

## Appeal Decision Notice

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Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-320-2001
- Site address: Land east of 107 Main Street, Longriggend ML6 7RS
- Appeal by Mr Alex Reid against the enforcement notice dated 26 May 2011 served by North Lanarkshire Council
- The alleged breach of planning control: without planning permission the owner of the land has maintained a portacabin and two containers at the site.
- Date of site visit by Reporter: 16 August 2011

Date of appeal decision: 30 August 2011

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### Decision

I uphold the enforcement notice dated 26 May 2011 but allow the appeal to the extent that I vary the terms of the notice by adding the words “one of the” between the words “and” and “containers” in paragraph 5(a) on the notice.

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Town and Country Planning (Scotland) Act 1997.

### Reasoning

1. The appeal against the enforcement notice was made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997: *ground (b) the matters stated in the notice to involve a breach of planning control have not occurred; ground (c) the matters stated in the notice (if they occurred) do not constitute a breach of planning control and; ground (f) the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or the injury to amenity caused by the breach.*

2. The appeal site is a building plot on which planning permission for 2 dwellinghouses was granted on 8 May 2007 (ref:07/00400/FUL). Work has commenced on both of the detached houses with foundation works completed up to DPC level on both sites. As a result, there is no dispute that the planning permission has been implemented.



3. Until recently, the site was secured by Heras fencing on all sides but a 2.4m high Sterling board hoarding has recently been erected along the street frontage. This is not before me in this appeal. One of the containers has been removed from the site and the portacabin has been demolished but the materials remain on the site. To that extent the appellant has partially complied with the notice. The second container remains on site for the storage of materials pending recommencement of the building works. There are stacks of blocks and facing bricks on the land together with the appellant's excavator and cement mixer.

*The appeal on ground (b)*

4. It is apparent that the building work ceased some time ago and the site is becoming overgrown so, under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO) the containers and portacabin should have been removed when the building operations ceased. At the time the notice was issued, the appellant accepts that both containers and the portacabin were in place, so the matters alleged in the notice have occurred as a matter of fact and the appeal on ground (b) fails.

*The appeal on ground (c)*

5. While the provision of buildings required temporarily in connection with building operations on the land is permitted by Class 14 in Part 4 of the GPDO, this is on the condition that, when the operations have been carried out, the building, structure or plant and machinery shall be removed. As no building works have being carried out for some time, the containers and portacabin are no longer in connection with the operations on the land, so it follows that their retention on the site is in breach of planning control. The appeal on ground (c) therefore fails.

*The appeal on ground (f)*

6. With the commencement of the works and the purchase of materials, the appellant has demonstrated his commitment to completing these houses once the current economic climate improves. He has also shown willing to comply with the notice by removing one container and demolishing the portacabin, although its materials have yet to be removed. The notice could have extended to the removal of the fencing, materials, plant and equipment, but did not to do so which indicates that the council accepts that the operations are likely to eventually continue and need to be secure. Even if the appellant fully complied with the notice, the land would remain an unsightly building site until the houses are completed, so the storage of materials in a single container would assist in limiting any injury to amenity.

7. For these reasons, I do not consider it unreasonable for the appellant to retain a secure materials store on the site in the interim, particularly as he has partially complied with the notice, provided the portacabin materials are removed from the land within the 28 day period for compliance.

8. I therefore conclude that the steps required by the notice exceed what is necessary to remedy the breach of planning control. The appeal on ground (f) succeeds and I shall vary the terms of the notice accordingly.

*John H Martin*  
Reporter

