



Appeal Decision

Inquiry held on 24 June 2025

Site visit made on 23 June 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Appeal Ref: APP/N0410/C/25/3361284

Land at Bellswood Farm, Bellswood Lane, Iver, Buckinghamshire, SL0 0LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Paul Kelly against an enforcement notice issued by Buckinghamshire Council - South Area (South Bucks).
 - The notice was issued on 7 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of hardstanding and erection of fencing and gates.
 - The requirements of the notice are:
 1. Rip up and remove the hardstanding (shown in the approximate position marked hatched on the attached plan);
 2. Remove the fencing and gates (shown in the approximate position marked as a dotted line on the attached plan);
 3. Back-fill any holes or level changes created by the removal of the hardstanding from the Land and seed the Land with grass seed (shown in the approximate position marked hatched on the attached plan);
 4. Remove from the Land all material and debris resulting from complying with steps 1 and 2 of this Notice.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Applications for Costs

2. Applications for costs were made by Mr Paul Kelly and the Council against each other. These applications are subject of separate decisions.

The Appeal Site

3. The area of land attacked by the enforcement notice is shown by the hatched area on the plan attached to the notice and is bounded by a mixture of fencing, bunding and trees/hedgerow. This area forms part of the wider appeal site at Bellswood Farm, located on the North side of Bellswood Lane, Iver.

Procedural Matters

4. The appeal was originally lodged on ground (d) only. However, it became clear from the appellant's written submissions prior to the Inquiry opening that part of his case, relating to works undertaken to the land in 2024, properly fell within ground (c); that the works did not amount to a breach of planning control.

5. In this regard, the parties were content that their evidence in respect of the chronology and description of events over time was sufficient for them to continue with ground (c) without the need for adjournment and without injustice. Having regard to their evidence and submissions on this point I agreed with those views. Therefore the appeal also proceeds on ground (c).
6. Documentary evidence to the Inquiry included proofs of evidence (PoE) and appendices from each of the main parties witnesses¹, and a statement and appendices from a third party.² All oral evidence from the witnesses at the Inquiry was given under Oath or Affirmation.
7. The appeals made on grounds (c) and (d) are 'legal' grounds. The Courts have established that the onus of proof in these grounds falls to an appellant³ with the evidence tested on the balance of probabilities.⁴ Accordingly, an appellant is required to provide sufficient evidence in making their case.⁵ Also, an appellant's evidence should not be rejected simply because it is uncorroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.⁶ The advice in the national Planning Practice Guidance (PPG) also reflects these Court judgments.

Appeal on ground (c)

8. For an appeal on ground (c) to succeed the appellant needs to show, on the balance of probabilities, that the alleged laying of hardstanding does not constitute a breach of planning control.
9. The appellant's case on ground (c) relates only to the laying of hardstanding alleged in the notice, and not the fencing and gates.
10. Development requiring planning permission is defined at s55 of the Act to include operational development being the carrying out of building, engineering, mining or other operations in, on, over or under land.
11. During my visit to the appeal site, I saw that hardstanding (scalpings) had been laid across the area shown hatched on the enforcement notice plan. I was also able to look at several prepared inspection pits that had been dug by the appellant for the purpose of my visit.
12. Having regard to everything I saw it appears that under the top layer of scalpings a further layer of what appeared to be a mixture of building rubble/concrete hardcore lay beneath, with soil/clay at the deepest part of the inspection pits. The appellant states this lower level was hardstanding that had been previously laid in 2019. In oral evidence he described how it was laid using contractors and plant equipment and accepts, and I agree, that it was operational development that required planning permission.
13. Consequently, on the basis of my own observations and from all the evidence before me, it is clear that all of the hardstanding laid on site (regardless of when it

¹ Mr Kelly and Mr Johal

² Ms Barnes

³ *Nelson v SSE* [1962] 13 P&CR 151

⁴ *Thrasivoulou v SSE & Hackney LBC (No1)* [1984] JPL 732

⁵ *Ravensdale Ltd v SSCLG & Waltham Forest LBC* [2016] EWHC 2374 (Admin)

⁶ *Gabbitt v SSE & Newham LBC* [1985] JPL 630,

- was laid) was a breach of planning control. As to when some or all of it was laid and whether immune from enforcement action is dealt with later in ground (d).
14. Turning to the activities carried out in 2024 the appellant stated in his PoE they were undertaken in January 2024 and comprised the scraping away of weeds followed by road scalpings being laid over the top of pre-existing existing hardstanding. This he contends amounted to maintenance and repair of the original hardstanding (said to be immune) and does not constitute development that requires planning permission.
 15. However, in cross-examination he gave further detail of the 2024 groundworks. He stated that a full size excavator to scrape the land, along with other plant equipment including a dumpster, roller, and other machinery, had been rented and/or borrowed, and that lorry loads of road scalpings sourced from local building merchants had been spread across the site. The works were carried out by himself along with other workers employed by him over a period of about 3 weeks.
 16. Even on the basis of this account alone of what occurred, the operations go far beyond what could reasonably be said to be maintenance and repair of an existing hardstanding. The works involved large scale engineering of the land followed by a substantial quantum of material being deposited and laid by a team of workers using plant equipment over several weeks, and across a considerably large area of land in excess of 4,000m². As such, there is no doubt in my mind that the 2024 works, even limited to those claimed by the appellant, comprised significant building operations requiring planning permission.
 17. Notwithstanding the above, the appellant's oral evidence is inconsistent with contemporaneous photographs⁷ of the 2024 groundworks at different stages, taken by a third party from around the boundaries on 5 April and 12 April 2024. In my view these photographs show a deep scraping away of soil across the site towards the boundaries, but do not show any evidence of the remains of the hardstanding the appellant says was laid previously, and as I saw evident in the inspection pits I observed during my site visit. While the appellant was adamant the earlier material was present at the times the photographs were taken, he accepted that it was not visible in any of the photographs.
 18. For these reasons I disagree with the appellant that the description of "laying of hardstanding" in the alleged breach of planning control in the notice is inaccurate, since that is clearly what took place, even if at different times. It constitutes operational development as defined at s55 of the Act and required planning permission.
 19. No permission for the hardstanding has been granted by the Council, or otherwise available within the GPDO⁸. No argument was made to the contrary. As such, the development carried out is a breach of planning control, thus the appeal on ground (c) fails.

Appeal on ground (d)

20. The appellant's case on this ground also relates only to the hardstanding. The appellant must show, on the balance of probabilities, that the hardstanding was

⁷ Johal PoE appendices BJ17, and Barnes appendices NB/1, NB/2

⁸ Town and Country Planning (General Permitted Development) (England) Order 2015

substantially completed more than 4 years before the notice was issued, hence before 7 January 2021.⁹

21. Clearly the operations that occurred in 2024 cannot be immune. The appellant's case is that hardstanding was originally laid in 2019 and this became immune by 2023. However, as I set out earlier¹⁰ the dated photographs¹¹ of the site at its initial stage of works do not show any evidence of the lower level of hardstanding material I saw in the inspection pits I viewed on site.
22. The parties refer to a number of Google aerial images. Taken in isolation, such images are not absolutely conclusive of what was on the ground at a specific point in time since the historical dates assigned to the images are not certified as being the actual date on which the images were captured and, in my experience, they are not always the same. However, neither party disputed the accuracy of the dates assigned to the images and there are no other factors before me which lead me to conclude otherwise. As such, I consider it more probable than not that the dates on the aerial images are accurate.
23. With regard to the hatched area on the enforcement notice plan the June 2018 aerial image shows it as mainly dark green colour, consistent with vegetation cover and similar to some other fields in the nearby area. The June 2019 image differs showing the area having a light brown surface; this the appellant says is the original hardstanding laid in 2019 upon which there are approximately 200 parked cars, also visible in the image.
24. However, while the appellant claims the surface in the 2019 image is comprised of compacted 300mm of type 1 crushed concrete, I find the image itself does not show the physical material from which the surface is constituted. On plain examination of the image it shows nothing more conclusive than a change from green colour to a light brown colour. This is unsurprising given the technical limitations of such high level aerial imagery. Hence, by itself the 2019 image adds very little evidential weight in support of the appellant's case.
25. Also, the Council point to 'tracking' from vehicles within the brown coloured area, consistent with their case that the "original surface" was simply compacted soil,¹² and that the brown colour and appearance is the same as an adjacent field in a 2020 aerial image which at the time had been scraped back to soil and tracked by vehicles.
26. As I stated previously there are no conclusive details of the physical composition of the surface due to the technical limitations of the images. However, added to the Council's interpretation of the images is the evidence of Mr Johal who inspected the site (including this current area of the appeal site) on 18 January 2021 and 8 November 2022 and who states that no hardstanding was present at those inspections. This directly contradicts the appellant's version of events.
27. Photographs taken/submitted¹³ by the appellant of the hardstanding are ambiguous as they are undated.

⁹ The Levelling Up and Regeneration Act (2023) - transitional provisions is 4 years for substantial completion before 25.04.2024

¹⁰ Paragraph 17 supra

¹¹ Johal PoE appendices BJ17 and Barnes appendices NB/1, NB/2

¹² Johal PoE, Para. 4.8, 4.9 and orally

¹³ Appellant's Statement of Case

28. Additionally, the appellant completed and signed a Planning Contravention Notice on 9 September 2024 in which he stated the hardstanding was laid in 2018. That is ambiguous to the 2018 aerial image (with green vegetation cover) and the Council say this explains the subsequent change in his evidence to it being laid in 2019. The appellant's lack of clarity in his chronology of events was also apparent by his acceptance at the Inquiry that the 2024 activity occurred in April, and not January as he previously claimed.

Conclusion on ground (d)

29. As set out earlier¹⁴ the onus of proof falls to the appellant and is tested on the balance of probabilities. While his evidence should not be rejected simply because it is uncorroborated, he must nonetheless provide sufficient evidence in making his case. In this regard I find that he has not done so.
30. Despite the substantial level of development carried out, no documentary evidence relating to it (for example emails, supplier orders and invoices, payments, receipts, hire details or other similar documents) have been submitted. The aerial imagery he relies upon does not show what he claims it to show, and is contradicted by the Council's evidence. His own undated photographs are also ambiguous. The credibility of his evidence is also undermined to some degree by inconsistencies in his recollection of when activities took place.
31. Overall, his evidence falls far short of being precise and unambiguous and his version of events is also contradicted by other evidence. Having regard to all of the evidence before me, I conclude the appellant has failed to discharge the duty upon him to show, on the balance of probabilities, that the breach of planning control was immune from enforcement action at the date the enforcement notice was issued.
32. The appeal on ground (d) therefore fails.

Thomas Shields

INSPECTOR

¹⁴ Paragraph 7 supra

APPEARANCES

FOR THE APPELLANT:

Sam Dodd	Authorised Designs Limited
Paul Kelly	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Michael Rhimes	Barrister
Billy Johal	Senior Compliance and Enforcement Officer

DOCUMENTS SUBMITTED AT THE HEARING

DOC 1	Large A3 versions of submitted Google images
DOC 2	Opening statement Sam Dodd
DOC 3	Opening statement Michael Rhimes
DOC 4	Closing submissions Michael Rhimes
DOC 5	Closing submissions Sam Dodd
DOC 6	Costs application – Michael Rhimes
DOC 7	Costs application Sam Dodd