



Appeal Decision

Site visit made on 4 March 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 8 APRIL 2025

Appeal Ref: APP/Q3630/C/24/3344856

Land at 18 Riverside, Egham, Surrey TW20 0AA and Land forward of The Pumping Station, Yard Mead, Egham, Surrey TW20 0AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Mick Floyd - Runnymede Boatyard against an enforcement notice issued by Runnymede Borough Council.
 - The notice was issued on 26 February 2024.
 - The breaches of planning control as alleged in the notice are: (i) The material change of use of the Land, to a mixed use of storage (B8), including the siting of containers, Light Industrial (B2) use and, use as a boatyard & boat repair workshop (sui generis); and (ii) The erection of a marquee and a polytunnel (in connection with the uses stated in paragraph 3.1 [of the notice] above).
 - The requirements of the notice are to: 1) Cease the use of the Land for storage (B8) purposes; 2) Cease the use of the Land for light industrial (B2) purposes; 3) Cease the use of the Land for the repair and maintenance of boats; 4) Cease the use of the Land for the parking of boats and vehicles; 5) Remove from the Land all boats, vehicles, plant and equipment, containers, skips, gazebos, polytunnel and any other paraphernalia; 6) Remove all waste material from the Land; and 7) Return the Land to vacant grassland.
 - The period for compliance with the requirements is: nine (9) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (d) 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.
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Decision

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

- On page 1 of the notice deletion of the word 'OERPERATIONAL' and its substitution with the word 'OPERATIONAL';
- In paragraph 3.1 of the notice deletion of the words '(B8)' and '(B2)'; and
- In paragraph 5 deletion of the wording from '5.1' to 'grassland' (inclusive) and substitution with the wording:

'5.1 Cease the use of the Land for storage purposes;

5.2 Cease the use of the Land for light industrial purposes;

5.3 Cease the use of the Land as a boatyard & boat repair workshop including for the repair and maintenance of boats and parking of boats and vehicles;

5.4 Remove from the Land all boats, vehicles, plant and equipment, storage containers, skips, gazebos/marquees, polytunnel and any other paraphernalia;

5.5 Remove all waste material from the Land; and

5.6 Restore the Land to its condition before the development took place.'

2. 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 as amended.

Preliminary Matter

3. The revised National Planning Policy Framework 2024 ('Revised Framework') came into force during the course of the appeal. The parties were given an opportunity to comment on this as regards the ground (a) appeal and submissions made have been considered.

The Notice

4. The allegation in the notice relates to a mixed use which represents a single sui generis use (falling outside of any use class). A notice alleging a material change of use ('MCU') to a mixed use should not therefore reference use classes. I shall therefore delete these references for clarity and make corresponding corrections to the requirements. I shall also for clarity make corrections to the allegation and requirements so that references to the boatyard/boat repair workshop uses and marquee/gazebo object are consistently worded. I do not consider that these corrections would result in any injustice since the substance of the allegation and requirements remain unchanged.
5. The requirements stipulate restoring the land to 'vacant grassland'. Since it is not clear from the available evidence whether the appeal site was entirely comprised of grassland (as opposed to other vegetation) prior to the appeal development taking place, it is appropriate to correct this to require restoration to its previous condition. I do not consider any injustice to result from this since a notice cannot properly impose a more onerous requirement than restoring the land to its former condition.
6. The appellant submits that the notice does not clarify the location/identity of the marquee and polytunnel referenced. While the notice does not identify the location of these items on a plan, there does not seem to be any doubt as to the items attacked by the notice since the appellant has been able to identify these sufficiently to confirm that they have been removed.
7. Finally, there is also a typographical error in the heading of 'operational development' in the notice. This can be corrected for clarity without injustice.

The site

8. The LPA indicates that the appeal site is located partly within flood zone ('FZ') 3a and partly within FZ 3b and also lies within the Green Belt. Part of the land was previously the site of a hotel which was demolished around 2006. The appeal site falls within the same ownership as Runnymede Boatyard and comprises of two parcels of land which are connected by a strip of land running behind the Boatyard. The larger parcel of land is to the east of the dry dock ('Land at 18 Riverside'), with the smaller portion sitting close to the pumping station ('Land forward of the Pumping Station').

The appeal on ground (c)

9. The appeal on this ground is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make their case on the balance of probability.
10. This ground of appeal relates only to the marquee and polytunnel attacked by the notice (not to the alleged MCU). The appellant submits that these structures have been removed since the date of the notice and in any event would be permitted development ('PD') under Schedule 2, Part 4 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('Class A').
11. Firstly, the fact that the marquee and polytunnel have been removed since the date of the notice does not mean that the ground (c) appeal succeeds since the question is whether the matters alleged if they *occurred* (as at the date of the notice) represent a breach of planning control.
12. As to PD rights, the appellant alleges that the marquee and polytunnel are PD under Class A which grants deemed planning permission for '*The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.*'
13. The appellant seems to suggest that since boat repair 'operations' were carried out within the polytunnel and marquee, these structures fall within these exceptions. This approach is flawed since 'operations' in this context references operational development as opposed to operations in connection with boat repairs (which in planning terms represents a use of land). The marquee and polytunnel do not therefore represent PD under Class A.
14. The matters alleged as operational development in the notice represent a breach of planning control and the ground (c) appeal fails.

The appeal on ground (d)

15. This ground of appeal is that at the time the notice was issued it was too late to take enforcement action.
16. The appellant must therefore prove on the balance of probability that the MCU alleged in the notice occurred on or before 26 February 2014 and that the use then continued without significant interruption for at least 10 years after the date of the change such that it would have been open to the Council to take enforcement action at any time during that period. My assessment is fact specific and is made on the available evidence.
17. Turning to the evidence, the Council has submitted a number of aerial images and highlights that the images dated June 2013 and March 2014 show the appeal site to be 'vacant grassland' with the storage containers only visible in aerial photography from June 2015 onwards on Land at 18 Riverside.

18. The appellant has submitted a number of statutory declarations¹ from:

- Mr Mick Floyd (owner of Runnymede Boatyard from 2013 to present);
- Mr Max Main (currently manager of the Boatyard, worked at the Boatyard since 2019 and regularly visited and used the Boatyard in the course of employment from 2009 to 2019);
- Mr Spencer Laycock (stated as resident of 17 Riverside from 2013 to present (dates of residency are unclear since it is also stated that Mr Laycock has lived at this address for 16 years);
- Mr Adam Jones (rented a workshop at the Boatyard since 2009 to date); and
- Mr Duncan McDougal (resident of 17 Riverside since birth).

19. All of the statutory declarations submitted contain a very similar description of the use made of the land as 'for the storage of boats particularly when the dry dock has been full' and also 'at other times' also 'depending on the nature of the work being carried out'. It is stated also that the land 'has also been used for the storage of items related to the maintenance of the boats moored in the boatyard and for the maintenance and running of the yard itself'.

20. Whilst it might not be possible to itemise 'every 'use' or operation with specific dates' over the ten year period within a statutory declaration, it remains the case that the statutory declarations submitted contain only scant information as to the precise nature of the use. There is no detailed explanation of at what 'other times' the land was used for the storage of boats, or the nature of work that would have resulted in this. There is no detailed information either related to the approximate frequency and duration of this use on a daily basis, nor as to the types of boats stored/purpose of the storage, nature of repairs undertaken and categories of items stored.

21. The appellant states that not all activities on the land would have had an outward or visible effect that would have been picked up on aerial images. I appreciate that the absence or presence of storage containers on the land is not determinative of the use and recognise that aerial photographs show only a snapshot in time. However, the lack of specificity as to the nature and pattern of use of the land as claimed means that no substantive explanation is provided for the absence of any indication of any active use on the appeal site in the Council's March 2014 aerial photograph, or indeed the absence of any evidence of boat storage in the Council's aerial photographs until much later.

22. A number of representations have been made by interested parties indicating use of the land in association with the boatyard for a period in excess of ten years. However, the vast majority of these representations offer no detail as to the precise nature of the use over the claimed ten year period. The fact that the land has not been used for any other purpose is not enough to demonstrate that it has been in sufficiently active continuous use such that enforcement action could have been taken at any time.

23. A representation made by Mr and Mrs Laycock provides some additional detail setting out that the Boatyard was purchased at auction in 2013 and that the 'two

¹ Four of these having originally been submitted in support of an application for a certificate of lawfulness (Ref: RU.24/0109) in respect of use in conjunction with the adjacent boatyard, including storage

pieces of land' were 'integrated for boat storage and light industrial purposes' towards the end of 2013. It is stated that boat storage would have been evident in aerial photos from January and February 2014 citing flood events occurring at these times. Land 'adjacent to Yard Mead' is referenced as having been used to store trailers for some 30 years. Again though, this provides only a small amount of information as to the precise nature of the use of both pieces of land over the duration of the claimed ten year period.

24. I note that the appeal site has historically fallen within the same ownership as the Boatyard and that it was purchased on the understanding that it was in use for purposes ancillary to the Boatyard. I acknowledge also that the absence of a physical boundary between the Boatyard and appeal site renders it a convenient resource. None of these factors though provide any substantive evidence of continuous use over a ten year period.
25. I find then as a matter of fact and degree on the available evidence that the appellant's evidence is not sufficiently precise and unambiguous to demonstrate on the balance of probabilities that it was too late to take enforcement action by the date of the notice. The appeal on ground (d) fails.

The appeal on ground (a) and the deemed planning application ('DPA')

Main Issues

26. Whether or not the site represents grey belt has implications for the applicable Green Belt policies in the Revised Framework. The Revised Framework defines 'Grey belt' as *'land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143'*. This excludes *'land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development'*. Footnote 7 ('FN7') then references policies including those related to areas at risk of flooding (which includes the appeal site).
27. As such, in order to assess whether the site represents grey belt, I must first determine whether Revised Framework policies related to flood risk would provide a strong reason for refusing or restricting development. The main issues are therefore:
 - Whether the appeal development represents inappropriate development in the GB having regard to the Revised Framework and any relevant development plan policies (to include firstly an assessment of the effect of the appeal development on flood risk ('the FN7 Test'));
 - The effect of the appeal development on the openness and purposes of the GB; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the appeal development.

Reasons

Whether or not inappropriate development

Flood risk: the FN7 test

(a) Policy

28. As outlined, the Council has indicated that the appeal site is partly within FZ 3a (being land with a high probability of flooding) and partly within FZ 3b (the functional flood plain).
29. Paragraph 170 of the Revised Framework indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and paragraph 172 outlines a sequential, risk-based approach to the location of development with application of an exception test as applicable.
30. Paragraph 176 explains that applications for some minor development and changes of use² should not be subject to the sequential test, nor the exception test (but should still meet the requirements for site-specific flood risk assessments ('FRA') in footnote 63). Where development is necessary in areas at risk of flooding, paragraph 170 states that it should be made safe for its lifetime without increasing flood risk elsewhere.
31. Policy EE13 of the Runnymede 2030 Local Plan ('LP') states that new development will be guided to areas of lowest flood risk through application of the sequential test and that the exception test will be applied in accordance with national policy. It stipulates also that any development in FZ 3 must be accompanied by a site specific FRA proportionate to the scale of development and that managing flood risk over the lifetime of the development must also be addressed.

(b) Parties' submissions

32. The Council contends that the appellant has not provided detailed evidence to demonstrate that there are no other sequentially preferable alternative sites or to show that flood risk would not be increased elsewhere. The appellant submits that water-based recreation and ship repair/maintenance activity represent water-compatible uses³ which are permissible within FZ 3 and that the sequential and exception tests do not therefore need to be applied. The appellant also contends that the development is for a MCU only (i.e. not operational development)⁴ and so is exempt from the sequential and exception tests on this basis.

c) Analysis

33. Per my assessment on ground (c), the matters attacked by the notice comprise both a MCU and operational development. The exemption from sequential and exception tests for MCUs would not therefore apply to the development attacked by the notice. That said, I could in principle grant planning permission for the MCU only representing 'part of the matters' attacked by the notice. I shall therefore consider the position as regards both a MCU alone, and also for a MCU along with the operational development attacked by the notice.

² Except for changes of use to a caravan or camping site

³ Per Annex 3 of the Revised Framework

⁴ Presumably assuming success on ground (c)/on the basis that the marquee and polytunnel were removed after the date of the notice

'Part of the matters': MCU alone

34. The part of the matters representing the MCU alone would not, per local and national policy, require the application of sequential or exception tests. However, as explained above, the Council has also raised the concern as to whether there would be an increase in flood risk elsewhere. While I note the appellant's comments that there has been no increase in hardstanding and that the MCU 'will not impede the flow of water, nor reduce the capacity for the floodplain to store water, or exacerbate any flooding problems', there is no detailed evidence in support of these assertions.

Whole of the matters: MCU and operational development

35. As to the development comprising the whole of the matters enforced against (MCU and operational development), while the appellant argues this is water compatible development this would not exempt it from the application of the sequential test. In this regard, I have considered comments from the appellant that 'Runnymede Boatyard remains the only boatyard left in Runnymede serving a majority of the stretch of the River Thames in this part of the Borough, and there is no other location within the borough which would have the same offering and same river frontage location' and that 'From Chertsey to Windsor there are only 2 working boatyards left on this stretch of the River Thames'. I recognise that use made of the appeal site for the most part appears to require a waterside location and also that the use of the appeal site represents an extension of an existing business, which has potential to impact on the application of the sequential test.
36. However, information provided does not offer the level of detailed analysis necessary to enable me to conclude that the sequential test is passed in respect of this particular business expansion. Since the sequential test has not been passed, it is not necessary for me to consider the application of the exception test but for completeness, this is addressed below.
37. As to the exception test then, the need for this test depends on the potential vulnerability of the site and of the development proposed. The notice (as corrected) describes the MCU as 'mixed use of storage including the siting of containers, Light Industrial use and, use as a boatyard & boat repair workshop (sui generis)'. There is no ground (b) appeal indicating that this use has not occurred in the sense that it has been incorrectly described and the description in the notice is not inconsistent with the available evidence.
38. As such, while I acknowledge that the use of the Boatyard is recreational to some degree, on the available evidence, the use of the appeal site overall does not constitute water based recreation. Further, while ship repair/maintenance falls within the category of water-compatible development, storage use falls within the 'less vulnerable' category. Per paragraph 79 Table 2 of the Planning Practice Guidance ('PPG'), 'less vulnerable' development should not be permitted in FZ 3b.
39. Even if the development attacked by the notice were to constitute water-compatible development (which would exclude the application of the exception test), given the location within FZ 3b, notes to Table 2 in paragraph 79 of the PPG indicate that it should be designed and constructed so as to not increase flood risk elsewhere. As explained above, I have no substantive evidence from the appellant on this aspect.
40. I find then as regards both the MCU only and the MCU and operational development that on the evidence before me, it has not been demonstrated that the

development in question would not increase flood risk elsewhere. Particularly given the location of the site from a flood risk perspective, this leads me to find that Revised Framework policies related to areas at risk of flooding provide a strong reason for refusing development in this case.

41. It follows that per the FN7 test, the appeal site does not represent grey belt land. I shall therefore proceed to assess the appeal development as against other policy exceptions for development in the GB.

Local and National Policy on GB

42. The fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of GBs are their openness and their permanence. Inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the GB by reason of inappropriateness, and any other harm resulting from the appeal development, is clearly outweighed by other considerations.
43. Per paragraph 154 of the Revised Framework, development in the GB is inappropriate unless one of the specified exceptions applies. I found above that the appeal site does not represent grey belt and so the exception in paragraph 155 cannot apply in this case.
44. The appellant suggests that the exception in paragraph 154(b) applies (which corresponds with Policy EE16 of the LP). This relates to: *'the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments'*. However, as outlined, on the available evidence, neither the Boatyard use nor the MCU alleged represents a primarily recreational use. As such, the exception in paragraph 154(b) does not apply as this relates to facilities *for* outdoor recreation (the uses in this exception represent a closed list). The operational development therefore represents inappropriate development. I will though continue to assess its effect as regards openness and GB purposes to inform my balancing exercise.
45. As regards the MCU, paragraph 154(h) of the Revised Framework indicates that MCUs *'(such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'* which preserve GB openness and do not conflict with the purposes of including land within the GB do not represent inappropriate development. The use of the wording *'such as'* indicates that the uses listed are not a closed list. This exception can therefore potentially apply to MCU representing *'part of the matters'* (even though I have not found it to represent *'outdoor recreation'*). Similarly, Policy EE19 of the LP states that proposals for changes of use of land may not be inappropriate development *'per se'* but that a change of use should have *'no greater impact'* on the openness of the GB and purposes of including within it than the existing use.
46. As such, whether or not the MCU attacked by the notice represents inappropriate development will turn on whether or not it preserves openness and/or conflicts with purposes of including land in the GB.

MCU alone: openness

47. Openness is the counterpart of urban sprawl and includes both spatial and visual dimensions. Assessment of whether openness is preserved necessitates a comparison against the previous position.
48. The appellant claims the site was used in conjunction with the boatyard immediately following demolition of the hotel in 2006. The appellant's position is therefore that the effect of the MCU on openness should be compared against the former hotel use. The Council, however, maintains that following demolition of the hotel, the land was 'vacant grassland' for a number of years until the use attacked by the notice began.
49. As to the previous position for the purposes of the openness assessment, I note that statutory declarations provided in support of the appellant's ground (d) appeal indicate that, since the demolition of the hotel, the appeal site has 'only ever' been 'associated with and used in conjunction with the day to day running' of the Boatyard.
50. In my view, a statement that land has 'only ever' been used for a particular purpose typically means that the person has not ever known it to be used for any other purpose. In this case then, this statement is not inconsistent with the appeal site having been essentially vacant following demolition of the hotel, with the alleged use having commenced some time later. I note also that the aerial photograph from June 2013 provided by the Council appears to show much of the appeal site as very overgrown (with the surface of the land appearing more similar to the texture of tree cover than of the lawns of neighbouring residential gardens). This is therefore consistent with the appeal site not being brought into active use until many years after the hotel was demolished. I therefore treat the previous position for the openness comparison as being essentially vacant land.
51. As to the surrounding area, the appeal site is located adjacent to the River Thames and to the appellant's Boatyard with other commercial uses and residential dwellings nearby also. Whilst there is built development within the appeal site's surroundings, the expanse of open land on the opposite side of the A308 means that the site is within a noticeably open context.
52. As to the effect of the MCU on openness, the MCU has resulted in the siting of a number of storage containers and, at times, substantial numbers of boats in open storage also. As compared to an essentially vacant use, there would likely be an increase in the level of activity on the land by those working on site, as well as potentially also by owners of boats stored/being repaired on the land. The spatial and visual impacts on openness are clearly apparent from public viewpoints including at close distance from the footpath alongside the river. Drawing these matters together, there is a moderate reduction in openness resulting from the MCU.
53. While I have only very limited details in relation to the former hotel use and structure that was demolished, on the available evidence, even if I were to compare the effect on openness as against the former 10-bed hotel use with parking, there would still likely be a reduction in openness resulting from the MCU attacked by the notice. The appellant's aerial photograph from January 2000 showing the hotel in situ when compared with the Council's March 2022 aerial photograph showing substantial numbers of boats in open storage illustrates that the former hotel use

appeared to adversely impact on openness primarily by reason of the hotel structure itself which had a relatively modest footprint relative to the size of the appeal site. The March 2022 photograph shows numerous boats in open storage covering a significant proportion of the site. Bearing in mind also that boats stored can be of fairly significant scale, even as compared to this alternative pre-existing use, there would likely be a loss of openness.

54. With respect to the operational development alleged in the notice, I have only limited details regarding the polytunnel and marquee. Both are structures of fairly lightweight appearance and in my view therefore resulted in a moderate loss of openness.

Purposes

55. The LPA in its comments on the Revised Framework submits that the appeal development fundamentally undermines GB purpose (a) in paragraph 143 being to '*check the unrestricted sprawl of large built up areas*'. The appellant contends that the appeal site makes a weak/no contribution to this purpose in view of it being surrounded by existing development. There is no suggestion of conflict with other GB purposes and I have no reason to disagree.
56. As regards purpose (a), I acknowledge, per the appellant's submission, that the site is largely enclosed by surrounding development including residential and commercial properties, with the Windsor Road lying beyond these in a southerly direction and the River Thames to the north of the site. However, in the terms of paragraph 05 of the PPG as cited by the appellant, the immediate surrounding development is not in my view 'significant' in that it is comprised largely of fairly limited and relatively small scale built development which is not high density.
57. Accordingly, the appeal site makes a small contribution to purpose (a). The operational development attacked by the notice modestly conflicts with this purpose by the introduction of new built form. The MCU alone also, in particular by reason of it entailing the siting of a number of large storage containers and, at times, storage of large numbers of boats also creates a sense of sprawl, and so conflict in this way with purpose (a).

Conclusion on whether or not inappropriate development in the GB

58. The operational development and MCU both result in conflict with the GB purpose outlined above. Both also result in a reduction in openness as detailed above.
59. Since the MCU alone does not preserve openness and results in conflict with purpose (a) as outlined, it does not fall within the paragraph 154(h) exception and so represents inappropriate development.
60. I find then on the first and second main issues that both the MCU alone and MCU and operational development represent inappropriate development in the GB having regard to the Revised Framework and relevant development plan policies having also a harmful effect on the openness and regarding the purposes of the GB. I find no direct conflict with Policy EE18 referenced by the Council which relates to engineering operations in the GB.

Other considerations

61. There is a strong level of support for the appeal development from users of the Boatyard as a local business which has recently restored facilities and offers the only complete services on this stretch of the River Thames, including marine salvage. One supporter sets out the need for additional facilities at the Boatyard due to increased numbers of vessels navigating rivers and canals in recent years and that the Boatyard is presently at full capacity meaning that additional space would facilitate more varied work. It is submitted that this would support the growth of leisure boating activities in the region and that tourism attracted by the Boatyard will also indirectly support other local businesses also.
62. The appellant outlines that the appeal development supports an employment generating tourism and leisure use in a sustainable location, and that it is necessary for the functioning of, and would enhance the offering of, the existing Boatyard business. Connected to this, the appellant identifies support for the visitor economy in Policy IE4 of the LP which supports development that increases the contribution that tourism makes to quality of life, social and cultural well-being and economic growth, including development which promotes greater use of the River Thames. Supporting text recognises the Thames as a valuable asset serving a wide range of functions including boating. I recognise also the support in paragraph 85 of the Revised Framework for creating conditions in which businesses can invest, expand and adapt.
63. Whilst I do not have detailed evidence as to the need for additional facilities both in terms of increased numbers of vessels generally in recent years or by reason of the Boatyard being at capacity, I would accept that the appeal development provides a benefit in increasing capacity at a well-used facility and therefore potentially also the services on offer with a consequent boost to the local economy, quality of life, social and cultural well-being, whilst also enhancing the use of the Thames as a valuable recreational asset. On the available evidence, these matters together offer moderate support in favour of the appeal development.

Final balance

64. The appeal development whether in respect of the whole of the matters (operational development and MCU) or part of the matters (MCU only) represents inappropriate development within the GB and causes a loss of openness and conflict with GB purpose (a) as outlined. In accordance with the Revised Framework, substantial weight should be given to any harm to the GB. These developments both also have an unacceptable impact as regards flood risk.
65. In order for very special circumstances to exist, the other considerations raised need to clearly outweigh the totality of harm. On the evidence before me, the other considerations in support of the appeal development offer moderate weight in its favour and so do not clearly outweigh the totality of the harm. Consequently, there are not very special circumstances which justify accepting the appeal development.

Conclusion on ground (a) and the DPA

66. There is a failure to accord with policies in the LP connected to development on GB land and in areas of flood risk. Given these fundamental conflicts, there is conflict with the development plan read as a whole. No material considerations indicate a

decision other than in accordance with the development plan. The ground (a) appeal fails and planning permission will be refused in respect of the DPA.

Overall Conclusion

67. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

V Bond

INSPECTOR