



Appeal Decision

Hearing held on 30 October 2024

Site visit made on 30 October 2024

by T Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal Ref: APP/N0410/C/23/3334228

**Land west of Wexham Street, north of Stoke Green, Stoke Poges,
Buckinghamshire, SL0 0PA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the Act”).
 - The appeal is made by Mr James Roy Bowers against an enforcement notice issued by Buckinghamshire Council - South Area (South Bucks).
 - The notice was issued on 19 October 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, a material change of use of the Land to a mixed use, comprising storage and vehicle recovery yard, and the laying of hardstanding to facilitate the unauthorised use.
 - The requirements of the notice are:
 1. Cease the use of the Land for the purposes of storage and a vehicle recovery yard;
 2. Remove the storage containers, used in connection with the storage and a vehicle recovery yard uses, from the Land;
 3. Remove all vehicles, equipment and paraphernalia, used in connection with the storage and a vehicle recovery yard uses, from the Land;
 4. Rip up and remove the hardstanding (shown in the approximate position marked hatched on the attached plan), from the Land;
 5. Remove the scaffolding structures from the Land;
 6. Remove all materials and debris resulting from complying with steps 1-5 of this Notice, from the Land.
 - The period for compliance with the requirements is 9 months.
The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e), (f), (g) of the 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 Act.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - in Section 2, deleting all of the first sentence contained in brackets and insert the following words: “as shown edged in black on the attached plan”;
 - in Section 5(4) deleting “Rip up” and substitute instead “Break up”.
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 Act.

Application for Costs

3. An application for an award of costs was made by the appellant against the Council. This application is subject of a separate Decision.

Preliminary Matters

4. It was agreed¹ at the Hearing that the words “Rip up” in the requirement at Section 5(4) of the notice could be corrected to “Break up” without injustice to any party. I have therefore done so using powers available to me under s176(1) of the Act.
5. The Council’s statement of case did not include any detailed evidence relating to the appellant’s Transport Statement (TS), and went on to conclude (paragraph 8.3) that highway safety was no longer one of the reasons for refusing planning permission. Nonetheless it formed one of the Council’s objections to the development at the Hearing. In the interests of fairness it was agreed that the appellant, through his transport consultant, could respond in writing to the Council’s orally given objections following the close of the Hearing. I have taken that written response into account.
6. Also, after the close of the Hearing, the revised Framework² in December 2024 included some changes to Green Belt policy. In order to address the relevance of those changes to their respective cases the parties were able to submit further written comments. I have also taken these into account in reaching my Decision.

The Enforcement Notice – Validity – Grounds (e) and (b)

7. Inter-related matters raised by the appellant relating to the validity of the notice were raised under grounds (e) and (b). I will deal these matters together.
8. An appeal on ground (e) is that copies of the enforcement notice were not served as required by section 172. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to a breach of planning control) have not occurred as a matter of fact.
9. The appellant’s case argues:
 - a) the notice in Section 2 does not (as required by the ENAR³) properly identify the “*precise boundaries of the land*” affected by reference to the plan attached to the notice, and refers to a Land Registry (LR) title that is not attached; and
 - b) the area of land shown on the plan attached to the notice does not include the access track between the site and the highway. If it were to do so then not all persons with an interest in the land were served with copies of the notice.
10. With regard to 9(a) above, the notice includes an attached plan. It shows the boundaries of the land it seeks to attack edged in black. Land within the site shown hatched relates to the notice requirement at Section 5(4) to remove hardstanding. As such, the location of the boundaries of the land within the plan are clear, albeit the written description of the location in Section 2 of the notice does not specifically refer to the plan.
11. However, the location description in the notice and the plan, when taken together, clearly identify the land affected, and an ordinary reading of the notice as a whole would leave a person in no doubt as to the land affected. Confirmation of that being the case is plainly evident by the fact that the notice and plan, as drafted, did not prevent the appellant from understanding he was affected by the notice

¹ Statement of Common Ground

² National Planning Policy Framework (2024)

³ Reg. 4(c) Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

and from lodging his appeal. As such, I find the lack of a literal reference to the plan at Section 2 of the notice is no more than a minor drafting error. However, for the sake of future administrative clarity the error can be corrected without injustice to any party by inserting a reference to the attached plan.

12. The reference to a LR Title is a superfluous descriptor of no effect since no such LR Title is attached to the notice. Moreover, there is no necessity for there to be one. The notice can be clearly understood as I have set out above and hence the LR reference does not lead to any confusion as to the land affected. The notice can be corrected without injustice to any party by deleting the reference to the LR Title.
13. With regard to 9(b) above, while an enforcement notice plan might very often include a related access track, there may be reasons for it not to do so. The parties refer to planning units. If an access track forms part of a single planning unit it might well be included, but may not be if, for example, it serves different planning units in different uses. A track might also cross over a number of units. Such circumstances do not inevitably mean that such a track forms part of the primary use of any one of those units. While the appellant points to the Council's ground (a) statement referencing the refused planning application location plan (which includes the access), the Council does so solely for the purpose of arguing that the site is not within an 'urbanised environment' in their paragraph 4.4.
14. Notwithstanding the above, there is in any event no ENAR or other statutory requirement for an enforcement notice to include any plan at all, provided the *"boundaries of the land to which it relates"* are specified. This could in some cases be done by a specific property address for example, without needing to include a plan showing the property's access. Ultimately, it was a matter for the Council as to whether or not the access track should be subject of the enforcement notice. It not being so does not prevent the notice from being understood as to the land being enforced against.
15. To conclude; the notice and plan as drafted by the Council clearly identifies the land to which the notice relates. While the notice has minor errors it can be corrected without injustice to any party as I have set out previously. I will therefore correct it accordingly using powers available to me under s176(1) of the Act. No argument is made that the alleged use has not occurred on any part of the land identified in the notice and its plan, or that there was any failure of service of copies of the notice in respect of that land.
16. The appeals on grounds (e) and (b) therefore fail.

Appeal on ground (a)/deemed planning application

17. The appeal on this ground is that planning permission ought to be granted.
18. The appeal site is within the Metropolitan Green Belt and comprises part of a pattern of fields formerly used for agriculture and/or equestrian use. It is located to the north of Stoke Green on the western side of Wexham Street. Bordering the appeal site to the east is an area of land⁴ also in commercial use which runs along the rear of the Wexham Park Hospital car park, the hospital being located opposite the car park on the eastern side of Wexham Street.

⁴ The Council say the use of this land does not have planning permission

19. Access to and from the appeal site is by way of a roughly formed track with hedgerow/tree boundaries which runs from Wexham Street alongside the southern ends of the hospital car park and the land used for other commercial activity described above.

Main Issues

20. The main issues are:
- (i) Whether the use for storage and vehicle recovery purposes is inappropriate development in the Green Belt;
 - (ii) The effect on the character and appearance of the area;
 - (iii) The effect on highway safety;
 - (iv) The effect on ecology and biodiversity;
 - (v) If inappropriate development; whether any harm to the Green Belt 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.

Whether inappropriate development in the Green Belt

21. Policies GB1, GB2 and GB4 of the South Bucks District Local Plan (LP), taken together, do not now fully reflect the Green Belt policies of the revised Framework. As such, I have attached greater weight to the policies of the Framework in reaching my Decision.
22. Exceptions to being inappropriate development are set out at paragraphs 154 and 155 of the Framework.
23. Paragraph 154(g) provides for the partial or complete redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt. Paragraph 154(h)(ii) relates to engineering operations (hardstanding) and paragraph 154(h)(iv) relates to the re-use of buildings. These latter two are exceptions provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
24. I turn first to whether the appeal site is PDL. Section 336 of the Act defines “land” to include buildings, and the Framework defines PDL as land which has been “lawfully developed”. It excludes land that is or was last occupied by agriculture or forestry buildings. No planning permission was granted for the two single storey buildings⁵ on site previously used for equine purposes as part of a smaller site. That site now forms part of the significantly larger appeal site which, from the imagery supplied by the parties, appears to previously have been used for agriculture. There is no convincing evidence to indicate otherwise.
25. Since the largest (formerly agricultural) area of the site is excluded from the PDL definition, and the original smaller area of land where the two buildings are located was not lawfully developed, the appeal site does not constitute PDL.
26. With regard to openness of the Green Belt, the formerly open field area is now largely covered with general storage and parked vehicles, including industrial size containers, various types of vehicles, caravans, film industry props, catering trailers, plant equipment, scaffolding (covered with tarpaulin) used as a dry area, Portaloo units, a Portacabin unit, lighting units/trailers, piles of used tyres, and

⁵ Immune from enforcement action as operational development, but not immune with regard to the mixed use

other miscellaneous items. All of this stands on hardcore that has been laid in the field to facilitate the use. Overall, notwithstanding there is some screening from trees and boundary vegetation, the development has resulted in a substantial and harmful reduction in openness in both spatial and visual terms. It also encroaches into the countryside in conflict with one of the Green Belt purposes at Framework paragraph 143(c).

27. Since the site is not PDL and the development and use of the site results in significant harm to the openness of the Green Belt and in conflict with one of its purposes, it does not qualify as one of the exceptions referred to above, or indeed to any of the exceptions listed within Framework paragraph 154.
28. Whether the development would constitute an exception under paragraph 155 is dependent first on an assessment of whether it constitutes Grey Belt land, as defined in the Framework glossary, which also includes “any other land... that does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143”.
29. In this regard the Council refer to a 2016 Green Belt assessment⁶ (GBA) in arguing that the appeal site strongly contributes to the Green Belt purpose at paragraph 143(b) - to prevent neighbouring towns merging into one another.
30. However, the parcel of Green Belt land (General Area 81) referred to in the GBA relates to a substantially larger area of land (469.4 Ha) than the much smaller appeal site (approximately 0.7 Ha). As such, it is a very broad area-based assessment and which relates to separation gaps between all settlements, including villages, rather than just ‘towns’ which is the relevant consideration in terms of identifying Grey Belt land. Moreover, the Council have not stated which towns they consider would be affected. On the balance of the evidence before me, and from my own observations of the appeal site and surrounding area, I find that the appeal site itself does not strongly contribute to the Green Belt purpose at Framework paragraph 143(b). As such, the appeal site constitutes Grey Belt land.
31. The exception in respect of Grey Belt land in paragraph 155 is subject to meeting all of the criteria at (a) to (d) where relevant. Paragraph 155(d) is not relevant to this type of development and for reasons I set out later I find no conflict with paragraph 155(c).
32. With regard to satisfying paragraph 155(a) Grey Belt development must “not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan”. Undertaking that assessment relates to all five purposes at paragraph 143 in the context of the remaining Green Belt (hence outside of the appeal site) across the Development Plan area.
33. Although I have previously found the development site encroaches upon the countryside in conflict with the purpose at Framework paragraph 143(c) that related to the appeal site itself. In the context of 155(a) - the remaining Green Belt across the Development Plan area - there is no convincing evidence before me which persuades me that the five purposes, taken together, would be “fundamentally undermined”. As such, the requirement of paragraph 155(a) is met.
34. Contrary to the appellant’s view I find the use of the land for storage of vehicles in connection with vehicle recovery purposes is not an ‘emergency service’. While a

⁶ The Buckinghamshire Authorities Buckinghamshire Green Belt Assessment, March 2016

large open storage area might be desirable and useful for the purposes of the businesses on site there is no area-based assessment or other evidence submitted to show that alternative commercial sites that could accommodate such use/s are unavailable. Also, a demonstrable unmet need for this type of development has not been identified in the Development Plan. Consequently, the requirement of paragraph 155(b) is not met. As such, the development is not an exception to being inappropriate development in the Green Belt within Framework paragraph 155.

35. To conclude on this first main issue, the use of the site for storage and vehicle recovery yard is inappropriate development in the Green Belt in conflict with LP Policies GB1, GB2 and GB4 and the Framework. Inappropriate development is harmful by definition and to which I attach substantial weight.

Character and appearance

36. The appellant points to surrounding uses of the commercial yard to the east, the hospital car park beyond, the hospital itself off Wexham Street and residential, leisure and other uses beyond. I acknowledge the appellant's description could be termed urban fringe in terms of a wider area assessment of land use character.
37. However, other than the former small paddock area and stable buildings, the appeal site was undeveloped open countryside. There is no evidence before me to demonstrate otherwise and no evidence of the land ever having been granted planning permission or allocated for any form of development. As such, the wider area in terms of character is divisible; one part being a developed/urbanised area, the other being undeveloped and rural in character and appearance. This latter part is the predominant character of the area in which the appeal site is located.
38. Consequently, notwithstanding that existing boundary screening could be enhanced so that visibility of the site is further limited, the use of the appeal site as large scale commercial storage and vehicle recovery yard, as previously described, results in a highly incongruous and significantly harmful impact on the previously undeveloped rural character and appearance of the area. While conditions could be imposed to restrict stacking and overall height of storage, and also to limit or prohibit lighting during hours of darkness, this would not adequately mitigate the harm I have identified.
39. As such, the development conflicts with the requirements of LP Policy EP3 and Core Strategy Policy CP9 which, taken together, require that scale, layout and use are compatible with the character of the site itself and the locality in general, and not result in harm to landscape character.

Highway safety

40. Although the access track, including its junction with the highway, is not included within the enforcement notice that does not mean that any related off-site impacts such as highway safety (or any others, for example noise disturbance or odours) would not be relevant considerations to take into account as to the merits of whether planning permission should be granted.
41. The Council's main point of concern related to the effect on highway safety on Wexham Street. That results, it is argued, from the access track having an inadequate width to accommodate large vehicles side by side; the surfacing of the

track having a loose material which could be dragged onto the highway; and the volume of additional traffic generated by the use would adversely affect the safety and flow of users of the existing distributor road network.

42. Having regard to the nature of the storage and vehicle recovery use on the appeal site I am satisfied that the vast majority of vehicles entering or exiting the track at its junction with Wexham Street are not HGVs. This is a finding also supported by the appellant's survey of vehicle movements. The access track varies in width and as I observed myself has the scope to be further widened so that any HGVs could pass side by side. The finished surfacing of the track could also be improved whether by metalling or otherwise. These objections to the development could therefore be overcome through the imposition of a retrospective planning condition.
43. The appellant's evidence, undisputed by the Council, indicates an average 62 vehicle movements along the track per day. While this is an intensification of movements compared to former uses for agriculture, it is not a significant one in the context of the volume of traffic using Wexham Street and the wider network, amounting to approximately 10,500 vehicles per day⁷.
44. In conclusion; subject to a planning condition being imposed, I am satisfied there would be safe and suitable access to the site for all users and there would be no unacceptable impact on highway safety in accordance with the provisions of paragraph 115 of the Framework. As such, there would be no material conflict with LP Policy TR5 or with Buckinghamshire Council Local Transport Plan 4.

Ecology and biodiversity

45. As confirmed in the Planning Practice Guidance a requirement for biodiversity net gain (BNG) does not apply to retrospective planning permissions granted under s73A, and has not yet been commenced for deemed planning permissions or successful enforcement appeals. As such, there is no requirement for the appellant to demonstrate a BNG in this appeal.
46. However, that does not mean that biodiversity is not a relevant material consideration or that any harm to or loss of biodiversity should not be reasonably mitigated where appropriate.
47. Notwithstanding the above, the appellant has proposed a scheme to achieve a 10% BNG, although the Council say there is insufficient information in the proposal to demonstrate that would be the case.
48. In my view a planning condition to secure a scheme of mitigation (not seeking a net gain) for any identified loss of biodiversity would be reasonable and enforceable. Such a condition could be of a retrospective format such that a detailed site assessment and any mitigation measures could be required to be submitted to the Council for approval, and then carried out, within a set timetable. The condition would also require the use of the site to cease if the condition requirements were not complied with.
49. Subject to such a condition, I am satisfied that any loss of biodiversity could be adequately mitigated to an acceptable level. As such, there would be no material

⁷ Appellant's Transport Statement, Appendix D

conflict with CS Policy CP9 in so far as it seeks to ensure that nature conservation interests would not be harmed.

Other considerations

50. Other considerations set out in support of allowing the appeal are set out by the appellant. These include:-

- economic and social benefits resulting from the employment generating use of the site;
- the sustainable geographical location of the appeal site in terms of the viability of the business related to the M4, M40 and M25 motorways, and that the location also minimises the wait time for people in broken down vehicles; and
- although not a requirement a 10% BNG could be achieved as a benefit;

Planning Balance and Conclusion on ground (a)

51. Framework paragraph 153 sets out that inappropriate development should not be approved except in very special circumstances. Also, 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 considerations.
52. As I have set out earlier, the development is inappropriate development in the Green Belt which is harmful by definition. I attach substantial weight to that harm in accordance with Framework paragraph 153. Additionally, I have found the development results in significant harm to the character and appearance of the area, to which I attach further weight.
53. Subject to planning conditions being imposed there would be no harm in respect of the effect of the development upon highway safety and biodiversity. However, these are neutral in weight in the overall balance.
54. Turning to the other considerations set out by the appellant, the economic and social benefits from employment, and the sustainable location of the site including timely access to recovery services for broken down vehicles on the highway, are benefits. However, there is no evidence before me which demonstrates that the same benefits could not be achieved on alternative sites without resulting in the harms I have identified. Accordingly, I attach very little weight to these benefits.
55. Even if a 10% BNG were possible it would be a very small benefit of little weight overall when weighed against the substantial weight I attach to the harm I have previously described.
56. For these reasons I find that the harm to the Green Belt and to the character and appearance of the area is not clearly outweighed by other considerations.
57. Although a temporary planning permission would reduce the harm by a time limit, the use and its harmful effects would nonetheless continue without justification in conflict with the Development Plan. As such, the continuing harm even for a limited period of time would not be clearly outweighed.
58. To conclude; the harm to the Green Belt by reason of inappropriateness and the additional harm to the character and appearance of the area, resulting from the

development, is not clearly outweighed by other considerations. As such, very special circumstances have not been demonstrated and the development conflicts with the Development Plan as a whole.

59. For all the above reasons the appeal on ground (a) fails.

Appeal on ground (f)

60. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.
61. The notice at Section 5.1 clearly requires the use of the site, as described in the breach of planning control, to cease. The cessation of the use is not therefore an excessive requirement in terms of remedying the breach, and there is no need for the word “unauthorised” to be inserted.
62. The storage of containers, vehicles and other moveable items and equipment are not required to be identified by a specific location on the notice plan given their distribution across the site and their portable/moveable nature. The requirements clearly specify the remedy of removing the storage containers, vehicles, equipment and other associated paraphernalia from the land and for the use to cease. As such, the requirements are not excessive for the purpose of remedying the breach and there is no need for them or the notice plan to be corrected.
63. The notice plan identifies, by hatching, the area from which hardstanding is to be removed. It is not an excessive requirement in order to remedy the breach.
64. There is no evidence before me to argue that the scaffolding structures were erected for any purpose other than to facilitate the unauthorised use of the site. As such, there is no need for them to be additionally listed in the breach of planning control at Section 3 of the notice. The requirement to remove them is not excessive in order to remedy the breach. The appeal on ground (f) therefore fails.

Appeal on ground (g)

65. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 9 months. The appellant seeks a period of 12 months.
66. I accept that finding and securing an alternative site (or sites) could potentially be difficult and time consuming. However, a period of 12 months would be tantamount to a temporary planning permission which I have previously rejected. I am also mindful that the harm resulting from the breach of planning control should be remedied as soon as possible. In this regard I have not been provided with any convincing information to indicate that finding and securing an alternative site/s and complying with the requirements would take longer than 9 months. Overall, I find that 9 months is reasonable. The appeal on ground (g) therefore fails.

Thomas Shields

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Emily Temple BSC (Hons) MSc MRTPI	Executive Director, ET Planning
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John Russell BEng (Hons) CMILT MCIHT	Director, Motion Transport
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FOR THE LOCAL PLANNING AUTHORITY:

Tristan Miller	Planning Enforcement Officer
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Gemma Davies	Planning Enforcement Manager
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Kaya Allnut	Senior Planning Officer
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Ian Severn	Senior Planning Officer
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Agni Arampoglou	Ecology Officer
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Tristan Higgs	Senior Highways Development Management Officer
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