



Appeal Decision

Site visit made on 10 February 2025

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 April 2025

Appeal Ref: APP/D3640/C/23/3332058

Land at and east of Hall Grove Farm Industrial Estate, Bagshot, Surrey GU19 5HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Wooldridge against an enforcement notice issued by Surrey Heath Borough Council.
- The notice was issued on 28 September 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised material change of use of former golf course land to land used for a mixed commercial use associated with storage of commercial plant, machinery and ancillary items including other plant and equipment and use of the land for the parking of vehicles and trailers in the area hatched red on the attached plan¹. Unauthorised operational developments including engineering operations to change land levels and installation of a hard surface in the approximate position of the land shown hatched black on the plan attached, erection of boundary enclosures which in areas exceeds 2 metres in height by both fencing and creation of earth bunds in the approximate positions indicated on the attached plan between areas a to c, and unauthorised building operations relating to erection of a two storey structure and covered work area/site office comprised of metal scaffolding materials and metal containers in the approximate position hatched blue on the attached plan.
- The requirements of the notice are to:
 - 1) Cease the use of the land plan for any industrial/storage use or any related purpose including the parking of vehicles or plant [sic.];
 - 2) Remove any cars, vans, lorries, industrial/commercial vehicles, trailers, units or plant from the area hatched red on the attached plan. Remove any miscellaneous items associated with the unauthorised use of the land including any paraphernalia.
 - 3) Remove from the land any boundary enclosures including heras fencing or engineered bunds shown in the approximate positions between a and c indicated on the attached plan which exceed 2 metres in height from natural ground level as shown on plan drawing S/SH – 141/1.B (Site location and site layout plan) a copy of which is attached to this notice.
 - 4) Remove from the land the two storey structure comprised of metal scaffolding materials and metal containers from the approximate position hatched in blue on the attached plan.
 - 5) Regrade the land evenly by redistributing the land associated with the reduced height earth bunds, and where necessary import an appropriate layer of topsoil to be spread evenly across the surface of the land until it is restored to its original level as shown on drawing S/SH – 141/1.B prior to the breach of planning control.
 - 6) Following compliance with the abovementioned steps, remove any materials, debris, waste or equipment from the land to an authorised place of disposal. Reseed the land with an appropriate native grass seed mix.
- The periods for compliance with the requirements are: Steps 1-5 – Four (4) months after the notice takes effect; and Step 6 – Five (5) months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d) and (e) of the Town and Country Planning Act 1990 (as amended). 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 Act.

Summary Decision: The appeal is dismissed, planning permission is refused, and the enforcement notice is upheld, with corrections.

¹ Reference in this paragraph, and the next paragraph relating to requirements, to an attached plan are references to the plan attached to the enforcement notice.

The enforcement notice

1. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If necessary, before determining the appeal, I have a duty to put the enforcement notice (“the Notice”) in order. My powers under section 176(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”) include to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would cause any injustice to the appellant or the local planning authority.
2. The drafting of the Notice is somewhat confusing. The land to which the Notice relates (“the Land”) is not clearly defined and the requirements are not entirely consistent with the allegation. I must consider whether the necessary clarity can be introduced without causing injustice to either party.
3. The Notice defines the Land at Section 2. It describes ‘land at and to the East of Hall Grove Farm Industrial Estate’, shown edged red on a location plan attached to the Notice (“the Plan”). The Plan has a black hatched area, a red hatched area and a blue hatched area as well as a red edge around the entirety of the industrial estate.
4. A large part of the Hall Grove Farm Industrial Estate is occupied and operated by the appellant. However, there are a number of other businesses within the smaller units. The appeal submissions appear to indicate that the Notice is only intended to target the areas hatched on the Plan and not the wider Industrial Estate. I put this to the main parties in a note (“my Note”) and it was not disputed in any response.
5. In places, the requirements relate to the Land, so they could affect those parts of the Industrial Estate (and other users) beyond the hatched areas. As I am satisfied that is not the intention, the Notice should be corrected to identify only the smaller area denoted by the hatching. As this appears to be the understanding that permeates both main parties’ cases, no injustice would arise to either of them.
6. The punctuation within the alleged breach of planning control at Section 3, suggests that there has been a change of use of the red hatched area and various operations across other parts of the Land. I set out in my Note my understanding that the following 4 separate things were alleged to have happened:
 - a) The material change of use of the area hatched red to a mixed use of the storage of commercial plant, machinery and ancillary items and the parking of commercial vehicles and trailers;
 - b) Operational development on the area hatched black, comprising the change in land levels and installation of a hard surface;
 - c) Operational development comprising the erection of boundary enclosures over two meters in height by the formation of bunds and erection of fencing between areas A to C on the Plan.
 - d) Operational development comprising the erection of a two storey structure on the land hatched blue, formed of metal containers and metal scaffolding poles.

7. For clarity, the allegation should be set out clearly referring to the 4 separate items. Further, there is uncertainty in that, item a) refers to the storage of commercial plant, machinery and ancillary items, including other plant and equipment. It is not clear what that other plant and equipment is or why it would not be adequately covered within the term 'ancillary items'. A correction should be made for clarity, and the term 'miscellaneous items' used for consistency with the requirement to remove them.
8. Item b), as worded on the Notice, suggests that the operational development included raising of land levels and laying a hard surface, but there is nothing to suggest that any other operations have taken place. A closed list comprising the raising of land levels and laying a hard surface would provide certainty.
9. The allegation within item c) is vague. It refers to boundary enclosures in the approximate positions indicated on the Plan between 'areas a to c'. There are only upper case "A"s and "C"s on the Plan and there are two of each, so it is unclear what this relates to. However, there are two discernible items on site: A fence between one of the letter A's and one of the letter C's that appears to follow a thick grey line on the Plan, that I have labelled Y and Z on the plan attached to this decision ("Plan 1"); and a bund between the other letters A and C which follows a thin grey line around the perimeter of the red-hatched area, and which I have labelled W and X on Plan 1.
10. There is similar ambiguity as to what is being referred to in the requirements. However, the recipient of the Notice, as I could at my site visit, would be able to identify the fence and bund and see that it accorded with lines between the two As and the two Cs. The drafting is imprecise, but on inspection at the site, it is clear what is being referred to. The appellant has also referred to the bund in evidence and, so, must have the same understanding as me. Therefore, I am satisfied that this part of the allegation can be corrected to add the necessary precision, without causing injustice.
11. The corresponding requirement refers to a plan ("the Levels Plan") that was purportedly attached to the Notice but was not. The purpose of the plan was to clarify ground levels at the site before the breach of planning control took place. However, it is not necessary for such detail to be provided and the two requirements that refer to it can be re-drafted to simply require restoration to the previous condition of the Land.
12. The appellant has suggested that such would introduce further uncertainty and that the Levels Plan is a necessary component to the success of the Notice. However, enforcement notices frequently require the restoration of land where there is no luxury of a pre-existing plan. Ultimately, the appellant is best positioned to know the former condition and any dispute over whether it has been achieved can be dealt with subsequently, based on all available evidence at the time.
13. It is necessary to make further corrections to the requirements. In particular clarity is needed over the first requirement by correcting a typographical error in reference to the "land plan". The requirement to cease a use here must only relate to the red-hatched area as that is the only part of the Land where a material change of use is alleged to have occurred. In the absence of any explanation as to the difference between 'miscellaneous items' and 'paraphernalia' the use of just the first of these terms in the second requirement would suffice.

14. Finally, the Notice cannot control what happens off the Land. It is, therefore, not possible to require removal of items to an 'authorised place of disposal' and the Notice must be corrected to simply require removal of items from the Land. The renumbering of paragraphs would require consequential corrections to the time in which compliance is required.
15. All of the corrections, described above and set out in my Formal Decision, were proposed to the main parties in my Note. The Council confirmed their position that no injustice would arise to either party, indicating that I must have understood the allegation correctly.
16. The corrections required would result in a very different enforcement notice to the one issued by the Council. Enforcement notices are sometimes quashed in this scenario. However, in this case, while the words and format would be different, I am satisfied that the appellant has previously understood all of the intended targets of the Notice and what is required to be done. In that context, my corrections only bring clarity to a situation that has already been understood. I am, therefore, satisfied that the amendments can be made without causing injustice to either the Council or the appellant.
17. The appeal will proceed on the basis of the corrected Notice, the terms of which are set out in my Formal Decision, below, albeit that this also includes a further minor correction following the ground (b) appeal.

Ground (e)

18. Ground (e) is that copies of the Notice were not served as required by Section 172 of the 1990 Act.
19. As noted above, the Levels Plan was not included with the Notice. That created uncertainty, but was not a breach of Section 172 which relates to the circumstances in which an enforcement notice can be served, those it should be served on, and the timings for its service.
20. The Council has confirmed that those on which it served the Notice included the 'owner/occupier of the Hall Grove Farm Industrial Estate' and the 'owner/occupier of Unit 1-17 Hall Grove Farm Industrial Estate'. I understand that the Industrial Estate is owned as a single entity. From the evidence, it is not clear that all of the separate occupiers were served with copies of the Notice.
21. However, in light of my correction to the Plan, those individual occupiers would not be affected by the Notice and so, in the event that they were not served with copies, no injustice would arise. Section 175(5) of the 1990 Act provides that, where a person required to be served with a copy of the Notice was not served, I may disregard that fact if neither the appellant or that person has been substantially prejudiced. As the land occupied by those other occupiers is no longer the target of the Notice, no substantial prejudice can arise.
22. Accordingly, the appeal on ground (e) must fail.

Ground (b)

23. Ground (b) is that the matters alleged in the Notice have not occurred. The Notice alleges the material change of use of 'former golf course land' to the mixed use discussed above. It is argued that the Land was not former golf course land.

24. The Council has explained that, being outside the established part of the Industrial Estate, it was within the planning unit of the adjoining Golf Course, as permitted, and was shown as owned by the golf club in subsequent planning applications. I saw that it does not appear to form part of the adjoining golf course, having more of an agricultural character.
25. Nevertheless, it is somewhat academic as to whether, before the alleged breach of planning control, the land can be properly described as 'golf course land' as it is not suggested that the new use is not materially different to whatever was going on before. Therefore, the allegation can be further corrected to remove reference to the former golf course land without causing injustice to either party.
26. The appeal on ground (b) succeeds to that limited extent.

Ground (d)

27. Ground (d) is that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The appellant's appeal on this ground is limited to the operations that have taken place in the area hatched black, and described, above as component b) of the allegation.
28. The appellant has provided dated aerial photographs that, they say, show that more than 4 years before the Notice was served, the area was already levelled and laid with hardstanding. However, while the photographs show sparse grass cover on the area hatched black, it is not possible to discern from the photographs whether the land is, indeed, surfaced or whether it is simply bare ground. Being aerial photographs, they do not clearly show levels.
29. Moreover, the non-grassed area in the photographs is broadly triangular in shape, whereas the area hatched black is more squarely defined. The shape of the black area is more consistent with my on-site observations than the photographs.
30. On this basis, the evidence is insufficiently precise and unambiguous to show that, on the balance of probabilities, the matters alleged took place more than 4 years before the Notice was issued. Accordingly, the ground (d) appeal must fail.

Ground (a)

31. Ground (a) is that planning permission should be granted for the matters alleged in the Notice. The main issues on this ground are:
 - Whether the development is inappropriate in the Green Belt, with regard to openness and the purposes of the Green Belt;
 - The effect on the character and appearance of the area; and
 - Whether other considerations clearly outweigh any harm to the Green Belt and any other harm so as to amount to the very special circumstances required to justify the development.

Inappropriateness

32. Paragraph 154 h) of the National Planning Policy Framework ("the Framework") confirms that various forms of development are not inappropriate in the Green Belt. The erection of the two storey structure and covered work area and fencing

are not covered by this (or any other) exception to inappropriateness, but the material change of use of the land and engineering operations to change the land levels and form the bunds could be, if openness was preserved and there was no conflict with the purposes of including land within the Green Belt.

33. The bund has resulted in raised landform where there was previously no development. It is seen in the context of the adjoining school and industrial estate, but it has enclosed land that was not previously enclosed. The land is, therefore, less open than it was. While the laying of a hard surface on the area hatched black has little perceptible impact on openness, the use of the area hatched red has resulted in numerous vehicles and other items being stored where there was previously nothing but an open field. Exactly what is on the land will, undoubtedly, change over time, but the appellant accepts that things are there most of the time.
34. Thus, the use of the area hatched red, together with the bund that otherwise shields most of the use from view, harms the openness of the Green Belt. The two-storey structure and covered work area causes further harm to openness.
35. The purposes of the Green Belt are set out at Framework paragraph 143. There is no obvious conflict with most of those purposes, but one purpose is to assist in safeguarding the countryside from encroachment. Although public viewpoints of the development are limited, the use of the land edged red for storage, and the enclosing bund has, in effect, resulted in the industrial estate expanding in size such that encroaches into the surrounding countryside. There is conflict with this purpose.
36. As the development does not preserve openness and conflicts with the purposes of including land within the Green Belt, it is inappropriate development in the Green Belt.

Character and appearance

37. The Hall Grove Farm Industrial Estate is within an area of countryside between two urban areas. Along with the adjoining school, it forms a cluster of buildings. These sites are also surrounded by a golf course that has an artificial rural character with manicured lawns, bunkers and the like.
38. The bund is a stark landform that rises abruptly and, even in the context of the golf course has a somewhat alien appearance. That said, public viewpoints of it are at some distance, and as the bund is becoming overgrown it largely blends with the numerous tree lines that feature in the landscape and screens the various items on the red-hatched land behind it.
39. However, there is also fencing atop the bund that is visible, even at distance, and adds urban clutter to the landscape harming its appearance. When viewed from the school grounds, the levels are such that the bund does not screen the stored items. While these are not fully public views, the cluttered appearance of the site and the two-storey structure and covered work area are at odds with the surrounding undeveloped open countryside and pristine golf-course environment. The pre-existing part of the industrial estate is generally hidden behind buildings and a stronger tree line. It does not intrude into or affect the appearance of the countryside or views of it to the same extent.

40. Therefore, I find that the development harms the character and appearance of the area. As such, it is contrary to those aims of Policies CP2 and DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 (CSDMP) that seek to ensure that development respects the quality of its setting and environment.

Other considerations

41. The appellant 'parent' company, which has various sub-'arms' (together "the Group") has its headquarters at Hall Grove Farm Industrial Estate. I am told that, it has over 300 direct employees and various sub-contractors with a turnover of local and regional significance. The expansion of the Group has led to increases in vehicles and plant and a consequential need for their storage, especially for large demolition projects.
42. The existing Industrial Estate is occupied to maximum capacity. The appellant's appeal statement says that there is a need for secure, level storage that must be close (within a mile) of the headquarters. They also describe a general reduction in employment land in the area and a limited availability of sites that may, in part, be due to the expansive Green Belt designation and delays in progressing a new development plan. As such, the Group has been unable to identify an alternative location to either relocate the whole business or provide additional yard storage.
43. That said, assertions that it would be difficult or inefficient for some of the Group's functions (including storage of plant) to operate from separate sites have not been fully substantiated. Moreover, the appeal statement sets out that the storage is required for plant, machinery and vehicles, but my own observations were that little of the area hatched red was being used in this way. Rather, while there is some plant, much of the area is given over to the storage of miscellaneous items in a somewhat haphazard manner. While there was some considerable time between the preparation of the appeal statement and my visit, the stated requirement for the Land does not appear to accord with the way it is being used.
44. I, therefore, find the arguments presented around necessity to be unsupported by robust evidence. Accordingly, I give them limited weight.

Conclusion

45. I have identified harm to the Green Belt and the character and appearance of the area. The Framework indicates that substantial weight must be given to any harm to the Green Belt. For the reasons given, the other considerations do not clearly outweigh the harm to the Green Belt and other harm that I have identified. Therefore, the very special circumstances necessary to justify the development do not exist.
46. In this regard, I note the Council has alleged conflict with CSDMP Policy CP1. However, while that indicates that the extent of the Green Belt will be maintained, it provides guiding principles only for development in the countryside beyond the Green Belt. Therefore, I find no conflict with that policy. Nevertheless, there is conflict with the development plan in respect of the effect on the character and appearance of the area. Notwithstanding its support for businesses and economic development, the policies of the Framework in respect of development in the Green Belt provide a further strong reason for refusing planning permission.

47. Therefore, I find that planning permission should not be granted for the matters alleged in the Notice and the appeal on ground (a) should fail.

Formal Decision

48. It is directed that the enforcement notice is corrected by:

- The substitution of the plan annexed to this decision and labelled “Plan 1” for the plan attached to the enforcement notice.

In Section 2 – the land to which the Notice relates:

- Delete the text (below the heading) in its entirety and replace with the following text:

Land adjacent to Hall Grove Farm Industrial Estate, Bagshot, Surrey, GU19 5HP, shown edged purple on Plan 1 attached to this Notice.

In Section 3 – the matter which appears to constitute the breach of planning control:

- In the heading, delete the word “MATTER” and substitute it with the word “MATTERS”. Delete the word “APPEARS” and substitute it with the word “APPEAR”.
- Delete the text in the main body (below the heading) in its entirety and replace with the following text:

Without Planning Permission:

- a) The material change of use of the area hatched red on Plan 1 to a mixed use comprising of the storage of plant, machinery and other miscellaneous items, and the parking of vehicles and trailers;
- b) Operational development comprising the change in land levels and installation of a hard surface in the approximate location hatched black on Plan 1;
- c) Operational development comprising the erection of boundary enclosures over two metres in height by the formation of bunds and erection of fencing between the approximate locations marked W to X and Y to Z and marked with green lines on Plan 1.
- d) Operational development comprising the erection of a two storey structure and covered work area/site office comprised of metal scaffolding materials and metal containers in the approximate position hatched blue on Plan 1.

In Section 5 – What you are required to do:

- Delete the text below the heading (paragraphs 1) to 6)) in its entirety and replace with the following text:
 1. Cease the use of the land hatched red on Plan 1 for the mixed use comprising the storage of plant, machinery and other miscellaneous items, and the parking of vehicles and trailers.

2. Remove from the Land any vehicles, plant, machinery and any other miscellaneous items stored on the land hatched red on Plan 1.
3. Remove from the Land the bund and Heras fencing shown in the approximate position between points W and X and marked with a green line on Plan 1.
4. Remove from the Land any fencing in excess of 2 metres in height between point Y and Z and marked with a green line on Plan 1.
5. Remove from the Land the two storey structure and covered work area/site office comprised of metal scaffolding materials and metal containers in the approximate position hatched blue on Plan 1.
6. Restore the Land to the ground levels existing prior to the breach of planning control taking place.
7. Reseed the Land with an appropriate native grass seed mix.
8. Remove any items or debris resulting from compliance with the above steps from the Land.

In Section 6 – Time for compliance:

- Delete the text in its entirety and replace with the following text:

Steps 1-6 Four (4) months after this notice takes effect.

Step 7-8 Five (5) months after this notice takes effect.

49. Subject to the corrections, the appeal is dismissed, 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.

M Bale

INSPECTOR

Plan 1

This is the plan referred to in the Appeal Decision by M Bale dated: 03 April 2025

Land at: Hall Grove Farm Industrial Estate, Bagshot, Surrey, GU19 5HP

Reference: APP/D3640/C/23/3332058

Scale: Not to Scale

