in the Enforcement Notice that 1) engineering works have been undertaken without planning permission to alter land levels incorporating the formation of a hard standing, the formation of bunds and widening of the existing access and 2) there has been an unauthorised material change in use of the land from agriculture to the storage of building and construction materials, plant equipment, HGVs, caravans, site cabins and shipping containers. This is the case that the Appellant seeks to meet in this appeal.

- 5.3. In enforcement notice appeals, where the onus of proof is on the appellant, the courts have held that the relevant test of the evidence on such matters is “the balance of probabilities”. An appellant’s evidence does not need to be corroborated by “independent” evidence in order to be accepted. It is pointed out that if the LPA have no evidence of their own, or from others to contradict or otherwise make the appellant’s version of events less probable, there is no good reason not to accept the Appellant’s evidence.

6. Grounds of Appeal

- 6.1. Under s174(2) of the Town and Country Planning Act 1990 (as amended), the Appellant can appeal the Enforcement Notice pursuant to ground a. to g. as applicable.

- 6.2. The Appellant brings this appeal on ground (b), ground (c) and ground (a). It is common place for the ground (a) appeal to be considered after the “legal” grounds of appeal, in this case grounds (b) and (c).

6.3. The Ground (b) appeal

- 6.3.1. The ground (b) appeal is that those matters which are specified in the Enforcement Notice have not occurred.

- 6.3.2. The Enforcement Notice alleges that without planning permission, the material change of use of agricultural land for vehicle parking and commercial activities for more than 28 days within a calendar year. This is disputed by the Appellant.

- 6.3.3. The Appellant understands that the LPA’s position is based on including within the allegation of the commercial use of the land for in excess of 28 days, occasions when the Appeal Site is occupied by cattle grazing in the fields and an ice cream van may “pull up” in the entrance to the Appeal Site outside of the gates. This activity is outside of the Appellant’s control and is entirely without the Appellant’s permission or consent.

- 6.3.4. Further, it is unclear whether the ice cream van on these occasions is stationed on the public highway or land within the Appellant’s ownership.

- 6.3.5. Furthermore, the area of land outside of the gates that form the physical boundary treatment to the Appeal Site is a maximum of 0.1 hectares in size. Insofar as it does not fall within the public Highway and falls within the Appellant’s ownership it comprises only a very small part of the site.

- 6.3.6. It is unclear from the allegation of the breach of planning control in the Enforcement Notice exactly what “commercial activities” the LPA alleges and accordingly, the Appellant reserves his position to comment further once the LPA’s case has been clearly and fully outlined.

6.3.7. It is of note that the Appellant has displayed a “no parking” sign on the gates at the access to the Appeal Site (see the image below).



6.3.8. It is The Appellant’s position that the use of the Appeal Site for temporary parking and the commercial activity of an ice cream van being located within the Appeal Site when it is being used for temporary parking does not and has not occurred for a period of in excess of 28 days within a calendar year.

6.4. The Ground (c) appeal

- 6.4.1. The ground (c) appeal is that even if the matters alleged in the Notice are found to have occurred, they do not constitute a breach of planning control. In light of the Appellant’s understanding of the LPA’s case and the factual position on this matter, the ground (c) appeal is closely linked to the ground (b) appeal. Accordingly, the Appellant repeats the factual matters outlined in the sub paragraph of 6.3 above.
- 6.4.2. The use of the Appeal Site as alleged in the Notice constitutes permitted development within the meaning of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Specifically, the development falls within Schedule 2, Part 4, Class B of the GPDO.
- 6.4.3. The Appellant is permitted to use the land and place temporary structures for alternative purposes for up to 28 days in a calander year without applying for full planning permission.
- 6.4.4. Insofar as the parking/stationing of an ice cream in the access to the Appeal Site outside of the field gates has been taken into account by the LPA in the allegation contained within the Enforcement Notice:

- I. the ice cream van parked in the access splay has not been within the Appellant's control or with his permission.
- II. It is located outside of the physical boundary treatment to the Appeal Site.
- III. It is unclear whether this area is the public highway.
- IV. The alleged use of this parcel of land does not constitute a material change of use of the whole Appeal Site and or is to be considered *de minimis*.

6.4.5. As explained in more detail above, the access splay being the area between the boundary of the Appellant's property and the public highway is land over which the Appellant does not exercise any control. Insofar as the access splay forms part of the public highway, the parking of vehicles on such land is regulated by highway and road traffic legislation, not by the Town and Country Planning Act 1990. Accordingly, the stationing of vehicles on this land cannot constitute a breach of planning control.

6.4.6. The parking of vehicles on the access splay does not constitute a material change of use of the land, nor does it constitute "development" within the meaning of section 55(1) of the Town and Country Planning Act 1990. The parking of vehicles, including commercial vehicles, on a public highway (or highway verge) is an ordinary and incidental use of such land. It does not amount to a material change of use requiring planning permission.

6.4.7. The Notice alleges a breach of the 28-day rule under Schedule 2, Part 4, Class B of the GPDO. However, Class B relates to the use of land for a temporary purpose and permits such use for up to 28 days in any calendar year. The Appellant contends, in the alternative, that the activity alleged does not fall within the scope of Class B because the access splay is highway land and is therefore excluded from the scope of the GPDO, which applies to "land" but not to land forming part of the public highway. Therefore, the time vehicles have spent parked on the access splay have not added to the time the field has been temporarily used for a different use.

6.4.8. For the reasons set out above, the matters alleged do not amount to a breach of planning control, and the appeal should be allowed on Ground (c).

6.5 Ground (a) appeal

6.5.1. The ground (a) appeal is that in the event that the legal grounds of appeal under grounds (b) and (c) are not upheld, planning permission should be granted for the development cited in the enforcement notice, or that conditions or limitations on an existing permission should be discharged.

6.5.2. The Appellant's understanding is that by pleading a ground (a) appeal, it automatically triggers a deemed planning application under s177(5) of the Act. As such, the planning merits of the purported unauthorised development must be assessed as if the Appellant had originally applied for permission.

- 6.5.3. It is the Appellant's case that permission for the use of the Appeal Site for vehicle parking and commercial activities should be granted. The LPA have cited a number of paragraphs in the National Planning Policy Framework. These will be reviewed in turn below.
- 6.5.4. The LPA argue that the development is contrary to paragraph 135, concerning well-designed places. However, the Appellant avers that the temporary over-flow parking is unobtrusive and reversible, with no permanent infrastructure. In addition, it offers a place for parking where there is a lack of provision or alternative parking. The current parking provision in Dedham is clearly demonstrably insufficient on busy days when vast numbers of tourists are attracted to the village. The overflow parking at the Appeal Site is a proportionate, low-impact response to an identified community and visitor need. It prevents indiscriminate parking elsewhere.
- 6.5.5. The LPA also argue that the development is contrary to paragraphs 170 and 176 in relation to flood risk. The Appellant argues in turn that the field is already used for agricultural purposes; temporary parking on grass does not materially increase flood risk. Further, by its very nature the use occurs in the height of summer when the weather is fine and there is little risk of flooding.
- 6.5.6. The Enforcement Notice also notes paragraphs 187, 189, and 190 concerning conservation and enhancing the natural environment. However, the Appellant reiterates that the use in question is temporary, reversible, and does not alter the character of the land. The land returns to agricultural use between parking events. The Appellant acknowledges that this is a matter of planning judgement for the Inspector; however, it is strongly argued that the harm is negligible and outweighed by public benefit, as elaborated on below at 6.5.8.
- 6.5.7. Finally, the LPA also note that the development is contrary to paragraph 193, which concerns habitats and biodiversity. Conversely, it is argued that there is no permanent ecological harm where the land is returned to pasture between uses.
- 6.5.8. Ultimately, it is argued that the temporary use is linked to tourism which is itself recognised as benefiting the rural economy and visitor experience in the area. In any case, the nature of the use is reversible and temporary – there are no permanent structures, no permanent access alterations, and no hardstanding.
- 6.5.9. To ensure that the use remains of a temporary nature the Appellant would be willing to a condition being placed on the use of a maximum of 56 days in a calendar year.

7. Choice of Procedure

7.1. The Appellant considers that written representations is the suitable procedure for the appeal.

8. Conclusion

8.1. For the reasons set out above, the Appellant invites the Inspector to uphold this appeal on grounds (b) and (c) or alternatively grant planning permission in the terms sought under the ground (a) appeal.

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