
Appeal Decisions

Inquiry Held on 15 to 17 March 2022

Site visit made on 17 March 2022

by Diane Lewis BA(Hons) MCD MA LL M RTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2022

Land at Rosador, London Road, Wrotham, Kent TN15 7RR

Appeal 1 Ref: APP/H2265/C/20/3263193

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Fitness against an enforcement notice issued by Tonbridge & Malling Borough Council.
 - The enforcement notice, numbered 16/00300/USEM, was issued on 16 October 2020.
 - The breach of planning control as alleged in the notice is Without the benefit of planning permission, the unauthorised change in use from class C3 (dwellinghouses) to mixed use residential/business in relation to use class B2 (general industrial) and use class B8 (storage and distribution), erection of structures in connection with business uses and creation of hard standings within the Metropolitan Green Belt and North Downs Area of Outstanding Natural Beauty.
 - The requirements of the notice are:
 - To cease the Class B2 use in connection with the fabrication of steel and remove all structures and equipment associated with such use from the site as illustrated by the attached plan titled 'TMBC 1'.
 - To cease the Class B8 uses on the site, including but not limited to, the open storage of scaffolding materials and top soil and remove all structures and arisings associated with such use from the site as illustrated by the attached plan titled 'TMBC 1'.
 - To demolish the unauthorised outbuilding and adjoining canopy structure as illustrated by photographs titled TMBC 2 and TMBC 3 and remove all arisings from the site to an authorised place of disposal.
 - To break up the created hard standings as illustrated by photographs titled TMBC 4, TMBC 5 & TMBC 6 and remove hard standings from the site in their entirety to an authorised place of disposal.
 - The period for compliance with the requirements is six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the 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 as amended.
 - The appeal made on ground (c) was withdrawn by the appellant on 23 December 2020.
- Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.**
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Appeal 2 Ref: APP/H2265/X/20/3257618

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr David Fitness against the decision of Tonbridge & Malling Borough Council.
- The application Ref TM/19/02690/LDE, dated 13 November 2019, was refused by notice dated 14 February 2020.

- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is Use of land for steel fabrication falling within Class B2 (general industrial).

Summary of Decision: The appeal is dismissed.

Procedural matter

1. The appellant and the Council's witness on matters of fact gave their oral evidence under a solemn affirmation.

APPEAL 1

The Land

2. The Land affected by the notice is known as the property Rosador and is identified clearly on the attached plan as a long rectangular shaped area of about 0.78 hectares. A bungalow is sited near the frontage, with the remaining land extending some way north eastwards.
3. At the time of the appeal site visit the Land was enclosed and fenced and was served by a single vehicular access point towards the southern corner. The front part of the site was occupied mainly by the bungalow and garden, a double garage and space for parking/circulation. A second gateway led through to the land at the rear, where there was a steel fabrication workshop, hard surfaced areas occupied by a number of storage containers and open storage. Adjacent and further into the site the storage of scaffolding equipment and materials was taking place. Towards the back of the Land was an area where grass and vegetation were growing through a hard core base. A residential static caravan was sited to the rear of the domestic garden, facing towards the workshop area. There was no direct access between the bungalow's garden and the caravan.

Enforcement notice

4. At the inquiry the Council proposed a number of corrections to the enforcement notice:
 - To provide greater clarity in paragraph 2 by adding a reference to the Land.
 - To phrase the alleged breach of planning control as: Without the benefit of planning permission, the unauthorised material change in use of the Land from a residential use to a sui generis mixed use comprising three primary uses: residential, general industrial (steel fabrication) and storage, and the erection of structures and laying of hard standings incidental to the general industrial (steel fabrication) and storage uses.
 - To remove the reference to a period of four years from the reasons for issuing the notice.
 - To remove the reference to TMBC 1 in the requirement section.
 - To word requirement 1 as: To cease the general industrial (steel fabrication) use on the Land and remove all structures and equipment incidental to such use from the Land.

- To word requirement 2 as: To cease the storage use on the Land including, but not limited to, the open storage of scaffolding materials and top soil and remove all structures and arisings incidental to such use from the Land.
 - To remove requirement 3 in respect of TMBC 2 and TMBC 3.
 - In requirement 4, to relate the description of the hard standing to how it is described in the corrected allegation.
5. The power under section 176(1)¹ to correct any defect, error or misdescription in the enforcement notice may only be exercised if the correction will not cause injustice to the appellant or the local planning authority.
 6. The correction in respect of the Land does not involve any change to the area of land involved and is solely a minor point of clarification.
 7. The proposed correction to the alleged breach would improve the terminology by identifying the mixed use as a sui generis use, rather than incorrectly relating the uses to the Use Classes Order². The description of the general industrial element relates more particularly to the type of use that has taken place, namely steel fabrication. The appellant's case disputing a mixed use occurred is a matter for consideration in the ground (b) appeal. The proposed description also confirms that the operational development is regarded as facilitating and is associated with the making of the change of use, rather than separate breach(s) of planning control. The appellant agrees that the structures and hard standing are part and parcel of and facilitate the change of use. The scope of the notice would not be widened.
 8. The appellant does not accept the proposed corrections to requirements 1 and 2. He considers injustice would be caused by the removal of an element of under-enforcement and the potential of a deemed grant of planning permission. This argument only applies to an allegation of a mixed use and would fall away in the event the appellant's case on ground (b) is successful. Therefore, I will deal with the ground (b) appeal before concluding on the proposed correction to requirements 1 and 2.
 9. The correction to requirement 3 also relates to the appeal on ground (b). The final proposed correction, regarding the hard standing, will be dealt with as part of the appeal on ground (f).

Reasons

Grounds of appeal: Ground (b)

10. The main issue is whether the matters stated in the notice as constituting the alleged breach of planning control have occurred as a matter of fact and more specifically whether the use of the Land changed to the alleged mixed use.
11. The appellant's case is that three distinct planning units were established in residential, B2 general industrial and B8 storage use. The appellant produced a plan (ref A11) identifying five parcels of land, basically the bungalow and garden as parcel 1, the existing steel fabrication workshop and yard and site

¹ All references are to the relevant section in the Town and Country Planning Act 1990 as amended, unless otherwise stated.

² Town and Country Planning (Use Classes) Order 1987

access as parcels 2 and 3, parcel 4 where storage is currently taking place and parcel 5, described as being in nil use, beyond the line of the adjacent Nepicar Park development.

Planning unit

12. The starting point is to consider the planning unit, a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change. The leading case is *Burdle*³ where Bridge J suggested three broad tests for determining the appropriate planning unit. The assessment is a matter of fact and degree. A useful working rule is that it should be assumed the unit of occupation is the appropriate planning unit unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally. A mixed use is where the occupier carries out a variety of activities in the unit, where it is not possible to say that one is incidental or ancillary to another. The component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land.
13. In this case it is appropriate to explore the use of the Land over a period of time, rather than looking at the use at a snapshot in time.
14. The aerial photograph of the Land dated 2003⁴ shows the bungalow, a few outbuildings and a maintained garden at the back. The remaining land appeared to be less well used, covered by grass, trees and vegetation, with an identifiable footpath leading to the back land. The appellant acquired the Land in August 2004. There is no dispute between the parties that the lawful use of all the land was residential. Accordingly the probability is that in 2004 the Land was a single planning unit with a single main purpose of residential use.
15. The main evidence and narrative on the various uses and activities on the parcels of land were provided by the appellant. In terms of the residential use, the appellant said he lived in the bungalow from 2004 until April 2011. In 2007 the seven containers present on the land were used for storing domestic goods and tools, other items and materials such as steel. The appellant thought that some of the tools and steel were likely to have been used in connection with the steel fabrication business. The land beyond the back garden, including the wooded area, was used by the family to walk the dogs, for socialising and the children liked playing by the stream. For family reasons around 2011 he moved to live elsewhere, whilst his wife continued to live in the bungalow. The appellant returned to carry out works to the dwelling in 2014/2015. He then moved back to his parents' house and rented the bungalow to tenants until about February 2022. He stated all his steel fabrication business activities, including book work, were carried out in the yard and not at the bungalow.
16. Turning to parcels 2 and 3, the appellant's business is connected with steel fabrication and the supply and construction of steel framed buildings. The appellant's case is that the business was relocated to Rosador in 2008. The business occupied and operated from parcel 3 continuously for over 10 years (a matter to be explored in ground (d)), latterly creeping onto parcel 2. The steel is sourced and delivered to the appeal site. The fabrication process involves

³ *Burdle v Secretary of State for the Environment & New Forest DC* [1972] 3 All ER 240; 1WLR 1207

⁴ Appendix 10 to Council's planning proof

cutting and welding the steel. After fabrication the steels are taken to the client site where the structure is finished and erected. Products include steel frames, railings, gates and staircases. The appellant stated he has employed one or two people on and off and that he has 10 to 15 regular customers a year.

17. The appellant accepted that scrap vehicles were stored mainly on parcel 3, and to a limited extent on parcel 4, from around August 2013 and that all cars were removed by October 2014. The appellant explained that the cars, all repairable, belonged to a friend who advertised them for sale online.
18. In 2009 and 2010 a skip business occupied parcel 4 and after the business moved elsewhere in 2011 the land became overgrown. Apart from some storage of cars (see above) parcel 4 remained unused up until the end of 2016, early 2017. Parcel 4 was then rented out to a scaffolding company to store equipment. In the knowledge of likely enforcement action, the scaffolding structures (shown on TMBC 2 and TMBC 3) were taken down and removed around September 2020 and the scaffolding company moved off the land. Subsequently a friend who buys and sells scaffolding came onto the land to store scaffolding, aware of the enforcement notice and that he may have to leave.
19. The appellant explained that works were carried out to make parcel 5 ready for development, including the laying of hard core and the storage of top soil, around the time the planning application for redevelopment of Rosador was made⁵. The associate left in September 2020, parcel 5 was cleared of top soil and seeded.
20. A series of aerial photographs over the period April 2015 to May 2020, submitted by the Council⁶, partly reflect and illustrate the appellant's version of events. The 2015 photo shows the bungalow and back garden and the adjacent parking and circulation area by the site entrance. Behind the internal gateway are parked vehicles and probably containers. A worn accessway leads towards the centre of the land, where some structures or containers are on the southern boundary with the Excel property. Activity appeared concentrated on the internal accessway and parcel 3 and possibly into parcel 4. The remainder of the land to the north east was covered with vegetation and trees.
21. The May 2018 photo shows an expansion of activity and commercial use: vehicles and structures appear on parcel 2, hardstanding, parking and structures are seen on parcel 4 and clearance of vegetation had occurred on the north western area of parcel 5. A similar pattern appears on the April and May 2020 photos, where areas of hardstanding appear more noticeable and the impression is of a greater number of structures, parked vehicles and intensity of use.
22. The aerial photographs date the introduction of a mobile home onto the land to between April 2015 and May 2018. According to the Council's investigations the caravan was in use as ancillary accommodation to the main dwelling. At the time of the appeal site visit the rear garden fence prevented direct and easy access between the dwelling and the caravan. The entrance into the caravan was via the yard and the caravan's outdoor amenity space adjoined hard

⁵ The date of the application was 26 June 2017

⁶ Appendix 9 to the Council's planning proof

standing and vehicle parking. All indications were that the caravan was occupied separately from the bungalow.

23. As to other sources of evidence, the Inspector in the 2020 appeal decision⁷ described the site as a relatively long narrow strip of land that included a partially made central service road and fenced garden areas for Rosador. The main body of the plot included open storage, parking and accommodation for a range of established commercial type activities. A stream and a pond were noted to the rear of the site. That appeal site visit was in February 2020, some 8 months before the enforcement notice was issued.
24. When authorisation for enforcement action was sought⁸, the officer report stated the steel fabrication business occupied an L shaped section of the site (as illustrated on the plan attached to the LDC decision notice) and two steel-framed structures. The storage use related to the open storage of scaffolding materials within the central section of the site and the storage of top soil and aggregate beyond the stream. In August 2019 a static caravan was said to be in use as ancillary accommodation to the main dwelling.

Conclusions

25. The principal physical definition is and was of the Land as a whole, where the separation from adjacent and neighbouring properties is easily recognisable and marked by boundary features. Within the Land the bungalow consistently has had an enclosed private amenity area to the side and rear. However, the appellant confirmed that domestic activities took place elsewhere on the land, more particularly up near the stream, in and around parcel 5. The static caravan now has a closer physical relationship and is orientated towards to the adjacent commercial use rather than the dwelling. In the past direct access may have existed into the bungalow's back garden. Beyond the internal double gate there was very limited physical definition of parcels of land, which were identifiable more by the structures, hard surfacing and use/activity. Areas of use expanded and contracted, served by a common access route with no firm boundary(s). The area of the industrial use did not remain constant and over the years the business operation was quite small. Towards the rear, the stream is narrow and bridged over and has not been an obstacle to access between land parcels.
26. Functionally, the residential use was separate to the industrial (steel fabrication) and storage uses, apart from the land ownership link and the appellant's occupation of the bungalow. The lack of any connection by reason of occupation or activity was particularly the case during the period when the bungalow was rented out. The same may apply to the caravan, although there is very little specific evidence on its occupation. The steel fabrication business primarily involved the altering, ornamenting and finishing steels, an industrial process⁹, together with incidental storage of steels, tools and equipment. There is no evidence of a functional link between the steel fabrication and the scaffolding storage businesses that operated from the site. Occupation has

⁷ Appeal against the Council's refusal of planning permission for the demolition of residential bungalow and the erection of 6 x B1/B8 units and a 2 storey office building with new estate road and associated parking at Rosador Appeal ref APP/H2665/W/19/3242192, decision dated 21 April 2020

⁸ Document 6

⁹ The meaning of "industrial process" is set out in article 2 of The Town and Country Planning (Use Classes) Order 1987 SI 987/764

been by the appellant and various other people running their own businesses, some of whom, the evidence suggests, were known to the appellant.

27. After the appellant acquired Rosador the Land continued as a single planning unit. Over the years as non-residential activity was introduced and increased the position became less distinct. The physical considerations indicate that the Land has remained a single planning unit, where units of occupation do not comprise physically separate areas. The Land is served by a common access and the track to the rear parcels of land runs alongside and through the parcels towards the frontage. Even the residential use has not been confined to the same physically distinct and separate area. The functional considerations suggest more than one planning unit where land parcels were occupied for different and unrelated purposes.
28. In such a situation where the position is not clear cut, other factors are relevant. The probability is that the land ownership and the overall control exercised by the appellant has remained constant, albeit there were restrictions on his access to the dwelling around 2011. Little information was provided on any tenancy arrangements, whether for the residential or storage uses. The way areas have fluctuated in size and intensity of use, the apparent ease with which areas of use expanded and contracted, the ability and ease of movement over the land and the turnover in occupation are indicative of fluid arrangements. The appellant also indicated business or informal links with certain occupiers in connection with the car storage, the storage of soil and materials on parcel 5 and the current storage of scaffolding equipment. The proportion of the site given over to common access, parking and circulation was significant. The fact that parcel 5 has not been used actively for storage purposes for nearly two years does not result in a nil use, bearing in mind that there is no suggestion that any lawful use has been abandoned.
29. As a matter of fact and degree I conclude that the Land is a single planning unit. The Land has changed from a residential use to a mixed use and in this respect the appellant's ground (b) case does not succeed.

Other ground (b) matters

30. As to the remaining matters pursued through ground (b), the relevant consideration is whether the breach had occurred, not whether it was actually taking place or present on the day the enforcement notice was issued. This is clear from the wording of statutory provisions, including sections 172, 173(1) and 174(2).
31. The appellant does not dispute that storage took place on parcel 5 and that being so no correction to the allegation is necessary. At the end of the Inquiry in closing the appellant confirmed the point was no longer being pursued.
32. As a matter of fact the structures illustrated on TMBC 2 and TMBC 3 did exist on the Land. The Council has accepted that they were removed before the notice was issued and, in those circumstances, considers a specific requirement to secure their removal is no longer necessary. That being the case, to correct the notice as proposed, whilst not essential, would be in order.

Conclusion on ground (b) and proposed corrections to the notice

33. The Council's proposed corrected wording of the alleged breach of planning control is supported by the evidence on the use of the Land. The appellant has not succeeded on the primary line of argument concerning the mixed use.
34. As to other proposed corrections, the appellant did not claim that the notice was invalid but submitted that to remove the TMBC 1 plan would take away a deemed grant of planning permission, citing section 173(11). The appellant would be in a worse position than if he had not appealed. Injustice would result from the Council's proposed correction. The Council does not accept the under-enforcement argument and have set out reasons why in its view no injustice would be caused.
35. In considering this matter I also have in mind that it has potential implications for the ground (a) appeal, including in relation to a potential fallback. The notice has to be read as a whole. There is no doubt that (i) the Land affected by the notice is the area shown hatched grey and which comprises all the appellant's ownership, (ii) the allegation involves a material change to a mixed use comprising residential, general industrial and storage uses, and (iii) the requirements are directed at securing the cessation of the general industrial (steel fabrication) use and the storage uses.
36. An enforcement notice has to specify the steps which the authority require to be taken, or the activities which the authority require to cease (s173(3)). The use of the word 'specify' establishes the necessary precision in order that the recipient knows what must be done to remedy the wrong. For planning purposes it is generally recognised that the word 'illustrative' when referring to plans has no formal status. The inclusion of an 'illustrative' plan is not consistent with the statutory provision. The same applies to the requirement to break up the hard standings, where the illustrative photographs raise uncertainty. The references to TMBC 1 should be deleted, as well as the references to TMBC 4, TMBC 5 and TMBC 6, to get the notice in order and to remove any uncertainty or ambiguity as to what the appellant has to do.
37. Looked at in this way plan TMBC 1 is not acceptable and consequently no element of under-enforcement arises. The appellant's under-enforcement argument relies on attributing to plan TMBC 1 a degree of specificity that it does not have. The attachment of a plan and photographs was to be helpful and make the meaning of the notice clearer but the effect is the opposite and they detract from the clear message of the text – Cease the use. Some degree of uncertainty or other defect in the requirements does not mean that there is non-compliance with the statutory requirements. In my judgement plan TMBC 1 is able to be deleted from the requirement without injustice.
38. To conclude, the notice will be corrected in line with the Council's proposed wording, substituting the term 'associated with' in place of 'incidental'.

Ground (d)

39. The main issue is whether the material change of use to a mixed use took place before 16 October 2010 and continued substantially uninterrupted for a period of 10 years thereafter. The onus is on the appellant to prove his case and the standard of proof is the balance of probability.

40. The appellant's case was that it was too late to take enforcement action against the general industrial use within parcel 3, where parcel 3 was a separate planning unit and where the single primary use was steel fabrication. There was no claim that the mixed use was lawful and so success on ground (d) is closely linked to the outcome of the ground (b) appeal in terms of the planning unit and mixed use. My focus in the ground (b) appeal was to establish whether the breach was correctly described as a mixed use in the allegation, not to analyse dates, continuity or lawfulness. Nonetheless my conclusion that the Land was and is a single planning unit does not help the appellant's ground (d) case.
41. At the Inquiry the Council accepted on the balance of probability that the steel fabrication business was operated from the site over a ten year period. Therefore the matter in dispute between the parties narrowed to one which focussed on whether there was an interruption to the steel fabrication use in parcel 3. Having considered the evidence, including the delivery notes and invoices for steel products, access arrangements and the aerial photographs, I do not question this focus and so I will address this matter first.
42. The appellant accepted that car storage took place in parcels 3 and 4 from around August 2013 to October 2014 but submitted that a limited, temporary use for car storage was not of sufficient significance to result in a material change of use to parcel 3. The temporary car storage on part of parcel 3 was plainly secondary and incidental to the main purpose of the occupation of area 3, which was the appellant's steel fabrication operations.
43. The Council's investigation was initiated in August 2013 on receipt of a complaint that scrap vehicles were being stored at Rosador. Such a report indicates that the stored vehicles were sufficiently noticeable to prompt the complainant getting in touch with the Council. An aerial photograph attached to the file note shows around 33 cars, in places 3 deep. With the benefit of the site visit where the various parcels were indicated, my estimate is that most cars were sited in the northern part of parcel 3, the remainder extending into parcel 4.
44. The Council's enforcement officer visited Rosador on 31 October 2013, when he estimated there were approximately 30 cars in various states of repair. The contemporaneous site note stated the appellant informed the officer that the vehicles belonged to himself and a friend. They were temporarily parked there during the process of selling them off and they were not being stored as part of a scrap vehicle business. There is no contrary evidence to this explanation, although the appellant in his oral evidence said the cars belonged to a friend, not that he owned any of the cars. The appellant in his oral evidence also agreed that there were about 30 cars on the land in October 2013 and they had been there a while.
45. In terms of numbers and location, the appellant's final submissions claim the photographic evidence dated 31 October 2013 shows some 17 cars, a good portion being in parcel 4, not parcel 3, close to the Nepicar Park boundary. My estimate from the images dated 31 October 2013 is 20 vehicles, most being on the northern side of parcel 3. The slightly earlier aerial photographs show nearer 30 vehicles. Taking the evidence in the round, in the order of 30 vehicles probably were stored on the land around that time.

46. Following the October 2013 visit the number of cars was gradually reduced. The Council recorded about 10 cars remained in June 2014 and in October 2014 a site visit confirmed to the Council all vehicles had been removed. Over this period the Council advised the appellant of its powers to take enforcement action, having come to the view that the storage of vehicles would be considered a change of use requiring planning permission.
47. My conclusion is that the car storage use was of sufficient significance to result in a change in the use of parcel 3, taking into account the number of cars involved (a maximum of around 30), the period of time the use existed (about 15 months) and the position of the storage within the Land (on a significant area of parcel 3 as well as parcel 4). The evidence does not support the car storage was functionally related to or part of the industrial steel fabrication use. The car storage existed as a primary use, not an incidental use and was materially different to the industrial use. Referring back to the appellant's line of argument, the introduction of a primary car storage use broke the continuity of industrial use. The fact the new mixed use existed for a limited period of over a year or so is not a reason to discount the material change from amounting to development. As a result of the interruption in the continuity of a single primary use, the steel fabrication use within parcel 3 did not become lawful and immune from enforcement action.
48. It does not necessarily follow from this conclusion that the mixed use described in the notice is not lawful, remembering that the presence of the cars probably was a storage use as opposed to a retail use or a scrap vehicle business. Storage is one of the mix of uses within the single planning unit.
49. The appellant's version of events and timeline indicate that a change to a mixed residential/industrial/storage use did not occur until 2013 and on that basis a ten year period of use cannot be confirmed. Before 2013, the use of the Land for residential and industrial uses was interrupted by the occupation of parcel 4 by a skip hire business in 2009 and 2010. The photographic evidence¹⁰ and information from the Parish Council indicate that the skip hire use brought considerable change to the physical features on the land and clearance of vegetation. The nature of activities carried out were very different to the residential/industrial uses and the later forms of storage. No case was made on the categorisation of a skip hire use, whether industrial, storage or sui generis. Accordingly, a lawful mixed residential/industrial/storage use has not been demonstrated on the balance of probability.
50. The supporting information to the LDC application dated the use of land at Rosador for the steel fabrication business to 2004¹¹. Reference was made to the parking of lorries, a mobile crane, the use of storage containers for keeping tools and equipment and the storage of materials including steel. The description is one of a storage use, rather than an industrial use. This line of evidence was not pursued in the case presented by the appellant at the Inquiry and the appellant in his oral evidence confirmed he moved his business to Rosador in 2008. Furthermore, the Council closed enforcement investigations initiated around 2007 as no business use or material change in use were identified at the time. Therefore the LDC information has little weight and does not lead me to alter my initial conclusions.

¹⁰ Including D18 in the appellant's bundle

¹¹ Planning Statement paragraph 3.2 Appendix D19 to appellant's planning proof

51. In conclusion, on the balance of probability neither the steel fabrication industrial use on parcel 3 nor the mixed use across the Land has been shown to be immune from enforcement action through the passage of time. The appeal on ground (d) does not succeed.

Ground (a)/deemed planning application

52. The appellant's approach and identified options were confirmed at the Inquiry, taking account of differing outcomes on the ground (d) appeal. In the event ground (d) is successful, the appellant seeks permission for the extension of the B2 use into parcel 2, or for this and the retention of the B8 use in parcel 4. Alternatively, if the ground (d) appeal is not successful planning permission is sought for the industrial use on parcels 2 and 3, or for this and the B8 use in parcel 4.
53. The description of the development that is the subject of the deemed planning application is derived directly from the description of the breach of planning control as corrected: the material change in use from a residential use to a sui generis mixed use comprising three primary uses: residential, general industrial (steel fabrication) and storage and the erection of structures and laying of hard standings associated with the general industrial (steel fabrication) and storage uses. I will consider first the planning merits of this development, notwithstanding the appellant's approach. I will then consider alternatives, bearing in mind that planning permission may be granted for the matters constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates (s177(1)(a)).
54. The site is within the Metropolitan Green Belt and the Kent Downs Area of Outstanding Natural Beauty (the AONB). The development plan includes the Tonbridge and Malling Core Strategy adopted in 2007 (the Core Strategy) and the Tonbridge and Malling Managing Development and the Environment Development Planning Document adopted in 2010 (the DPD). Core Strategy Policy CP3 applies Green Belt Policy in the National Planning Policy Framework (the Framework) to the area that includes the appeal site. In addition, the Development Land Allocations DPD adopted in 2008 includes Policy M1 Major Developed Sites in the Green Belt that applies to the Nepicar Area East, which is to the north of and does not include the appeal site.
55. In view of the location of the site, the first matter to consider is whether the development is inappropriate development in the Green Belt. If it is, the main issue is whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development. In the alternative, if the development is not inappropriate there will be no need to show very special circumstances.
56. Within this issue the matters to address are the effect of the development on:
- the openness and purposes of the Green Belt,
 - the character and appearance of the site and surrounding area, having regard to the AONB location, and
 - the supply of employment land.

Other considerations include the redevelopment of the adjacent sites, the effective use of land, the appellant's business need and the fallback.

Green Belt

57. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. In Tonbridge and Malling the Green Belt comprises the outer edge of the Green Belt surrounding London. The Core Strategy explains that Green Belt policy has helped retain the rural character of the countryside and settlements within this part of the Borough.
58. The appellant's evidence included an appraisal of the function of the site within the Green Belt, consideration of the implications of the Oakdene permission and application of tests in the Framework. On the latter, the appellant's approach was to assess the development as a partial redevelopment, or in the alternative a limited infill of previously developed land, applying the test in paragraph 149(g) of the Framework. However, paragraph 149 is concerned with the construction of new buildings. The notice is directed at a material change of use of land, dealt with in paragraph 150 of the Framework. This form of development is not inappropriate in the Green Belt provided it preserves openness and does not conflict with the purposes of including land within it. Case law has confirmed that openness has a spatial aspect and may also have a visual aspect. The matters relevant to openness in any particular case are a matter of planning judgement.
59. The baseline condition is the actual position when the Land was in its lawful single primary residential use. At that time the built development was concentrated near the site access and consisted of the bungalow, a double garage, a small number of outbuildings and storage containers. The greater proportion of the land was free of built form and covered by various types of vegetation including mown and rough grassland, hedgerows and trees. Activity was probably low level domestic use with limited vehicle movements and parking.
60. By comparison, the material change of use resulted in a more varied land use pattern, a substantial loss of vegetation and in all probability a significant increase in business related activity and traffic. The land took on a more urban, developed appearance and became less open. The development was facilitated by the laying of extensive areas of hard standing, the erection of various structures such as a steel fabrication workshop, the introduction of portacabins and additional storage containers. Being associated with and integral to the change to a mixed use they have contributed to a loss of openness because of the introduction of built form and their physical appearance. The Inspector in the 2020 decision referred to modest open structures on the site. This description was made in comparison to the proposed range of buildings and, it would appear, without knowledge of the unlawful change of use and associated development. On the basis of my observations on the site visit the description does not adequately capture the impact of all the structures. Openness was not preserved.
61. The site is in the countryside. Even though the land was in residential use before, the development has not assisted in safeguarding the countryside from encroachment by reason of its form, extent, mix of commercial uses and visual appearance. The site does not adjoin a large built up area, but the mixed use

and associated structures and activity would represent a degree of urban sprawl south of the major developed site allocation.

62. I conclude the material change of use is inappropriate development in the Green Belt.
63. The erection of new buildings and structures, such as the workshop and the introduction of portacabins and such like have facilitated the new use and cannot be divorced from it. For the sake of completeness, I consider they do not fall within any of the exceptions in paragraph 149 of the Framework. Similarly, the laying of hard standing is part and parcel of the change in use and falls within the inappropriate development.
64. Inappropriate development is by definition harmful to the Green Belt. The evidence indicates that the amount of actual harm has fluctuated over time, dependent on the type of activity and level of occupation. I attach substantial weight to the harm to the Green Belt.

Character and appearance

65. In the Core Strategy Policy CP24 requires all development to be well designed and of high quality. The scale, density, layout, siting, character and appearance of development should be designed to respect the site and its surroundings. Policy CP7 is specific to development in AONBs. As set out in the Framework the AONB has the highest status of protection in relation to preserving and enhancing the landscape and scenic beauty. Policy SQ1 of the DPD requires development proposals to reflect the local distinctiveness, condition and sensitivity to change of the local character areas as defined in the Character Appraisals Area DPD.
66. The statement of common ground confirmed the Council no longer advanced any objections to the development on the grounds of harm to the AONB.
67. The wider landscape is characterised by largely cultivated arable fields against the backdrop of the grassland and woodland on the steep Kemsing scarp.
68. As to the immediate context of the site, Rosador is part of a strip of development in a mix of residential and employment uses that front the A20 London Road. The residential plots have bungalows similar to that at Rosador, whilst the commercial sites are occupied by larger scale buildings. Directly to the north of Rosador, Nepicar Park has been redeveloped to form a small business estate and the former Oakdene café site is also being redeveloped for 7 units within Class B1c/B2/B8 (a total of 3,159m² of floorspace). To the east is a solar park. The site is close to the M20 motorway to the north and the M26 motorway to the south, which impact on the visual and noise environments. By contrast a more rural aspect with open fields prevails to the west of London Road and directly to the east of the site.
69. The appellant emphasised the enclosure to the site provided by the existing built and vegetative elements and also the substantial detracting elements in the local landscape that diminish the overall quality of the area. I agree that although the site is in the AONB the local landscape does not reflect the dramatic landforms further north or the historic settlement pattern of estate houses and farmsteads seen along the base of the scarp slope. To that extent the sensitivity of the site and its surroundings to change is less.

70. The change to the land use character of the site is not in keeping with the nearby residential plots, as well illustrated by the contrast with the neighbouring property, named Excel. The recent employment development has resulted in larger scale buildings with greater site coverage. However, the development of the Nepicar Park and adjacent Oakdene café sites were the subject of approved designs and scrutiny through the planning process where the Council exercised its judgement in the planning balance. The development of the appeal site, including the use of temporary or portable structures, does not demonstrate good design in layout, building type or use of materials. The extension of a storage use onto the rear of the site, the open yards and storage and the loss of vegetation are also contributory factors to the harm resulting from the change of use. Inconsistency in the Council's decision making, as described by the appellant, is not made out.
71. The site has a frontage to a main highway and is surrounded by major transport corridors and in this sense the location is prominent. The residential bungalow continues as the principal building on the frontage, reducing the degree of apparent change. However, the workshop structure is intrusive in views, including from the public footpath to the south, by reason of its height and unconventional, makeshift construction. Parked vehicles and equipment can be made out, adding to the visual impact. The visual harm is contained by the relatively narrow frontage and the screening afforded by adjacent development. Existing vegetation when in full leaf probably would provide some mitigation of the views of general activity. Even so, the workshop by reason of its height and construction is a discordant feature against the backdrop of the modern buildings.
72. With these observations in mind, the Council's description of the site as highly visible is not fully supported, nor do I accept the appellant's assessment that the development has resulted in negligible visual or character change to the local area.
73. My initial conclusion is that the mixed use development is not well designed or of a good quality and the open character of the land has been lost. The development is contrary to Policy CP24 and Policy SQ1. Very little harm has occurred to the scenic beauty of the AONB but there is an element of conflict with Policy CP7 in that the landscape quality within the AONB has not been preserved.
74. The appellant has proposed a scheme of landscape restoration as mitigation and related benefits he identified include a reduction in water run-off, habitat gain and an addition to the green network. The restoration to meadowland and countryside was regarded as enhancement over the former residential use. The landscaping would be concentrated on parcel 5 and the scheme outlined includes tree planting, the creation of a pond with marginal planting and grass with a wildflower mix.
75. The proposed landscaping cannot amount to a further change in the use of parcel 5 because of the terms of the deemed planning application¹². The proposal may go some way to reducing the visual harm identified but little detail is provided, whether of existing ground conditions, the required ground preparation, details of planting and maintenance regimes, the time needed for

¹² The appellant referred to a return to a greenfield condition with nil use, the planting of meadow to return the rear part of the site to countryside.

restoration and establishment and so on. Therefore the quality of a scheme and the likely timing and degree of improvement are uncertain. The suggested associated planning condition would require maintenance for a period of five years but no control was proposed to restrict future use thereafter, very relevant with a mixed use over the planning unit. Furthermore, parcel 5 appeared open and well vegetated before the material change of use thereby reducing the degree of benefit.

76. The planning conditions agreed with the Council include two conditions removing permitted development rights¹³. I am not satisfied that the condition controlling development within the curtilage of a dwelling house would be reasonable or enforceable given the mixed use description of the development. The second condition seeks to control changes of use, non-domestic extensions and the provision of hard surfaces. However, no analysis was made of how the proposed planning condition would apply to the site and development type, or the implications of the stated conditions in the GPDO¹⁴ to the development permitted or the associated development not permitted. Any control in practice and any benefits flowing from the proposed condition probably would be minimal.
77. The use of planning conditions would not overcome satisfactorily the identified harm and policy conflict. The development is contrary to Policy CP24 and Policy SQ1. There is an element of conflict with Policy CP7 in that the landscape quality within the AONB has not been preserved. In sum, the harm to character and appearance has significant weight.
78. When assessing the proposed redevelopment of the Land both the Council and the Inspector focused on the conflict with Policy CP3. No conflict was identified with Policies CP24 or SQ1. The finding has little significance for the current appeal because of the very different form and design of development under consideration.

Employment Land

79. The Council's Update on Employment Needs dated November 2017 (the 2017 report) identified an undersupply of employment land within the Medway Gap area (rural/other), within which the appeal site is located. The Council accepts that the development would make a positive contribution towards that shortfall¹⁵. The 2017 report was prepared to inform the emerging Tonbridge and Malling Local Plan (2011-2031)¹⁶ and included consideration of land allocations and policy content.
80. The mixed use development, together with the various incidental structures and hard surfaces, evolved to meet the appellant's specific business needs and resources. The number of employees has been very low, in the order of one or two people. The premises and facilities/accommodation appeared of low quality, aptly described as ramshackle by the Council's planning witness. The storage use responded to the opportunities offered by the appellant on his land. The appellant's priority, as presented in his case, is to secure planning permission for premises to enable continuation of his own steel fabrication

¹³ Document 5 conditions 4 and 5

¹⁴ The Town and Country Planning (General Permitted Development) (England) Order 2015

¹⁵ Document 1 paragraphs 8 to 11

¹⁶ The draft Local Plan was withdrawn in 2021 and a new plan review is in progress (see appellant's planning proof paragraphs 7.59, 7.60)

business. Within this context the development that has taken place probably would make a very limited positive contribution to employment land supply, notwithstanding the accessible location.

81. The use is very different to the previous larger comprehensive redevelopment scheme for the site. Even then, the Inspector in the 2020 appeal decision attached little weight to the benefit of small employment units and the associated jobs created, although for different reasons to those I have identified related to the change of use. Moreover, a local plan allocation is not under consideration here. Any earlier conclusion that the site is suitable and deliverable through a call for sites procedure has limited relevance in the current deemed application.

82. In summary, the effect of the development on the supply of employment land has limited weight.

Other considerations

83. I recognise that the redevelopment of the Oakdene café site, which includes buildings of up to 9 metres high, changes the scale of development close to the appeal site, in a similar way to the Nepicar Park scheme. However, the redevelopment included land within the Policy M1 allocation¹⁷ and the scheme involved a designed proposal that met with the approval of the Council. The increase in employment and the improved quality of development were positive factors in the Green Belt balance. The redevelopment scheme is distinguished from the deemed planning application and provides little weight in support of the ground (a) appeal. I also found that the Green Belt lands surrounding those two sites retain much of their traditional character and appearance, to which the appeal site previously contributed.

84. The appellant's business has been established for a number of years. The appellant relies on the site to provide premises to carry out his steel fabrication business and to earn a livelihood. Having adequate space to work on and store steel beams of up to 15 metres in length is a particular asset. The probability is that alternative low cost premises would not be easy to secure. This consideration has moderate weight.

85. As to the effect on residential amenity, the mixed use development does not lead to any change in the relationship between the bungalow and the adjacent business unit on the Nepicar site and therefore no improvement to the privacy of the occupiers of the dwelling would be achieved. To date the steel fabrication business has been small scale in terms of employees, products and activity. However, a planning permission would run with the land, not the user. A general industrial use is compatible with the storage component of the mixed use but not with the residential element, including the mobile home sited adjacent to the workshop and yard and the neighbouring residential property to the south. Hours of operation reasonably could be restricted to weekdays and Saturday mornings, as set out in the proposed planning condition but no condition was proposed to limit the extent or intensity of the industrial or indeed the storage element in future. No attention was given to controlling other matters such as height of storage. Past experience has shown occupation

¹⁷ The statement of common ground states that 0.3ha of the site was located within the allocation and the remaining 0.5ha was not and affects non-previously developed land.

of parcels of land was fluid and variable in intensity. Residential amenity considerations provide no positive support for the development.

86. As a means of promoting the effective use of land the Framework encourages the use of previously developed land, except where this would conflict with other policies in the Framework (paragraph 119). In this case there is a conflict with Green Belt policy, which has substantial weight. In addition, as stated in the Framework, it should not be assumed that the whole of a curtilage should be developed¹⁸. These 'effective use' considerations provide little weight in support of the development.
87. I have identified concerns over the proposed landscaping and for similar reasons the claimed net gains in biodiversity are not based on evidence. There is no evidence of a surface water problem and therefore the claimed benefit of an attenuation basin to control of surface water run-off has not been substantiated.
88. In the event the ground (a) appeal is unsuccessful the land would revert to the lawful residential use. Permitted development rights would exist through the GPDO for development within the curtilage of the dwelling house. The GPDO does not define the meaning of curtilage. The Technical Guidance¹⁹ says curtilage is land which forms part and parcel with the house; usually it is the area within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area. There is also an extensive body of case law which addresses the meaning curtilage within differing situations (such as listed buildings and the GPDO). The appellant and the Council considered the domestic curtilage would be equivalent to the area of land ownership. Neither party set out any details of their reasoning behind their conclusions, whether in relation to previously developed land or permitted development rights.
89. Even if the curtilage extended to include all of parcel 5, there has to be a real prospect of development being carried out. Moreover, the permitted development rights granted by the GPDO confirm a freedom of control which would be acceptable in the great majority of cases. The extent of the rights would be defined by the terms of the Class, including the circumstances when development is not permitted and the stated conditions. Any buildings or hard surfaces would have to be for a purpose incidental to the enjoyment of the dwellinghouse as such. The probability is that any future exercise of permitted development rights would not result in a comparable scale or form of development as currently seen. Any harm to the Green Belt or local environment would be substantially less than identified for the mixed use. The permitted development fallback has little weight.

Green Belt balance

90. The harm to the Green Belt has substantial weight and the harm to character and appearance has significant weight. The totality of the weight against the development is strong.
91. On the positive side of the balance, the contribution to employment land supply has limited weight. Of the other considerations, meeting the appellant's need

¹⁸Annex 2 Glossary to the Framework, with reference to previously developed land

¹⁹ Permitted development rights for householders: Technical Guidance, September 2019, Ministry of Housing, Communities and Local Government

for industrial premises has moderate weight. The remaining considerations, including the Oakdene café development and the fallback, add little positive weight.

92. The harm by reason of inappropriateness, and the additional harm, is not clearly outweighed by other considerations, even when taken in combination. Very special circumstances to justify the development do not exist. The material change of use fails to comply with Core Strategy Policy CP3 and the national policy set out in the Framework to protect Green Belt land.

Alternatives

93. The ground (d) has not succeeded and on that basis the appellant sought permission for the retention of the B2 use in parcels 2 and 3, or for this and the retention of the B8 use in parcel 4. No consideration was given as to whether the options form part of the matters constituting the breach of planning control (as corrected), a sui generis mixed use.
94. Through the deemed planning application planning permission cannot be granted for a different development to that described in the breach. In the appellant's options, success would result in a permission either for a material change in use to a general industrial use (B2) or to a mixed use comprising general industrial and storage use. In each case the development would be different to that described in the breach. The options do not form part of the matters.
95. Even considering the appellant's proposals, the assessment of the planning merits and the Green Belt balance demonstrate that the industrial and storage elements are the primary cause of harm. It follows the totality of harm would not be clearly outweighed by the other considerations. The Alternatives do not provide an acceptable form of development.

Conclusion

96. The mixed use development is not in accordance with the development plan and the Framework. The appeal on ground (a) does not succeed and I shall refuse to grant planning permission on the deemed planning application.

Ground (f)

97. The issue is whether the requirements are excessive, having regard to the purpose of the enforcement notice to remedy the breach of planning control.
98. The appellant's case was closely related to and depended on success in the appeal on grounds (b) and (d). In considering those grounds I have addressed the matters raised by the appellant in respect of the extent of the Land, the cessation of the industrial and storage uses and the structures shown on TMBC 2 and TMBC 3.
99. The matter remaining is the extent of the hard standing. The Council has proposed a correction in order that the requirement only relates to the removal of hard standings that were laid incidental to the general industrial (steel fabrication) and storage uses. The illustrative photographs titled TMBC 4, TMBC 5 and TMBC 6 would be deleted. This correction ensures the requirement is limited to remedying the breach and is not excessive. This form of wording, related to section 173(4)(a), is sufficient for validity purposes bearing in mind

the landowner is likely to have the best knowledge of the previous condition of the land.

100. The appellant argued that the requirement should allow for the exercise of permitted development rights within the curtilage of a dwellinghouse to construct hard standings in connection with incidental uses. This approach based on the lawful fallback of a residential use would not address and remedy the breach of planning control. Such a requirement would not be specific, having regard to the wording of Class F in the GPDO.

101. The appeal on ground (f) does not succeed.

Ground (g)

102. The issue is whether the compliance period of 6 months is reasonable and proportionate.

103. The Framework states that effective enforcement is important to maintain public confidence in the planning system. Planning policy attaches great importance to Green Belts and the harm resulting from the development should be remedied in a reasonable period.

104. To comply with the requirements the appellant would have to take steps to cease the unauthorised use and to carry out the remedial works to remove the unauthorised works and materials. The requirements do not extend to restoration of the land to its previous condition. The appellant has stated the importance of the site to his livelihood and is seeking a period of 12 months to give a sufficient opportunity to find alternative premises in an area where there is an undersupply of employment sites. The probability is that finding a suitable, affordable and acceptable alternative site in the area will not be easy. The appellant confirmed at the Inquiry that the scaffolding company moved onto the land fully aware of the notice and the potential need to vacate the site.

105. Weighing up the various considerations, I conclude that a compliance period of 12 months would strike a reasonable balance between the public interest and the appellant's business needs. The extension to the compliance period is proportionate in the context of the Convention right where a person has the right to the peaceful enjoyment of his possessions. The appeal on ground (g) succeeds.

Conclusion on Appeal 1

106. For the reasons given above the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the deemed application.

APPEAL 2

107. Appeal 2 essentially concerns parcel 3, an area of land to the rear of the bungalow and including the access along the southern boundary. A certificate is sought for an existing use of land for steel fabrication falling within Class B2 (general industrial). The appellant's case now relies on the evidence submitted to support the appeal on ground (d) in Appeal 1.

108. The main issue is whether the Council's decision to refuse to issue an LDC is well-founded. In view of the overlap with Appeal 1, it is not necessary to repeat the detail of all the reasoning above.
109. Uses are lawful at any time if (a) no enforcement action may then be taken in respect of them, whether because they did not involve development, or require planning permission or because the time for enforcement action has expired or for any other reason, and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force (s191(2)). In this appeal the relevant date by which lawfulness has to be demonstrated is 13 November 2019.
110. The appellant explained that he originally carried out his steel fabrication business from his parents' property Le Grimpe, in two outbuildings and associated yard. When they moved to live at Keston the business was transferred to Rosador in 2008. The evidence available now supports the 2008 date rather than a date of around August 2004 cited in the supporting evidence to the LDC application.
111. Essentially the appellant's case is that a steel fabrication use was the sole primary use carried out in parcel 3 for a continuous period of over 10 years, commencing in 2008. The nub of the Council's case is that a material change of use occurred on parcel 3 during the ten year period when a car storage use took place in 2013/2014.
112. I have considered the evidence on the car storage use in the appeal on ground (d) above and adopt the same reasoning. The car storage was not de minimis or incidental to the steel fabrication but was a use in its own right. The storage occurred within parcel 3. On the balance of probability the continuity of the industrial use was interrupted such that the use did not gain immunity from enforcement action by the reason of the passage of time.
113. I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of land for steel fabrication falling within Class B2 (general industrial) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

DECISIONS

Appeal 1 Ref APP/H2265/C/20/3263193

114. It is directed that the enforcement notice be corrected by:
- In the description of the Land affected by the notice insert '(the Land)' after the words 'attached plan'.
 - Under the heading Breach of Planning Control Alleged delete the description and substitute 'Without the benefit of planning permission, the unauthorised material change in the use of the Land from a residential use to a sui generis mixed use comprising three primary uses: residential, general industrial (steel fabrication) and storage, and the erection of structures and laying of hard standings associated with the general industrial (steel fabrication) and storage uses'.

- Under the heading Reasons for Issuing The Notice delete the first sentence and substitute 'It would appear to this authority that the above breach of planning control has occurred within the last ten years.'
- Under the heading Requirement, delete the text and substitute:
 - i. Cease the general industrial (steel fabrication) use on the Land and remove all structures and equipment associated with this unauthorised use from the Land.
 - ii. Cease the storage use on the Land including, but not limited to, the open storage of scaffolding materials and top soil and remove all structures, equipment and materials associated with the unauthorised storage use from the Land.
 - iii. Break up the hard standings created to facilitate the general industrial (steel fabrication) and storage uses and remove the resultant materials and debris from the Land.
- Remove the plan titled TMBC 1 and photographs titled TMBC 2, TMBC 3, TMBC 4, TMBC 5 and TMBC 6 from the attachments to the notice.

115. It is directed that the enforcement notice be varied by the substitution of twelve months as the period for compliance.

116. Subject to these corrections and variation the appeal is dismissed and 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.

Appeal 2 Ref APP/H2265/X/3257618

117. The appeal is dismissed.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

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He called	
David Fitness	The Appellant
John-Paul Friend HND	Director of LVIA Ltd
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Paul Nicholls BA Dip TP	Planning Director, Graham Simpkin Planning Ltd
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FOR THE LOCAL PLANNING AUTHORITY:

John Fitzsimons	Of Counsel instructed by Kevin Toogood, Solicitor
He called	
John Escott BA(Hons) Dip	Senior Partner, Robinson Escott Planning LLP
TP MRTPI	
Paul Batchelor MPLAN	Senior Planning Officer, Tonbridge and Malling
MRTPI	Borough Council

DOCUMENTS submitted at the inquiry

- 1 Statement of Common Ground dated 11 March 2022
- 2 Opening for the appellant
- 3 Opening submissions of Tonbridge and Malling Borough Council
- 4 Site Plan
- 5 List of planning conditions
- 6 Report to Area 2 Planning Committee
- 7 Closing submissions of Tonbridge and Malling Borough Council
- 8 Closing for the appellant