



Appeal Decision

Site visit made on 15 July 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/G5180/C/24/3353097

Land adjacent to Jack Frost Pet Products, Holwood Farm, Shire Lane, Keston BR2 6AA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Allan Frost of Jack Frost Pet Products against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 10 September 2024.
- The breach of planning control as alleged in the notice is without the required planning permission, the material change of use of the land from agriculture to parking and storage with, for the purpose of those non-agricultural uses, the laying of hard standing and erection of fencing along the north-eastern and north-western boundaries.
- The requirements of the notice are to:
 - (a) Cease use of the land for parking
 - (b) Cease use of the land for storage
 - (c) Remove all vehicles and stored items
 - (d) Remove the hard standing
 - (e) Remove the fencing along the north-eastern and north-western boundaries
 - (f) Restore the land to its condition before the breach of planning control took place
- The period for compliance with the requirements is: 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. The enforcement notice alleges the change of use of land to parking and storage and that these are non-agricultural uses. The appellant suggests that the storage relates to hay and bulky items for the neighbouring Jack Frost Pet and Country Store, including hay and other produce from the land that is farmed. The parking relates to agricultural machinery and overflow parking for the retail store. From time to time, the land is also used for other parking and storage, such as by charitable and public bodies such as the Metropolitan Police, London Fire Brigade and those doing sponsored events along the adjacent London Loop public footpath.
2. I asked the parties whether the allegation should allege a mixed use to include retail and agriculture. The retail store is not part of the same planning unit as the appeal site. The storage and parking taking place is, therefore, separate from the neighbouring retail use. As a result, that retail use does not need to be referred to in the allegation. Similarly, whilst parking and storage includes that used for agriculture, the appeal site has been separated from the surrounding land. The parking and storage use is separate from the agricultural and retail uses, such that

the description within the allegation does not need to refer to retail or agriculture within the parking and storage use.

3. Nevertheless, the allegation relates to a mixed use and, on the balance of probability, I consider that includes some agricultural storage and parking. The reference to non-agricultural uses is unclear in that context and, as a result, it would be clearer to refer to it as a mixed use. The provisions of section 176(1) of the Act give Inspectors wide ranging powers to correct or vary enforcement notices in order to get them “in order”, provided that such alterations would not result in injustice to any party. This change is only required for clarity, so would not cause injustice to either party. On that basis, I will correct the notice in this regard.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

4. The main issues are:
 - Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; and
 - Whether the harm 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 proposal.

Reasons

Inappropriate development

5. The National Planning Policy Framework (the Framework) states that development within the Green Belt is inappropriate with a number of exceptions. This includes engineering operations and material changes in the use of land provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This is reflected in Policy G2 of the London Plan and Policy 49 of the Bromley Local Plan (LP) that seek to protect the Green Belt from inappropriate development.
6. The appeal site comprises a modest area of hardstanding adjacent to the entrance to Jack Frost Pet and Country Store. It is formed out of the corner of an agricultural field. The development comprises an engineering operation to create the hardstanding with a fence around and the change of use of land to include parking and storage.
7. The hardstanding is at ground level. In spatial terms it has limited effect on openness. In visual terms the hardstanding is visible in views from the neighbouring public footpaths and views from higher points across the field. However, the mixed use means that vehicles, hay and bulky items relating to the neighbouring store and surrounding agricultural land, and in relation to the other uses set out above, are parked and stored on the appeal site. That is visible from wider views from the road, footpaths and across the field. The fence is essentially open and reflects the appearance of other fences in the vicinity. It has a small impact in spatial and visual terms as it encloses the hardstanding and parking and storage use. Overall, the development has resulted in spatial and visual harm to the openness of the Green Belt.

8. The appellant suggests that the effects on openness are no more than would be necessary for the use of the land for storage of hay bales, fertiliser and agricultural equipment that are commonly seen in such a countryside location. I note that may not be a change of use from the agricultural use of the land and the Framework states that agricultural buildings, which may include hardstanding and fences, would fall within the exceptions to inappropriate development. As such, they suggest the use is no more harmful to openness than that agricultural use. However, it is unclear whether such development would be required if it were not for the non-agricultural storage and parking and, if it were required, whether it would need to be of the same scale. Consequently, this would not affect my conclusion as to the impact on openness.
9. It is also suggested that an alternative surfacing material could be required to be laid on the hardstanding by condition. This may reduce the prominence of the hardstanding in visual terms but would not affect the visual and spatial impact of the storage and parking use on openness.
10. The Framework sets out five purposes of the Green Belt, including safeguarding the countryside from encroachment. The hardstanding, fence and use of the land for parking and storage has resulted in non-agricultural uses encroaching into the field next to the store. As a result, this has resulted in encroachment of development into the countryside in conflict with that purpose of the Green Belt.
11. For these reasons, I conclude that the change of use of the land for storage and parking, along with the laying of hardstanding and fence that facilitate the use, do not preserve openness and conflict with the purposes of including land within the Green Belt. As such, the development does not fall within the exceptions to inappropriate development in relation to engineering operations and material changes in the use of land. Consequently, it conflicts with Policy G2 of the London Plan, Policy 49 of the LP and the Framework.
12. There is a suggestion that the land may comprise grey belt, as defined in the Glossary to the Framework. Such land would need to either comprise previously developed land or not strongly contribute to the purposes of the Green Belt in relation to checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging and preserving the setting and special character of historic towns. As the land was previously in agricultural use, it is not previously developed. In addition, I have not identified conflict with the purposes of the Green Belt referred to in the definition of grey belt. On that basis, I consider the land could be defined as grey belt.
13. Commercial development such as this may not be regarded as inappropriate subject to meeting all the tests set out at paragraph 155 of the Framework. These include that there should be a demonstrable unmet need for the type of development, in this case parking and storage. Whilst there are indications that this area provides space in support of the Jack Frost Pet and Country Store, I consider the evidence submitted is not sufficient to demonstrate an unmet need for this type of development. This also leads me to conclude that the development is inappropriate within the Green Belt.
14. In coming to these conclusions, I have had regard to relevant caselaw that has been drawn to my attention, particularly *Turner v SSCLG & East Dorset Council*

[2016] EWCA Civ 466 and *Samuel Smith Old Brewery and Others v North Yorkshire County Council* [2020] UK SC3.

Other considerations

15. It is suggested that the use of the site for storage and parking means that there is more space within the store's yard for customer parking, removing pressure for parking on the surrounding roads. Parking on those roads may affect the safe and efficient use of the highway network surrounding the store. However, it is unclear how much pressure on parking would result from the removal of parking and storage on this site. As a result, this is a material consideration of modest weight.
16. The use of this land for storage and parking is supported by paragraph 88 of the Framework that seeks the sustainable growth and expansion of business in rural areas, such as the Jack Frost Pet and Country Store. However, taking account of my conclusions in relation to grey belt, that is a material consideration that carries little weight.
17. The ground (a) appeal and deemed planning application are in respect of the matters stated in the enforcement notice as constituting the breach of planning control (section 177(5) (s177(5)) of the Town and Country Planning Act 1990 as amended (the Act)). There is power when determining an appeal under s174 for the Inspector to grant planning permission in respect of the matters stated in the enforcement notice as constituting the breach of planning control, whether in relation to the whole or any part of those matters (s177(1)).
18. As a result, I am able to consider granting planning permission for part of the existing development to remain. The agricultural storage and parking forms part of the storage and parking use alleged in the notice. If that were an agricultural use, no change of use would have taken place.
19. However, it appears that the hard standing and fencing required to facilitate the use would be required to remain to enable the agricultural storage and parking. As set out above, such development would fall within the exception to inappropriate development in the Framework relating to buildings for agriculture. However, it is unclear how much of the hardstanding and fencing would be required to remain, if any.
20. For these reasons, I consider that there are no obvious alternatives that would overcome the conflicts I have found with the development plan and the Framework.

Conclusion

21. The use of the appeal site for parking and storage with, for the purpose of the mixed use, the laying of hard standing and erection of fencing has harmed the openness and conflicts with the purposes of the Green Belt. Although it may be grey belt, an unmet need for the type of development has not been demonstrated. As such it comprises inappropriate development. I have not found any other harms arising from the proposal. There is some benefit in reducing pressure on parking in the vicinity of the site and economic benefits to the rural business and I have taken account of obvious alternatives. However, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances.

Therefore, the proposed development is contrary to Policy G2 of the London Plan, Policy 49 of the LP and the Framework that seek to protect the Green Belt from inappropriate development

22. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails.

The Appeal on Ground (f)

23. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements include to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.
24. I have considered whether there are obvious alternatives to the development completed that formed part of the development under the ground (a) appeal. This relates to development in relation to parking and storage of agricultural vehicles, machinery and produce. In this case, I have found no obvious alternatives exist that would overcome the reasons for issuing the notice. It is unclear what hardstanding, fencing, parking and storage would be required for agricultural activities. Taking that into account, I am unable to identify lesser steps that would remedy the breach of planning control.
25. As a result, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

The Appeal on Ground (g)

26. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The appellant suggests a reasonable period for compliance would be 1 year to enable the re-planning of the store, including whether certain bulk items should be part of the retail offer, in addition to the requirement to remove the hardstanding.
27. It is unclear how the store operated prior to creation of this hardstanding and use of the land for storage and parking and, as such, how ceasing the use would affect the business. Nevertheless, I accept that some additional time would be necessary in order to reorganise and remove the hardstanding and fences. On that basis, I consider a period of 4 months would be reasonable.
28. For these reasons, I conclude that the appeal under ground (g) should succeed and I will vary the enforcement notice to increase the period for compliance to 4 months.

Formal Decision

29. It is directed that the enforcement notice is corrected and varied by:
- The deletion of “those non-agricultural uses” and substitution of “that mixed use” in section 3. the matters which appear to constitute the breach of planning control.

- The deletion of 2 months and the substitution of 4 months as the period of compliance.
30. Subject to the correction and variation, 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.

AJ Steen

INSPECTOR