



Appeal Decision

Site visit made on 16 April 2024

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 21 June 2024

Appeal Ref: APP/N0410/C/22/3312173

Land on the south side of Norwood Lane, Iver, SL0 0EW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act). The appeal is made by Mr Peter Hooper (Greens Team) against an enforcement notice issued by Buckinghamshire Council - South Area (South Bucks).
 - The notice was issued on 27 October 2022.
 - The breach of planning control as alleged in the notice is without planning permission, a material change of use of the Land and buildings to a mixed use comprising storage and distribution (Use Class B8), agriculture and horticulture (the 'unauthorised use') and integral to the unauthorised use, the carrying out of operational development comprising the laying of hardstanding, the formation of bunding and the siting of associated paraphernalia, items, equipment and vehicles (the 'unauthorised development').
 - The requirements of the notice are to:
 1. Cease the use of the Land and buildings (outlined in a thick black line on the attached Plan 1) for storage and distribution purposes (Use Class B8);
 2. Remove from the Land (outlined in a thick black line on the attached Plan 1), all hardstanding shown in the approximate position shown hatched on the attached Plan 2;
 3. Remove from the Land (outlined in a thick black line on the attached Plan 1) the bunding shown in the approximate position indicated by the diamond on the attached Plan 3;
 4. Remove from the Land and buildings (outlined in a thick black line on the attached Plan 1), all paraphernalia, items, equipment and vehicles associated with the unauthorised storage and distribution use (Use Class B8);
 5. Remove all materials and debris resulting from complying with steps 1 to 4 of this Notice from the Land.
 - The periods for compliance with the requirements are:
 - In relation to the requirements at 5.1 of this Notice, the use should cease within 3 months of the date this Notice takes effect.
 - In relation to the requirements at 5.2, 5.3, 5.4 & 5.5 of this Notice, the removal of all items should be carried out within 5 months of the date this Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely a material change of use of the land and buildings to a mixed use comprising storage and distribution (Use Class B8), agriculture and horticulture (the 'unauthorised use') and integral to the unauthorised use, the carrying out of

operational development comprising the laying of hardstanding, the formation of bunding and the siting of associated paraphernalia, items, equipment and vehicles on land on the south side of Norwood Lane, Iver, SL0 0EW, as shown on the plan attached to the notice and subject to the following conditions:

- 1) The storage use hereby permitted shall only take place within the glasshouses and on the land identified for storage on drawing number P2065-03D submitted during the course of the appeal, excluding the track and any land and part of glasshouse 8, which falls outside of the land delineated on Plan 1 attached to the enforcement notice.
- 2) The land and buildings identified shall be used only for the storage of outdoor nursery plants and landscaping materials, including but not restricted to, stone and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). No external storage of landscaping materials shall exceed 1.5 metres in height.
- 3) The mixed use of the land comprising storage, agriculture and horticulture, hereby permitted, shall cease by the cessation of the storage use, and the hardstanding, bunding all paraphernalia, items, equipment and vehicles associated with the storage use shall be removed from the land, along with all materials and debris arising, within 90 days of the date of the failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within three months of the date of this decision a scheme to upgrade the access to Swallow Street to a bound surface shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within seven months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters

2. I wrote to the parties, on a non-prejudicial basis, to ask whether the imposition of conditions relating to external storage and highways would be acceptable. In

order to impose an external storage condition, I advised that the appellant needed to provide a plan which shows the area concerned and which is subject to the enforcement notice. The appellant has provided a plan and I have given the Council opportunity to comment on its accuracy. I have considered the responses to these matters in my reasoning below.

3. I note the Council has incorrectly labelled grounds (f) and (g) in its statement as being 'if they occurred, they are not a breach of planning control'. Nevertheless, the arguments advanced are relevant to the identified grounds. The appellant is aware of the same and no injustice has arisen.
4. Since submission of the appeal, a revised version of the National Planning Policy Framework (the Framework) has been published (December 2023) and this is a material consideration which should be taken into account from the date of its publication. As the amendments do not materially alter the policies most relevant to the appeal, I have not reverted to the parties for comment.

The Appeal on Ground (d)

5. An appeal under ground (d) is that at the time the enforcement notice was issued, it was too late to take enforcement action. The onus lies with the appellant to make his case on the balance of probabilities.
6. The hardstanding identified in the enforcement notice includes a rectangular area of land and a track connecting it to Swallow Street. The appellant argues that no enforcement action can be taken against the hardstanding as it can be seen from the historical photographs that it has been developed since at least July 2004.
7. Although the two aerial photographs from 2004 show a connection between the glass houses and Swallow Street, that appears to be over grass or a dirt track at most. The rectangular area is also largely grassed in the July image and entirely grassed in the September image.
8. In the March 2005 photograph, a small part of the rectangular area nearest the track is being used, potentially for storage or another incidental use associated with the garden centre/nursery, but the surfacing of that area and the track does not appear to have changed.
9. The straight line of the track in the September 2008 photograph can be seen but the surfacing, if any, is unclear. There is some incursion into the rectangular area with an outdoor use, but the vast majority of the land is grassed. The January 2010 photograph is largely the same, save for part of the rectangular area being marked out for outdoor sports pitches¹. I am unable to glean anything of note from the March 2011 image due its poor quality.
10. The outdoor use of the rectangular area had increased by June 2013 but still the majority of the land appears to be grassed and open. There is little discernible change to the track.
11. By March 2014, the outdoor use had spread further into the rectangular area but whether that is taking place on a hardstanding is unclear. It is however clear that the majority of the land remained open and grassed. The track is

¹ Notwithstanding that the trees are all in leaf, so it is unlikely that the photograph was taken during the month of January

barely visible so was likely still running over grass at that point. The situation in June 2015 appears little different.

12. The response to the Council's Planning Contravention Notice explains that Greens Team (the appellant) has rented part of the land to which the enforcement notice relates since May 2015 and 'during this time their activities have not changed'. However, the March 2017 image shows significant change from June 2015. The grass appears to have been stripped from the majority of the rectangular area and the surfacing appears similar to that shown in the Council's photographs from July 2022, being a combination of compacted soil with some loose material, in places, on top. The storage bays marked by concrete blocks also appear to be in place at that time and the track appears with greater definition, which again does not appear dissimilar to that in the July 2022 photographs, which show a combination of compacted and loose surfacing.
13. The situation is largely the same in the May 2018 photograph, save for the addition of what appears to be the bunding on the western and southern sides of the storage bays and circulation area. The arrangement is largely the same in the photographs from June 2019, April 2020 and March 2021, save for a greater extent of vegetation, particularly in the northern part of the rectangular area.
14. Therefore, based on the evidence before me, it is more likely than not that the hardstanding, comprised of the rectangular area and track, were substantially completed four years prior to issuing the enforcement notice. The same conclusion can be applied to the bunding and storage bays demarcated by concrete blocks.
15. However, the breach of planning control as alleged in the notice is '*without planning permission, a material change of use of the land and buildings to a mixed use comprising storage and distribution (Use Class B8), agriculture and horticulture (the 'unauthorised use') and integral to the unauthorised use, the carrying out of operational development comprising the laying of hardstanding, the formation of bunding and the siting of associated paraphernalia, items, equipment and vehicles (the 'unauthorised development')*'.
16. The case of *Murfitt*² is therefore relevant in that it was held that where an enforcement notice is issued in respect of a material change of use, and works were carried out to facilitate the same, the notice may require that the 'ancillary' works are removed in order that the site is restored to its previous condition and the breach remedied.
17. It follows from *Murfitt* that an enforcement notice concerned with a material change of use may not only require the removal of works which would otherwise be immune, but also the removal of those which might have been permitted development, if they had not been constructed to facilitate the alleged use.
18. Consequently, the enforcement notice remains capable of requiring the removal of the hardstanding, comprised of the track and rectangular area.
19. I note the appellant's argument that the bunding is not development requiring planning permission by virtue of being considered an engineering or other

² *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598

operation and I have considered whether that should be dealt with as a hidden ground (c) appeal. However, even if I were to agree, which is unlikely given the size and extent of the bunding and amount of material involved, it was further held in *Somak Travel*³ that an enforcement notice could require the removal of works which did not amount to development at all but had facilitated an unauthorised material change of use.

20. Turning to matters relating to the material change of use, the appellant argues that it can be seen from the historical photographs that the hardstanding has been used by the nursery and garden centre for access and the storage of materials for a continuous period of 10 years.
21. Whilst, as noted above, the aerial photographs appear to show part of the rectangular land being used, likely for storage, from as early as March 2005, the image prior to the material date in March 2012 shows that incursion to be relatively limited such that the vast majority of the rectangular area remains grassed and open.
22. Moreover, given the adjacency of the rectangular land to the garden centre/nursery, it is likely that any storage use of the land was incidental to those uses, rather than a primary storage use in its own right.
23. The nature of that use was significantly different to that which can be seen in the March 2017 aerial picture. That shows a much greater land take, a more organised and formally laid out arrangement, specific to a particular purpose, and a use more likely to generate a differing and greater amount of activity.
24. The photographs therefore point to a significant difference in the character of the activities from what had taken place previously on the rectangular area of land, as a matter of fact and degree, such that a material change of the use of the land took place to a mixed use of storage and distribution, agriculture and horticulture.
25. Based on the aerial photographs, it is likely that the material change of use, and the associated breach of planning control, occurred after the material date, sometime between June 2015 and March 2017. Indeed, the appellant states that they have been using the site for seven and a half years but that the area used was enlarged in 2017. The use in its present extent is not therefore immune from enforcement action through the passage of time, by virtue of s171B(3) of the 1990 Act.
26. Moreover, there is no evidence to show that the track prior to the material date was anything more than over grass or dirt, which similarly suggests a low volume, incidental type use.
27. The nature and character of the track appeared to materially change within the above stated timescale. It is therefore likely that the engineering operations involved in the creation of the more formalised, hard surface track coincided with the material change of use of the land. A more intensive use of the track further points towards a significant difference in the character of the activities from what has gone on previously.
28. It is likely therefore, the laying of the hardstanding, the formation of the bunding, the siting of associated paraphernalia, items, equipment and vehicles,

³ *Somak Travel v SSE & Brent LBC* [1987] JPL 630

were integral or ancillary to and solely for the purpose of facilitating the unauthorised material change of use. The principles of *Murfitt* and *Somak Travel* are therefore engaged in this case.

29. Consequently, it was not too late to take enforcement action. The appeal on ground (d) fails.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

30. The appellant refers to two reasons for refusing the retrospective planning application to change the use of the appeal site to storage. Reason 1 being related to the Green Belt, and reason 2 relating to access. However, the appeal is made against the enforcement notice, rather than the planning application. Based on the reasons for issuing the notice, the main issues are:

- whether the development would amount to inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
- the effect on the openness of the Green Belt;
- the effect on the character and appearance of the area;
- the effect on highway safety;
- the effect on the living conditions of occupants in the locality, with particular regard to noise, dust and light; and
- if the development is inappropriate, 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 required to justify the development.

Reasons

Whether inappropriate development and the effect on openness

31. The land to which the enforcement notice relates lies within the Metropolitan Green Belt and includes one large greenhouse building and about half of another, the track and rectangular hardstanding area, as well as an expanse of land laid to grass.
32. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. South Bucks District Local Plan (adopted March 1999) (LP) states that within the Green Belt, planning permission will not be granted for development other than for defined categories which broadly align with some of the exceptions listed in the Framework (without the qualification of 'except in very special circumstances').
33. The appellant argues that the development is compliant with defined category (g) of LP Policy GB1, which refers to other uses of land and essential facilities for them which would not compromise the purposes of including land in the Green Belt and which would permanently retain its open and undeveloped character. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has a spatial aspect as well as a visual aspect.

34. Prior to the material change of use, the land hatched on Plan 1 of the notice was a largely open area laid out to grass and with an appearance akin to an agricultural field.
35. In contrast, the rectangular area of the hatched land is now partly enclosed by bunding along with potted trees and plants. Inside of the bunding are two rows of storage bays, demarcated by concrete blocks, used to store various types of landscaping materials, but particularly stone in bulk bags and baskets on pallets, along with other items such as trees and timber. Combined, the physical presence of those features result in a moderate erosion of the spatial openness of this part of the Green Belt.
36. From outside of the rectangular area, the bunding largely screens the internal storage, so the main visual effect arises from the bunding itself and the taller potted trees and plants. The bunding is vegetated which has some mitigating effect. Nevertheless, it is readily obvious, abruptly emerging from an otherwise flat site. That visual enclosure of the rectangular area has a minor to moderate adverse effect on visual openness.
37. In the area adjacent to the main greenhouse buildings, I saw a row of containers, three of which can clearly be seen in the Council's photographs. Because of their size, combined form and coverage, they too result in an erosion of the spatial aspect of openness in this part of the Green Belt, exacerbated further by the skips and general open storage, and to a much lesser degree, by the parking of commercial vehicles. Due to the screening provided by the main glasshouse buildings and the bunding and other trees and plants, the visual effect of the containers and other items are largely localised, save for the more open views from the north.
38. However, the enforcement notice does not make specific reference to the containers, either in the allegation or requirements. Nor do the Council's authorising report and statement of case. Although the allegation refers to paraphernalia, items and equipment, the containers cannot reasonably be considered as such, particularly when specific reference is made to vehicles.
39. Moreover, whilst one of the containers was being used as a compound office, it is unclear what the other containers are used for and by whom. It could be that they are used by the garden centre and nursery. Because of that ambiguity, I have not considered the effect of the containers further.
40. Nevertheless, for the reasons explained, the proposed development would result in a loss of openness to the Green Belt. That loss would be relatively localised and modest in extent, given its overall scale, in terms of both height and area of land covered, and given that much of that stored are plants and trees.
41. Moreover, the operational aspects facilitating the material change of use combine to extend the developed area of the existing garden centre and nursery, into an otherwise largely open green field, thereby conflicting with the purposes of including land within the Green Belt, namely assisting in safeguarding the countryside from encroachment.
42. Consequently, the appeal development conflicts with defined category (g) of LP Policy GB1.

43. Subject to exceptions, the Framework explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including the re-use of buildings, provided that the buildings are of permanent and substantial construction.
44. Given their size and permanence, the large greenhouses can reasonably be taken to fall within that exception. The storage of items within them, does not affect the openness of the Green Belt, thereby preserving the same, and does not conflict with the purposes of including land within it, so does not amount to inappropriate development.
45. However, even if other listed exceptions applied to the material change of use of the land outside of the greenhouses, such as engineering operations and the material changes in the use of land, the facilitating aspects do not, for the reasons explained, preserve openness and conflict with the purposes of including land within the Green Belt. Consequently, the requirements of those exceptions are not met.
46. I therefore find that the development taken as a whole amounts to inappropriate development for the purposes of the Framework and does not meet any of the defined permissible categories of LP Policy GB1.

Character and appearance

47. Prior to the appellant's occupation, part of the site adjacent to the greenhouses was evidently being used by the garden centre and/or nursery, likely for storage purposes. The pre-existing aerial photographs show limited use beyond, in the hatched rectangular area.
48. Within that rectangular area, the hardstanding, storage bays with bagged and piled stone appears unsightly and detracts from the intrinsic character and appearance of the site. However, the plants stored on site appear horticultural in nature and related to the garden centre and nursery operations.
49. The harm arising is relatively localised due to the screening provided by the greenhouses, the bunding and other planting. The bunding does nonetheless, appear as an obvious, engineered feature in its own right within the context of an otherwise flat area of open and undeveloped land.
50. I recognise that the height of the stored items is relatively modest and that could be controlled by way of condition. I also recognise that the wider site is relatively well screened by mature boundary planting and that the use is seen against a backdrop of the existing garden centre and nursery operation and the external storage of trees and plants clearly has a visual symbiosis with those uses.
51. Overall, the development results in a moderate degree of harm to the intrinsic character and appearance of the site, contrary to LP Policy EP3, which states, amongst other things, that development will only be permitted where its scale, layout, siting, height, design, external materials and use are compatible with the character and amenities of the site itself, adjoining development and the locality in general.

Highway safety

52. Of the mixed use identified in the breach of planning control, the enforcement notice seeks only the cessation of the storage and distribution use.
53. The Highway Authority's response to the retrospective planning application for a change of use to storage (Class B8) and landscaping⁴ refers to an understanding that the use would only generate vehicular movements when the plants are rented out and dropped at the relevant location, otherwise they will be stored on site. Regular additional movements from staff members or customers visiting the site were not expected.
54. Based on information provided by the then applicant, there are 1.4 HGV movements a day, and 7 per week. The Highway Authority therefore found the use would result in a minimal daily increase over and above those HGV movements generated by the adjacent garden centre. I have no evidence that the movements would be different for that subject to the enforcement notice and on that basis I do not disagree with the Highway Authority findings.
55. The Council raise concern that the access from Swallow Street serving the site is inadequate by reason of its width and alignment so as to allow for the safe manoeuvring of large vehicles associated with the development. In response, the appellant has provided swept path analysis drawings which demonstrate that a 16.5m articulated vehicle can enter and leave the access on Swallow Street in one movement, from both the north and south.
56. In the absence of evidence to the contrary, the development would not likely lead to large vehicles performing multiple manoeuvres within the highway, to the detriment of highway safety and convenience.
57. I note an email to the Council from a local resident refers to additional traffic using the Swallow Street entrance and vehicles arriving before 0700 hours and queueing on the road prior to the gate being opened. That is evidenced in a photograph provided which shows a line HGVs parked close to the entrance of the site, which is clearly unacceptable in highway safety terms as it effectively restricts the width of the carriageway to a single vehicle, forcing vehicles into the opposing lane, thereby adversely affecting the safe and free flow of traffic along Swallow Street.
58. However, the email complaint to the Council is from 2016 and I have no evidence to show that has been the norm or is an ongoing practice. Indeed, whilst I note the concerns of local residents over the suitability of Swallow Street for large vehicles, I have no evidence, such as personal injury collision data, which suggests that the existing geometry of Swallow Street is inherently unsafe in highway terms.
59. Whilst the loose surfacing of the access is likely to lead to material being deposited on the highway, to the detriment of highway safety, I am satisfied that could be addressed by the imposition of a condition requiring the access to be upgraded to a suitable, bound surface standard.
60. Therefore, based on the evidence before me, the storage use of the appeal site does not result in unacceptable harm to highway safety, and is not contrary to LP Policy TR5, Buckinghamshire County Council Highways Development

⁴ Application Ref: PL/22/0758/FA, refused 16 June 2022

Management Guidance (July 2018) or paragraph 115 of the Framework. Those state, amongst other things, that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Living conditions

61. The reasons for issuing the enforcement notice refer to harm arising from noise, dust and light. However, it is unlikely that a largely passive storage use of the glasshouses and hardstanding results in unacceptable levels of noise to people living in the nearest residential properties in Swallow Street and Norwood Lane given the significant separation as well as the likely attenuation provided by the bunding and planting to the main external storage area in addition to the mature vegetation to those road boundaries.
62. Reference is made to a storage container at the end of the track from Swallow Street being used as an office/welfare facility. However, for the same reason, any material effect from comings and goings is very unlikely to be experienced by occupants of the nearest residential properties.
63. I saw that most of the stone stored at the site is in bags so is unlikely to result in unacceptable impacts through dust. I have noted the piles of earth and hardcore in the photographs but it appears those materials were being utilised for the creation of the bund and hardstanding. I have no evidence of harm through dust impacts arising from the storage use.
64. I saw no external lighting at the site beyond that of modest security lighting. Consequently, unacceptable levels of glare reaching beyond the boundary of the site to residential properties is very unlikely.
65. Any potential harm arising from the storage use is therefore likely to be restricted to the associated vehicular movements onto Swallow Street. However, as noted, I have no evidence to suggest that vehicular movements are different to those referenced above (1.4 HGV movements per day). Moreover, the appellant advises that the business operates between 0800 hours and 1700 hours Monday to Friday, so there would be no weekend or early/late weekday vehicle movements. In all the circumstances, unacceptable harm is again unlikely to occur.
66. I note that the exit onto Swallow Street is focused on No 212 in particular, so it is likely that the headlights of vehicles leaving the site will sweep across that frontage. However, given the low number of traffic movements, unacceptable harm is unlikely.
67. I therefore conclude that the material change of use of the land has not resulted in unacceptable harm to the living conditions of the occupants of the nearest residential properties and thus does not result in conflict with LP Policy EP3, which states, amongst other things, that permission will not be granted for uses which would have the potential to be detrimental to the amenities of nearby properties.

Other considerations and the Green Belt balance

68. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that very special circumstances will not exist unless the

potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations⁵.

69. The use of the greenhouses for storage purposes does not amount to inappropriate development. The aerial photographs also show that part of the site adjacent to the greenhouses was evidently being used by the garden centre/nursery, probably for storage purposes, since 2005 and that use has steadily crept outwards prior to the appellant's occupation. The extent of the inappropriate development is therefore largely restricted to the hardstanding and the use of the rectangular area of land identified in the enforcement notice for external storage and its facilitating operations.
70. Nevertheless, extending the developed area of the existing garden centre and nursery, into an otherwise largely open green field, conflicts with one of the purposes of including land within the Green Belt, namely assisting in safeguarding the countryside from encroachment. I have also found moderate harm to the openness of this part of the Green Belt. The Framework requires that I apply substantial weight to those Green Belt harms⁶.
71. I have also found moderate harm to the character and appearance of the area. Although I have not found unacceptable harm to highway safety and to the living conditions of the occupants of the nearest residential properties, the lack of harm is a neutral matter in the Green Belt balance.
72. The appellant explains that Greens Team is a specialist company which supplies plants (outdoor and tropical) and landscape materials to UK based film and TV production companies on a rental basis. The company operates out of Pinewood Studios and is stated as employing 120 skilled staff organised into teams that can work on several film and TV stages at the same time. It is explained that a key part of its service is to undertake the actual planting, construction and maintenance of 'living props' on the film and TV sets and that the appeal site comprises a storage compound for the nursery plants and landscape materials and that those require a flat open area, with access to glasshouses.
73. The appellant further explains that the company originally operated out of a site to the north of Pinewood Studios but had to relocate due to the studio's expansion. The appeal site was both available and suitable (being a level site with adjacent glasshouses and adequate water supply).
74. The appellant states that there is no vacant space at Pinewood Studios which would accommodate the glasshouses and outside storage area and that searches for available alternative sites near the studios, which are suitable and are viable are unavailable at the present time.
75. The appellant explains that 60-70% of the business is with Pinewood Studios and that jobs are often last minute, when a production company requires a specific set of plants for a changed set. The site's proximity to the studios (circa 3km) is therefore clearly important.
76. The appellant argues that the closest non-Green Belt sites which would meet its requirements, would be to the west of places such as Twyford and Bracknell

⁵ Paragraphs 152 and 153

⁶ Paragraph 153

- which are over 20km from the Studios and would not meet the need of the businesses to react quickly to film company requirements. It is further stated that because the goods stored are low value, it means sites which are considered suitable for ordinary B8 storage would not be viable.
77. Ordinarily I would attach only limited weight to those submissions in the absence of any supporting evidence. However, in this case, the availability of sites which offer the benefits of the appeal site, particularly the large greenhouses for holding tropical nursery plants, within such close proximity to Pinewood Studios, is unlikely.
78. There is also a symbiotic relationship between the appellant's business and that of the existing garden centre and nursery. The appellant has also explained the benefits of a level site.
79. The Council acknowledge that Pinewood Studios has an important role in the local economy but seeks to highlight that there are a number of other businesses within close proximity which provide a very similar function such that the appeal development is not considered necessary for the continuation of Studios. However, I similarly have little evidence to show that would be so, and that other businesses could easily respond to the requirements of the studios without undue disruption.
80. Moreover, whilst the appellant states that the primary driver for the location of the site is the proximity to Pinewood Studios, he lists six or so other studios within 20 miles (approximately 32km) of the site and an approval for a major studio complex near Broxbourne. He argues that it is key to the business that it is located close to those other studios so as to be able to service this growth industry and to undertake work at short notice. In that regard, the appellant refers to a former Culture Secretary recognising the importance of the film and TV industry to the UK economy.
81. Although the Council acknowledge that there are some economic benefits to the development, it refers to a lack of information to demonstrate these benefits and that it is not considered that the need for a Green Belt location could be established. Consequently, the Council says that at most these benefits can only be attributed limited weight. The Council also, quite reasonably, highlight that no further information or evidence has been provided regarding the employment of 120 individuals, nor is there any explanation about the breakdown and type of jobs.
82. Nevertheless, even if some of the jobs are part time and seasonal, it is very likely that the business will have a positive impact on the local economy in its own right. The development therefore gleans support from section 6 of the Framework which states that decisions should help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
83. It is argued that the jobs would be lost should the appellant be unable to find an alternative site. That is clearly a highly undesirable outcome. The notice requires the cessation of the storage use within three months. That could be extended under the ground (g) appeal to give the appellant greater time to find and secure an alternative site. However, the nub of the matter is that it is

unlikely that a site is available which offers the very clear benefits specific to the appeal site and the nature of the storage use.

84. I therefore find that the above reasoning logically takes me to conclude that the weight of the other considerations clearly outweighs the totality of the harms. Looking at the case as a whole, I consider that very special circumstances now exist which justify the development. On that basis, I do not find conflict with section 13 of the Framework.
85. Whilst I have found that the proposal would conflict with LP Policies GB1 and EP3, material considerations in this case indicate that the deemed planning application should be allowed, thereby justifying a decision not in accordance with the development plan.

Conditions

86. I have not found harm to the living conditions of local residents or to highway safety. However, those conclusions are partly based on the low level of vehicular movements associated with the specific storage use. I am therefore mindful that could change significantly under a different operator. General storage of a less recessive nature could also have a significantly greater impact on the Green Belt and the character and appearance of the area.
87. Conditions are therefore necessary to restrict the type and maximum height of materials stored. The appellant has confirmed that he would be content for such conditions to be imposed and has suggested the storage of landscape materials to be restricted to a maximum height of 1.5m. The Council also commented that a storage condition should include a height restriction, although no upper limit is suggested.
88. The land to which the breach of planning control relates is identified in Plan 1 attached to the enforcement notice and the requirement to cease the use of the land and buildings for storage (and distribution), relates to all of that land. That includes a significant area of open field in front of the rectangular area of external storage. If I were to allow the appeal on the basis of that plan, planning permission would effectively be granted for the whole of the site and the impact on the Green Belt would be substantially greater.
89. It is therefore necessary to restrict the area of storage to that which has taken place, in order to protect the Green Belt. To that end, I gave opportunity to the appellant to provide a plan which shows the actual area of external storage, which the enforcement notice seeks to address. The appellant has provided a plan and the Council confirmed it had no comments to make on its accuracy.
90. Nevertheless, the plan incorrectly identifies the track as an area for external storage and includes land/buildings, notably part of glasshouse 8, which fall outside of the land to which the enforcement notice relates. The condition should therefore preclude those areas, which are beyond the scope of this appeal.
91. Given the need to protect the Green Belt, a condition restricting the identified areas to storage use only, is also reasonable and necessary.
92. Whilst the loose surfacing of the access is likely to lead to material being deposited on the highway, to the detriment of highway safety, I am satisfied

that such concerns could be addressed by the imposition of a condition requiring the access be upgraded to a suitable, bound surface standard.

93. I therefore sought the views of the parties on a condition to that effect, which includes a strict timetable for compliance as permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the scheme before the development takes place.
94. In response the Council raise concern that the works required to the Highway would appear to be on land outside the control of the appellant and so would ideally be imposed by way of a s106 agreement. The appellant's view is that a s106 agreement would not ordinarily be required and the works could be undertaken under s278 [of the Highways Act 1980].
95. In my experience such matters can and are usually resolved by way of a highways agreement. In this case, the Highway Authority in relation to the aforementioned planning application, specifically required a licence to be obtained from it in order to upgrade the access to a suitable standard. Clearly therefore, there is a reasonable prospect of a highway agreement being concluded. It is therefore reasonable to impose the condition with a timetable to reflect the likely procedural requirements.
96. The wording of the condition will also ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

97. For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the use as described in the enforcement notice. In these circumstances, the appeal on grounds (f) and (g) do not fall to be considered.

Richard S Jones

INSPECTOR