

# Enforcement Appeal Decision

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<b>Appeal Reference:</b>	2022/E0028
<b>Appeal by:</b>	Mr V Dynes
<b>Appeal against:</b>	An Enforcement Notice dated 4 <sup>th</sup> August 2022
<b>Alleged Breach of Planning Control:</b>	(a) The unauthorised material change of use of land from agricultural use to a use for the storage of containers in connection with a commercial business. (b) The unauthorised laying of hard-core on the land to facilitate the unauthorised material change of use as reference in point a above. (c) All of the above matters outlined in point a and b have been carried out without the grant of planning permission so required.
<b>Location:</b>	Lands located adjacent and north of 18 Keenaghan Road, Dungannon.
<b>Planning Authority:</b>	Mid Ulster District Council
<b>Authority's Reference:</b>	LA09/2021/0051/CA
<b>Procedure:</b>	Written representations
<b>Decision by:</b>	Commissioner K S Donaghey, dated 23 <sup>rd</sup> September 2024

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## Grounds of Appeal

1. The appeal was brought on Grounds (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. Ground (f) was withdrawn with the submission of the appellant's written evidence.

### **Ground (g) – that the period for compliance specified in the Enforcement Notice falls short of what would reasonably be allowed.**

2. The main issue to consider in respect of ground (g) is if the period for compliance with the Enforcement Notice (the notice) falls short of what should reasonably be allowed. The Council has allowed the period of six months for the cessation of the use on the site and the removal of the hard-core area. The appellant has made a planning application to retain the hard-core area as part of his agricultural business. This application remains under consideration by the Council. The appellant has requested a period of one year to allow for this application to be decided.
3. Whilst a period of one year may be preferable to the appellant to allow time for the current planning application for the hard-core area to be decided, there is no guarantee that it will be concluded within a year. Similarly, there is no indication that this application could not be decided within the six month period which is set

out within the notice for compliance, nor is there any guarantee of the application being approved. As it stands, the removal of the hard-core area is a necessary step in the cessation of the unauthorised use referred to within the notice. Whether the hard-core area achieves planning approval in the future for a different use is beyond the scope and control of this notice. The appellant has not presented any persuasive argument why the timeframe set out within the notice is inherently unreasonable. The period of six months for the removal of the hard-core area is reasonable. As such the appeal under ground (g) fails.

## **Decision**

The decision is as follows:-

- The appeal on Ground (g) fails.
- The Notice is upheld.

**COMMISSIONER KENNETH DONAGHEY**

**List of Documents**

Planning Authority:- "PA1" Written statement of case and appendices

Appellant:- "AP1" Written statement of case and appendices