



Appeal Decision

Site visit made on 16 July 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

**Appeal Ref: APP/Q5300/C/24/3340506 and APP/Q5300/C/24/3340557
Land and Buildings adjoining the north side of the Drayton Nursery,
Cattlegate Road, Enfield EN2 9DJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Xhafer Daci on behalf of Ledd Construction Ltd and Mr Loizos Constanti on behalf of Marshall Laundry Services Ltd, respectively, against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice was issued on 14 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the part change of use from nursery (Sui Generis) to a scaffolding business (Use Class B8) (outlined in blue for identification purposes only).
 - The requirements of the notice are to:
 1. Cease the use of the Premises in connection with the scaffolding business (Use Class B8) (outlined in blue for identification purposes).
 2. Cease all vehicle movements in connection with the unauthorised use as a scaffolding business.
 3. Remove all portakabins positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 4. Remove all racking positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 5. Remove all scaffolding poles positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 6. Remove all wooden scaffolding boards positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 7. Remove all shipping containers positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 8. Remove all plant/machinery positioned on the Premises in connection with the unauthorised use as a scaffolding business.
 9. Remove all skips stored on the Premises in connection with the unauthorised use as a scaffolding business.
 10. Remove all rubbish on the Premises in connection with the unauthorised use as a scaffolding business.
 11. Remove all resulting waste materials from the Premises.
 - The period for compliance is three calendar months after this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990, as amended.
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Formal decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Preliminary matters

2. Subsequent to the Council refusing planning permission for the change of use from a nursery to a scaffolding business in 2023 the decision was upheld in January 2024 following an unsuccessful appeal (*APP/Q5300/W/23/3316297*). With the unauthorised use continuing the Council then saw it expedient to issue an enforcement notice requiring for the unauthorised scaffolding business use to cease.
3. Given that the current appeal, once again, involves an appeal requesting that planning permission be granted, the findings of the previous Inspector, as set out in his recent appeal decision letter, must hold significant weight.
4. Section 171B(3) of the 1990 Act, as amended, indicates that where there has been a breach of control relating to the use of land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The appeal on ground (d)

5. An appeal on ground (d) is that the development is immune from planning control due to the passage of time. The burden of proof is on the balance of probabilities, and the onus of proof is on the applicant/appellant(s).
6. In essence the appellant(s) must demonstrate, on the balance of probability, that the breach of control, has continued on an uninterrupted basis for a period of at least ten years prior to the issue of the enforcement notice. In this particular case the appellant must therefore, at the very minimum, account for the ten period from 14 February 2014 (exactly ten years previously); the date material to this appeal. Accordingly, it is necessary that the evidence in support of the lawfulness claim has precision and is unambiguous.
7. The appellant, Xhafer Daci, by way of point h) on page 11 of his Statement indicates that the site has been used as a scaffolding business since 2017. On this basis he is accepting that the material change of use from a horticultural nursery took place three years after the said material date, and the evidence necessary to show immunity from planning control does not, therefore, exist.
8. On the above basis the appeal on ground (d) cannot succeed.

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

9. The recent unsuccessful appeal against the Council's decision to refuse planning permission for the change of use from the former nursery to a scaffolding business was issued on 29 January 2024. Given this decision, and from my findings, I have taken the main issues in this appeal to be:
 - 1) whether the location of the development is consistent with the Council's spatial policy;
 - 2) given that the development represents inappropriate development in the Green Belt, the effect on openness and whether very special circumstances exist to override the policy objection; and
 - 3) the effect of the development on the local highway network.

Reasons

10. I have carefully read through the Inspector's decision letter and I must agree with his reasoning and conclusions on all the above main issues. Accordingly, I do not intend to reiterate the text. Instead, I will summarise the matters involved.
11. The appeal site lies within the Crews Hill Defined Area, characterised by horticultural uses. This is not an urban fringe location as the appellant asserts. The use of the land as a scaffolding business is inconsistent with the prevailing land uses and, by its nature, is harmful to the locality, conflicting with the aims and requirements of policies DMD90 and DMD91 from the Council's Development Management Document (DMD). Given that the said policies, amongst other things, seek to support horticultural uses in Crews Hill, and also improve its general appearance, it is clear that permitting the continuation of the unauthorised use would be harmful.
12. My findings are reinforced by the site's location within the Metropolitan Green Belt. For the purposes of the National Planning Policy Framework (the Framework) the use constitutes inappropriate development within the Green Belt, being at odds with the Green Belt's purposes and, by definition, is harmful thereto. Further, the use is also damaging to the openness of the Green Belt; an essential characteristic of the Green Belt.
13. I note that the appellant considers that the use is not inappropriate, and has no adverse impact on the openness of the Green Belt. I must disagree. Openness is recognised as relating to the absence of built form, and has a spatial as well as a visual aspect. Screening does not necessarily mitigate in this regard as it will not alter the fact that the inappropriate use impacts more widely than that which might, or might not, be visible. In this regard the Supreme Court has held that a consideration of openness is essentially a matter for the decision maker on a case by case basis.
14. I must similarly conclude here that the very special circumstances necessary to override the fundamental policy objection on the Green Belt issue have not been demonstrated and the development thereby conflicts with relevant advice within the Framework along with policies DMD82 and DMD89 and also policy CP33 of the Enfield Core Strategy.
15. In terms of the use's effect on the local highway network the Inspector says that he was not satisfied that sufficient information has been provided to demonstrate the appellant's claim that the development would not unduly impact on, and be prejudicial to, highway safety. However, despite this, no report has seemingly been commissioned, let alone produced, by specialist consultants in support of the appeal.
16. It appears that the only additional point is that on page 9 of his Statement of Case where the Mr Daci says he would be happy to provide further details regarding the management of the vehicles. No explanation, though, is given as to why such details have not yet been forthcoming and, in the absence of such, I am unable to assess and weigh up any relevant merits and impacts consequent upon the use.
17. The Framework does seek to promote economic growth, but this should not be at the expense of other important considerations such as those that arise here.

Conclusion on the DPA

18. I am unaware of anything of significance that may have changed since the previous appeal decision letter was issued in January 2024, and neither appellant has introduced anything of substance that was not before the previous Inspector.
19. I have found resultant harm on all three main issues and, in the absence of firm details addressing the points raised by the then Inspector showing intended measures in an attempt to ameliorate the concerns and the various harms identified, I have no reason to find differently to that of the previous decision.
20. For the reasons given above I conclude that the appeal should not succeed . I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

The appeal on ground (f)

21. An appeal on ground (f) is that the required steps for compliance, stipulated in the enforcement notice go beyond what is reasonably necessary to address any harm caused by the development.
22. In this instance the enforcement notice has clearly been issued to remedy the breach occurring , and I consider that all the required steps are consistent with the Council's attempt to secure the cessation of the use of the land as a scaffolding business.
23. As regards which steps the appellants feel are excessive no descriptive details have been provided here or why this is considered to be the case. The appellant says that he is ready to "*amend the site through its size and bulk according to the character of the area, neighbouring amenity, materials, design and appearance.*" It is not obvious what is meant by this and, again, therefore, in the absence of such there is nothing for me to assess and comment upon.
24. In light of the above the appeal under ground (f) must also fail.

Timothy C King

INSPECTOR