



Appeal Decision

Site visit made on 18 August 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2025

Appeal Ref: APP/C1760/C/23/3315612

Land to the rear (north west) of 3 Premier Way, Abbey Park Industrial Estate, Romsey SO51 9DQ

- 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 appeal is made by Mr David Carr of Pipe Stock Ltd against an enforcement notice issued by Test Valley Borough Council.
- The enforcement notice was issued on 21 December 2022.
- The breach of planning control as alleged in the notice is: Without planning permission (i) the making of a material change in use of the land to use for open storage within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 and, (ii) the carrying out of operational development on the land by the formation of a concrete hardstanding, associated drainage and the erection of palisade fencing greater than 2m in height on the land.
- The requirements of the notice are:
 - (i) Permanently cease the use of the Land for open storage purposes.
 - (ii) Permanently remove from the Land the palisade fencing located in the approximate position, marked by dotted blue line, on the notice plan.
 - (iii) Break up the concrete hardstanding and permanently remove all resulting materials (including surface finish, base and sub-base layers) along with the surface drainage, located in the approximate position, as marked in black hatching, on the notice plan.
 - (iv) Lay loose top soil, six (6) inches deep and evenly spread, over the area of land located in the approximate position, as marked in black hatching, on the notice plan.
 - (v) In the approximate position, as marked in black hatching on the notice plan, plant to the following specification:
 - a. Plant to a stock density of not less than 2500 trees per hectare (approximate to a 2m x 2m planting grid).
 - b. Tree planting to be evenly spaced and comprise a mix of 20% Hazel *Corylus avellana*, 10% Hawthorn *Crataegus monogyna*, 10% English Oak *Quercus robur*, 25% Field Maple *Acer campestre*, 15% Birch *Betula pendula*, 10% Beech *Fagus sylvatica*, 10% Wild Cherry *Prunus avium*.
 - c. To be planted as bare root 40 – 60cm whips, individually protected and staked in 1.2m transparent twin-wall tree shelters into weed free scrafs of 1m diameter,
 - d. Aftercare to be provided annually for five years after planting is completed. This aftercare shall include replacing all failures, re-firming and adjustment to stakes and tube, maintaining a 1m diameter weed free disk around each tree.
- The period for compliance with the requirements is: Three months for requirements (i) – (iii) and the next planting season (October to March) for requirements (iv) and (v).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld subject to variation.

The ground (a) appeal

Main Issues

2. The main issues are:

- the effect of the development on the character and appearance of the area, having particular regard to the loss of trees; and,
- the effect of the development on ecology.

Reasons

3. The site is within the defined settlement boundary of Romsey. It is accessed via an industrial estate and situated to the rear of one of the units in a tract of predominantly wooded land between the commercial units and A27 highway.
4. The development relates to the use of a parcel of land for storage purposes including the laying of a concrete hardstanding, associated drainage and palisade fencing, which have created a yard.

Character and appearance

5. Despite the location of the site, there is a well treed tract of land and thus verdant character between the commercial units and highway. The loss of an area behind this one unit is however limited in its impact owing to its close proximity to the unit coupled with the level of surrounding tree cover and general vegetation. The yard therefore also integrates with this built development. Public vantage points of the site, even from the highway, are also very limited as a consequence.
6. The loss of this green infrastructure has therefore not had an unduly negative impact on this tract of land and has not opened-up the industrial estate to wider views, including from the housing estate on the opposite side of the A27.
7. The creation of the yard has therefore had little detrimental impact on the appearance of the immediate area or verdant character of the surrounding area or landscape.
8. Given the yard is enclosed by fencing and there is now a Tree Preservation Order (TPO) on the remaining tract of land, I am not persuaded that the development gives rise to a precedent or future pressures to the surrounding tree cover.
9. I conclude the development is not unacceptably harmful to the character and appearance of the area, having particular regard to the loss of trees, and accords with Policies E1, E2, E6 and COM2 of the Test Valley Borough Revised Local Plan DPD 2011-2029, January 2016 (the LP). These policies, amongst other things, require development to integrate, not have a detrimental impact on the appearance of the immediate area, not have a negative impact on the function of green infrastructure and be appropriate to the other policies of the LP. The absence of this planning harm attracts neutral weight.

Ecology

10. An ecological survey was undertaken for the appellant in April 2022. Amongst other things, the compensatory planting of native trees is recommended to

ecologically account for the loss of the trees that were felled to make way for the yard. A suitable area for planting has then been identified.

11. However, that identified area is outside of the land affected by the notice and therefore the area covered by the deemed planning application. This would also be the case for any other planting that has been advocated by the appellant. That the identified area is owned by one of the parties who were served with a copy of the notice does not change the position that a standard planning condition cannot lawfully seek to control or make requirements on wider land in circumstances such as this. There is then little evidence of a planning mechanism before me to lawfully secure the planting on the identified area or that expanding the land affected by the notice would both secure the planting and not lead to injustice.
12. I have no reason to disagree with the findings of the appellant's ecological survey. However, given the appellant's own compensatory measures cannot be delivered, the retention of the yard would clearly be inappropriate.
13. I conclude the development is harmful to ecology in contravention of Policy E5 of the LP. This policy, amongst other things, states development likely to result in the loss, deterioration or harm to habitats will not be permitted unless measures can be provided and secured through planning conditions or legal agreements that would avoid, mitigate or as a last resort compensate for the adverse effects likely to result from development. This is a planning harm to which I attach substantial weight.

Other considerations

14. The evidence is that a thriving business operates from the adjoining commercial unit, employing local people, and which has necessitated the need for the yard to meet its current level of commercial orders. That being so, the loss of the yard would not automatically trigger the need for the business to relocate but could also result in some reduction of the business to previous levels or the need to find a supplementary site for storage. There is little suggestion the business would need to close, and so whichever course of action is preferred by the appellant, I afford the implications of the loss of the yard moderate weight.
15. I am not persuaded there has been intentional unauthorised development given the evidence of the appellant's efforts to liaise with the Council, in particular, to ensure the trees were not the subject of a TPO.

Conclusion

16. There are not material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the ground (a) appeal fails.

The ground (f) appeal

17. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.

18. It is generally not unreasonable for land to be restored to its condition prior to unauthorised works being undertaken. It is common ground that 17 trees were removed, even though they were not protected.
19. Whilst the efforts of the Council to restore the land are commendable, the requirements are very prescriptive and would very likely go beyond the mere restoration of the land given the number of trees that would likely need to be planted.
20. Whilst it is not possible to restore the land with similarly mature trees, it would not be excessive to require the decompaction of the ground followed by the planting, staking and protection of 17 native species trees to the specification already provided by the Council.
21. It is then not possible within the context of an enforcement notice to require a 5-year period of aftercare.
22. The ground (f) appeal therefore succeeds to this extent.

The ground (g) appeal

23. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short.
24. Whilst the yard might be beneficial to the needs of the business, I am not persuaded that its loss would automatically trigger the need for the business to relocate.
25. A period of 9 months for the cessation and removal requirements would however strike a more appropriate balance and which will also allow the appellant to explore further options, including the submission of a planning application with an appropriate mechanism in place in light of my above findings. That would however be a subsequent matter entirely for the parties.
26. The appeal on ground (g) therefore succeeds to this extent.

Overall Conclusion

27. For the reasons given above I conclude that the appeal should not succeed. I shall therefore uphold the enforcement notice with variations.

Formal Decision

28. It is directed that the enforcement notice be varied by:

- deleting the words in sections 5. (iv) and 5. (v) of the notice in their entirety and replacing them with the words '*(iv) De-compact the resultant ground and plant 17 native species trees over the area of land as marked in black hatching on the plan attached to the notice. Tree planting to be evenly spaced and planted as bare root 40-60cm whips, individually protected and staked in 1.2m transparent twin-wall tree shelters into weed free scrafses of 1m diameter.*'
- substituting '9 months' as the time for compliance in section 6. (i) of the notice.
- deleting the words 'and (v)' from section 6. (ii) of the notice.

29. Subject to these variations the appeal is dismissed and 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.

Paul T Hocking

INSPECTOR