



Appeal Decisions

Site visit made on 29 April 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

Appeal A Ref: APP/N1920/C/23/3327267

Land behind Stag Ridge Flats, Stag Hill, Potters Bar, Hertfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Sinan Karacayli (Royale Property Management Ltd) against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 27 July 2023.
 - The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to a mix of open air storage of shipping containers, vehicles, machinery, and other materials, as well as the widening and hard surfacing of the access track. Erection of timber fencing and electronic access gates, and installation of hardscaping to facilitate such.
 - The requirements of the notice are:
 - Permanently cease the use of the land for open air storage, and remove all shipping containers, vehicles, machinery and other materials not reasonably required for agriculture from the land.
 - Remove from the land all hard surfacing installed on the access track.
 - Remove the timber fencing and recessed electronic access gates along the boundary with Stag Hill (A11).
 - Permanently remove all hardscaping installed at various areas within the site other than the pre-existing old road.
 - Reinststate the topsoil and vegetation cover of the land where these have been removed.
 - Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the land and its environs.
 - The period for compliance with the requirements is: 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), and (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.
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Appeal B Ref: APP/N1920/W/23/3325008

Land behind Stag Ridge Flats, Stag Hill, Potters Bar, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Karacayli against the decision of Hertsmere Borough Council.
 - The application Ref is 23/0071/FUL.
 - The development proposed is "Retrospective change of use of existing agricultural buildings not exceeding 500m² of floor space to a flexible use falling within classes B8 storage or distribution. Proposed roller shutter door to side elevation".
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Appeal C Ref: APP/N1920/W/23/3325069

Site entrance to Stag Hill, Potters Bar, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Karacayli against the decision of Hertsmere Borough Council.
 - The application Ref is 23/0140/FUL.
 - The development proposed is "Proposed entrance gate to Stag Hill to replace existing degraded gate and boundary fence to site perimeter for security purposes".
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by:
 - In section 6 the deletion of the words “4 months” and substitute instead the words “Six months”.
2. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Appeal B

3. The appeal is allowed, and planning permission is granted for the *“retrospective change of use of existing agricultural buildings not exceeding 500m² of floor space to a flexible use falling within classes B8 storage or distribution. Proposed roller shutter door to side elevation”* at land behind Stagg Ridge Flats, Stagg Hill, Potters Bar, Hertfordshire, in accordance with the terms of the application, reference 23/0071/FUL, and subject to the conditions set out in the attached schedule.

Appeal C

4. The appeal is dismissed.

Preliminary Matters

5. The Council failed to attend the pre-arranged site visit at the appointed time, and I therefore carried out an access required site visit.
6. As set out above, this decision letter relates to one appeal made under s174 of the 1990 Act, against an enforcement notice issued by the Council, and two appeals made under s78 of the 1990 Act. The sites of the various appeals are situated close together and essentially form part of one wider site, and consequently there are themes common to all of them. Therefore, I have dealt with them together in a single decision letter, for brevity and to avoid duplication. However, I have considered each proposal on its individual merits.
7. Appeal B relates to an application for planning permission for the change of use of an existing agricultural building to a flexible use falling within Use Class B8 (storage and distribution). Although the building subject of the proposed change of use is situated within the red line plan attached to the enforcement notice in Appeal A, the building nor its use is not attacked by the notice.
8. Appeal C relates to an application for planning permission for the erection of an entrance gate and boundary fencing around much of the site perimeter. These developments are included within the development alleged in the enforcement notice in Appeal A. In these circumstances, it makes sense to determine Appeal A with the corresponding development referred to in Appeal C.
9. The revised National Planning Policy Framework 2024 (“the Framework”) came into force during the course of the appeals. The parties were given an opportunity to comment on this, however no submissions were made by either party. I have, though, determined the appeals having regard to the revised Framework.

10. As set out in more detail below, part of the appellant's submissions in support of the ground (a) appeal in Appeal A regarding the erection of the boundary fencing and gates are more pertinent to an appeal on ground (c). Although this ground was not pleaded, the Council has commented on the matter. I shall therefore consider the appeal as though this ground had been pleaded.

Appeal Site and Background

11. The site is located a short distance to the south of junction 24 of the M25 and is within the Metropolitan Green Belt. Vehicular access to the site is afforded from Stag Hill. The site comprises what was previously agricultural land and includes an existing building constructed from corrugated iron, concrete, and timber. The Hertsmere Tree Preservation Order¹ ("TPO") also covers the wider site.
12. There is an extensive planning history at the appeal site which includes prior approvals for the erection of an agricultural storage building and a lawful development certificate for the erection of an agricultural storage building. An extant enforcement notice dated 17 July 2017² ("the 2017 enforcement notice") also exists on the site in relation to *"the material change of use of the land to vehicle recovery business, including the storage of vehicles and erection of associated fencing, floodlighting and porta cabin"*.

Appeal A on ground (c)

13. An appeal under ground (c) is made on the basis that the matters alleged in the enforcement notice do not constitute a breach of planning control. This ground of appeal is strictly concerned with matters of fact and law. It is for the appellant to demonstrate why the appeal should succeed on ground (c), with the relevant test of the evidence being on the balance of probability.
14. It is not disputed that the boundary fencing and access gates comprise development requiring planning permission. Planning permission is granted under the provisions of Article 3(1) and Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") for the erection, maintenance, improvement, or alteration of a gate, fence, wall or other means of enclosure, subject to limitations. Limitation A.1(a)(ii) states that development is not permitted if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of development, exceed 1m above ground level.
15. There is no dispute that the fencing and gates erected exceed 1m in height. Furthermore, there is no dispute that large sections of the boundary treatment are adjacent to a highway used by vehicular traffic – that being Stag Hill. However, the appellant contends only this part of the boundary fencing requires planning permission, and that the parts of the fencing which are not adjacent to the highway are permitted development as they do not exceed 2m in height as set out in limitation A.1(b).
16. Nevertheless, the boundary fencing and access gates appear as one means of enclosure and to my mind have been erected as a single building operation. Therefore, as parts of the boundary fencing are undeniably adjacent to a highway

¹ Council Ref: TPO/1070/2022

² Council Ref: 16/0334/UCU

used by vehicular traffic, the 1m threshold applies to the development as a whole. Consequently, the boundary treatment fails to accord with limitation A.1(a)(ii).

17. For the above reasons, the boundary fencing and access gates do not benefit from any planning permission granted by the GPDO. I have not been referred to any other planning permissions the fencing or gates may benefit from. They are therefore in breach of planning control and the appeal under ground (c) must fail.

Appeal A on ground (d)

18. In order to succeed on ground (d), the appellant must show on the balance of probabilities that, at the date the notice was issued, no enforcement action could be taken in respect of the matters alleged.
19. It is argued that the vehicular access with visibility splays, large areas of hard surfacing, and “non-agricultural” vehicles have existed on site for several years. The appellant contends that the operational development has existed for more than four years before the issue of the notice, and the material change of use for more than ten years. In support of this position, Google aerial photos dated 26 March 2017 and 19 July 2013 are provided.
20. Turning firstly to the use of the site for the storage of vehicles, I acknowledge that the Google aerial photo from 2017 shows a significant number of vehicles on the appeal site. Nevertheless, that aerial photo is taken less than four months prior to the issue of the 2017 enforcement notice. No evidence has been provided by the appellant to demonstrate that those vehicles are not those associated with the previous unauthorised material change of use of the site that is subject to the extant 2017 enforcement notice. Consequently, the submitted evidence does not demonstrate that the current mixed use of the site that is subject of this appeal is immune from enforcement action or lawful.
21. With regards to the operational development on the site, it is clear from both the 2013 and 2017 aerial photographs that a vehicular access has existed at the appeal site in the same location for some time. The enforcement notice though does not allege the creation of a new vehicular access but instead refers to the widening and hard surfacing of the access track. Due to the amount of tree cover the 2013 aerial photo does not assist in showing the width of the hardstanding at the vehicular access and visibility splays.
22. The 2017 aerial photo though has less tree cover, and the vehicular access is more visible. I accept that there appears to be hard surfacing provided in the access, however the appearance of the land is not uniform. There is a strip down the middle of the vehicular access into the site which is a lighter colour and appears to be concrete, with a darker shade of material either side. It is not clear what that material is from the aerial photograph and could be bare earth or a form of stone and/or chippings. What is clear though is that the material across the whole of the vehicular access and visibility splays is not uniform.
23. That differs significantly from the current position where the entirety of the vehicular access and visibility splays are hard surfaced with concrete. No other evidence, such as photographs taken on the ground or invoices and receipts dating when the current works were completed have been provided. Consequently, on the balance of probability, I find that the current hard surfacing of the visibility splays in concrete took place as a separate operation at some point post the 2017 aerial photograph.

24. Finally, in relation to any other hard surfacing within the site it is clear from the photographic evidence that some hard surfacing has existed on site since at least 2013. This largely amounts to a road which runs roughly north-west to south-east through the appeal site. It is also clear from the requirements of the notice that the Council does not seek the removal of all hard surfacing from within the appeal site, as it explicitly identifies hard surfacing installed on the access track and all other hardscaping installed on the site other than the pre-existing road.
25. It was clear from my site visit that significant areas of hard surfacing (concrete) have been laid within the site since the 2017 aerial photograph. This includes areas to the north and south of the vehicular access where small “yards” have been created, and to the sides of the existing iron, concrete, and timber building. Most of these areas were covered in vegetation in the 2017 aerial photograph, and it is also noted that the 2017 enforcement notice does not allege the laying of any hard surfacing.
26. The appellant has therefore not provided any evidence that demonstrates that these areas of hard surfacing were substantially complete within four years of the issue of the notice (i.e. by 27 July 2019). Additionally, whether or not all of the hard surfacing was completed prior to 27 July 2019 is largely immaterial, given that the works appear to be inextricably linked to the unauthorised use and facilitates access, and the storage of vehicles, containers and other materials.
27. The available evidence indicates that the hard surfacing is part and parcel of the material change of use and not for a different lawful use. Consequently, having regard to *Murfitt*³ and *Caldwell*⁴, the notice can require its removal given that the material change of use has not been in place for a continuous period of ten years prior to the issue of the notice.
28. Overall, I am not satisfied that the appellant has discharged the burden of proof in respect of this matter. The ground (d) appeal must therefore fail.

Appeal A on ground (a) and Appeal C

29. An appeal made under ground (a) is that, in respect of the breach of planning control alleged in the notice, planning permission ought to be granted. The terms of the deemed planning application (Appeal A) are derived from the allegation, as set out in the banner header above. As I have already outlined, as Appeal C relates to development that forms part of the operational development attacked by the notice, I shall deal with the appeals together.
30. Whilst there is some difference in the wording and reasons for issuing the enforcement notice (Appeal A) and those for refusing to grant planning permission (Appeal C), they are very similar and both appeals require the same approach.

Main Issues

31. The main issues are:
 - Whether the development is inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;

³ *Murfitt v Secretary of State for the Environment & East Cambridgeshire CC* [1980] JPL 598

⁴ *Caldwell & Timberstone Ltd v Secretary of State for Levelling Up, Housing and Communities & Buckinghamshire Council* [2024] EWCA Civ 467

- The effect of the development on the character and appearance of the area;
- The effect of the development on protected trees;
- The effect of the development on highway safety; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development in the Green Belt

32. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of buildings and other forms of development should be regarded as inappropriate development in the Green Belt, subject to several exceptions set out on paragraphs 154 and 155 of the Framework.
33. Policy CS13 of the Hertsmere Core Strategy (adopted January 2013) (CS) states, amongst other things, that development proposals will be assessed in relation to the Framework. It further sets out that there is a general presumption against inappropriate development within the Green Belt, as defined on the Policies Map, and that such development will not be permitted unless very special circumstances exist. SADM26 of the Hertsmere Site Allocations and Development Management Policies Plan (adopted November 2016) (SADMPP) states that proposals for development in the Green Belt will be assessed in accordance with Policy CS13 of the CS and lists several principles with which development should comply. Despite pre-dating the latest revision of the Framework both Policies CS13 and SADM26 are consistent with national policy.
34. The enforcement notice alleges the material change of use of the land from agriculture to a mix of open-air storage of shipping containers, vehicles, machinery, and other materials. I observed during my site visit that the site was being used for the storage of such items. The appellant has not specifically identified any of the exceptions under paragraphs 154 and 155 of the Framework, however it is necessary for me to assess the development against the aforementioned paragraphs.
35. The exceptions which are potentially most relevant to these appeals are those found in paragraphs 154(g) and 154(h)(ii) and (v). Paragraph 154(g) provides for the partial or complete re-development 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)(v) relates to the material change in the use of land. 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.
36. I shall turn firstly to whether the appeal site is PDL. Section 336 of the 1990 Act defines “*land*” to include buildings, and the Framework defines PDL as land which has been “*lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it*”. It excludes though land that is or was last occupied by agriculture or forestry buildings.

37. There is no dispute between the parties that the previous lawful use of the land was agricultural, and the existing building on the site was lawfully erected as an agricultural storage building. There is no convincing evidence to indicate otherwise. Since the site is therefore excluded from the PDL definition, and that the operational development undertaken (e.g. additional hardstanding) is not lawful, the appeal site does not constitute PDL.
38. In relation to the effect of the development on the openness of the Green Belt, the formerly open agricultural land is now largely covered with an array of vehicles, containers, machinery, building materials, and various other items and paraphernalia. Much of this is located on hard standing that has been laid in order to facilitate the open storage use. The boundary fencing and access gates are solid structures that afford little views through the site. The fencing is also of significant length and, despite planting in front of parts of it, it remains highly visible from the road.
39. Overall, notwithstanding that there is screening from trees and boundary vegetation, the development has resulted in a harmful reduction in both the spatial and visual openness of the Green Belt. It also results in encroachment into the countryside which is in conflict with one of the Green Belt purposes at paragraph 143(c) of the Framework.
40. Since the site is not PDL and the operational development and use of the site results in harm to the openness of the Green Belt, and is in conflict with one of its purposes, the development does not meet any of the exceptions referred to above, or indeed any of those listed within paragraph 154 of the Framework.
41. Whether the development constitutes an exception under paragraph 155 of the Framework is firstly dependant on an assessment on whether it constitutes Grey Belt land, as defined in the Framework glossary. This includes *“any other land...that does not strongly contribute to any of the purposes (a), (b), or (d) in paragraph 143”*. These purposes are:
- (a) To check the unrestricted sprawl of large built-up areas;
 - (b) To prevent neighbouring towns merging into one another;
 - (d) To preserve the setting and special character of historic towns.
42. In my view, given the location of the appeal site, the land does not strongly contribute to any of the aforementioned purposes in paragraph 143. It is therefore grey belt land. Nonetheless, paragraph 155 states that, to avoid being inappropriate development in the Green Belt, development on grey belt land must meet other criteria. These include there being a demonstrable unmet need for the type of development proposed.
43. The appellant argues that there is a severe shortage of brownfield land in the Borough which is outside of the Green Belt, and that the Council has failed to provide sufficient sites. The Council dispute this stance and argues that numerous developments have been granted planning permission and completed in recent years which provide a significant amount of light industrial and storage/distribution floor space.
44. In any event, I have not been provided with any evidence to suggest that there is a demonstrable unmet need for the development that has been carried out – namely

the open-air storage of shipping containers, vehicles, machinery, and other materials (and associated operational development), and the erection of boundary fencing and access gates. Accordingly, based on the evidence before me, the development is not compliant with paragraph 155 of the Framework.

45. I therefore conclude that the developments in Appeals A and C represent inappropriate development in the Green Belt and conflict with Policy CS13 of the CS, Policy SADM26 of the SADMPP, and guidance contained within the Framework.

Character and Appearance

46. From the main highway, Stagg Hill, which runs immediately adjacent to the site the close boarded timber fence and access gates are clearly visible. The appellant argues that the boundary fencing and gates are well designed. I though disagree. The boundary fencing and gates are not of particularly high quality, and due to their design and the significant length of the fencing, the development appears as a harsh feature that fails to assimilate satisfactorily with its rural setting, causing harm to the character and appearance of the area.
47. The appellant has provided several photographs of other boundary treatments within the wider area, some of which appear more successfully integrated in the street scene than others. However, only one of these is located on Stagg Hill and no details have been provided of any planning permissions granted for these enclosures, and as such the circumstance of their installation is not known. In any event, whether or not these required or received express planning permission, the prevailing form of boundary treatment in the vicinity of the appeal site is hedgerows or other vegetation.
48. The landscape surrounding the site is predominately open fields with the occasional grouping of trees. The available evidence indicates that the appeal site was previously in agricultural use and largely undeveloped, save for the existing building and a modest amount of hard standing. Within the site now is a somewhat haphazard storage of vehicles, containers, machinery, and other items, along with large expanses of hard standing which adds clutter to what was previously a largely undeveloped part of the countryside. The site now conveys an industrial character, which reads as a visual intrusion into the countryside and adversely affecting the rural character of the area.
49. Despite the presence of the boundary treatments and existing trees and vegetation, views into the site are still possible and vehicles and items can still be seen through the main entrance or protruding above the fencing. At the time of my visit there was a low loader and a trailer parked within the access to the site, and although I did not see any significant vehicle movements, vans and lorries loaded with cars or other materials entering and exiting the site would be readily apparent, and would add to the harm being caused to the character and appearance of the area.
50. Consequently, notwithstanding that planting in front of the boundary fencing could be enhanced so that the visibility of the development is further limited, the use of the appeal site for open storage, along with the associated operational development, results in an incongruous and harmful impact on the previously more open and rural character and appearance of the site itself and surrounding area.

51. Consequently, I find that the development causes harm to the character and appearance of the area. It is therefore contrary to Policies SP1, SP2, CS12, and CS22 of the CS, and Policies SADM11, SADM26, and SADM30 of the SADMPP. These require, amongst other things, that developments are of high-quality design and take advantage of opportunities to improve the character and quality of an area.

Protected Trees

52. As set out already, much of the appeal site is covered by a TPO. The site contains several large mature trees, particularly towards the northern end of the site. The TPO sets out that there is a mixture of trees including Oak, Horse Chestnut, Willow, Hawthorn, and Alder. Parts of the timber boundary fencing have been erected in close proximity to trees covered by the TPO. Similarly, areas of hard standing have been laid, and various items have been stored in and around the base of trees and generally in close proximity to them.
53. Without an accurate tree survey showing otherwise, it is not unreasonable to conclude that the hard standing (and the vehicles, containers and other items stored upon it) and/or the fence may cause unnecessary damage to the protected trees, including to their roots, and potentially result in the loss of trees.
54. The appellant has been relatively silent with regard to the impact of the development on the protected trees, and the Council has not provided evidence to suggest that any of the trees are currently in poor health or in danger of imminent loss. Nevertheless, given the context of the development and its proximity to trees which are protected by the TPO, I find it both appropriate and proportionate for expert opinion to be provided. This is particularly relevant in this case where a lay person's appreciation of tree health may not be able to sufficiently assess the likely health of any particular tree over time, due to the possible effects of the development on the trees long-term health.
55. For the above reasons, I find that it has not been sufficiently demonstrated that the protected trees have not been adversely affected by the development. As such, the development conflicts with Policies SP1 and CS12 of the CS, and Policy SADM12 of the SADMPP which together seek to ensure that all development proposals conserve and enhance the natural environment, including protected trees, and that planning permission will not be refused for development which would result in the loss, or likely loss of healthy trees which are subject to a TPO.

Highway Safety

56. There is no evidence of vehicular accidents in the vicinity of the access to the site. The Council contend that there are concerns that the development could result in damage to the highway, due to its design and materials, and unacceptable levels of surface water run-off. At my visit I could see no evidence of any damage to the highway having been caused to date.
57. The widened access has been surfaced in a non-porous material and therefore I acknowledge that surface water run-off could be an issue, notwithstanding the existing drain located where the access meets the main highway. However, I can see no reason why details in respect of the disposal of surface water, as well as any other concerns such as ensuring visibility splays remain clear, could not be dealt with by way of an appropriately worded retrospective planning condition.

58. I therefore conclude that, subject to a planning condition being imposed, I am satisfied that there would be no unacceptable impact on highway safety in accordance with paragraph 116 of the Framework. As such, there would be no conflict with Policy CS25 of the CS and Policy SADM40 of the SADMPP which seek, amongst other things, to ensure that developments do not harm the safety of any users of the highway network.

Other Considerations

59. The appellant has set out other considerations in support of the appeals. These include the social and economic benefits arising from the employment generated from the use of the site, and the need for the site in this location due to an apparent shortage of alternative sites and brownfield land within the Borough. 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 little weight to these benefits.
60. The appellant also argues that the entrance gates and boundary treatment are necessary for security purposes. However, I have not been provided with any tangible evidence to suggest that security is a particular issue at this site or in the surrounding rural area. Furthermore, I am not convinced that similar benefits could not be secured by a development that complies with local and national planning policy. As such, this carries little weight.
61. In relation to the boundary fencing at the site, the appellant highlights a fallback position of a boundary treatment that complies with permitted development rights as set out in the GPDO. In essence, due to its location adjacent to a highway used by vehicular traffic, this would be the erection of a boundary treatment not exceeding 1 metre in height. However, whilst limited details are provided, this too would have an impact on openness. Furthermore, the appellant highlights that such a boundary treatment would not provide sufficient security for the current use of the site. Consequently, there is nothing before me to suggest that there is a greater than theoretical possibility of this occurring, such that it carries very little weight.

Planning Balance and Conclusion on ground (a) and Appeal C

62. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
63. I have found the development to be harmful to the Green Belt by reason of inappropriateness and loss of openness. This amounts to a matter of substantial weight, to which I must add the harm caused to the character and appearance of the area and protected trees. Subject to appropriate planning conditions there would be no harm in respect of highway safety, however this is of neutral weight in the planning balance.
64. As set out above, the other considerations put forward by the appellant in favour of the development carry little weight. Accordingly, the harm caused to the Green Belt, character and appearance of the area, and protected trees is not clearly

outweighed by other considerations. As such, the very special circumstances necessary to justify the development do not exist.

65. For the reasons set out above, the development conflicts with the development plan when read as a whole, and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all matters raised, I conclude that the appeal on ground (a) should be dismissed, and planning permission be refused on the deemed application. For the same reasons, Appeal C is also dismissed.

Appeal A on ground (g)

66. An appeal on ground (g) is that the period for compliance with the enforcement notice falls short of what is reasonable. The notice requires compliance within 4 months, whereas the appellant seeks a period of at least 12 months.
67. I accept that finding an alternative site, potentially having to obtain planning permission, and physically relocating the business(es) could potentially be difficult and time consuming. However, a period of 12 months or more would be tantamount to a temporary planning permission. I am also mindful that the harm resulting from the breach of planning control should be remedied as soon as possible.
68. With that in mind, I consider that a period of six months would strike the appropriate balance and represent an appropriate and reasonable compliance period. The appeal on ground (g) therefore succeeds to that extent.

Appeal B

Main Issues

69. The Main Issues are:

- Whether the development is inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
- The effect of the development on highway safety; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development in the Green Belt

70. The relevant paragraphs of the Framework, along with the applicable policies in the CS and SADMP are set out in Appeals A and C above, and in the interests of brevity will not be repeated here.
71. The proposal relates to the change of use of the existing agricultural building to a storage and distribution use (Use Class B8) and a proposed roller shutter door to the side elevation. The application site is restricted to the building itself as well as the vehicular access and a small external area of land forward of the front (south-west) elevation of the building.
72. As previously set out the construction of buildings and other forms of development should be regarded as inappropriate development in the Green Belt, subject to several exceptions set out on paragraphs 154 and 155 of the Framework.

Paragraph 154(h) sets out that certain other forms of development, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, would not be inappropriate development. This includes at paragraph 154(h)(iv) *“the re-use of buildings provided that the buildings are of permanent and substantial construction”*.

73. It was clear from my site visit that the existing building is of permanent and substantial construction. Indeed, this point is not contested by the Council. The tests therefore are whether the development would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
74. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, it is necessary to consider both the visual and spatial aspects of openness.
75. The existing building sits relatively unobtrusively in the landscape. It is set back within the site and is relatively hidden from wider views by established trees and other vegetation. The provision of a roller shutter door would therefore have no adverse impact on either the spatial or visual aspect of openness.
76. In terms of the use of the site for storage and distribution, the Council contend that it results in an intensified use which adversely affects the openness of the Green Belt. On the contrary, the appellant states that the building contractors who occupy the site primarily use the building to store materials, with infrequent vehicular movements which are as little as one per day to collect/drop off items. From my own observations the current use of the building appeared to be relatively low key.
77. The storage of materials within the building itself would have no negative impact on either the spatial or visual aspect of openness, as those materials would be barely perceptible. Whilst external storage is not expressly sought in the proposal, an appropriately worded planning condition could mitigate any potential harm that may arise in that regard.
78. I acknowledge other concerns including the parking and movement of vehicles at the site. However, the area immediately around the building would likely be used for the parking and movement of farm vehicles if the building was returned to its lawful agricultural use. The limited size of the appeal site also restricts the potential for a significantly intensified use. Furthermore, the Council also accept that a planning condition restricting the use of the site to a building contractors' business would further alleviate those concerns. For these reasons, I find that the openness of the Green Belt would be preserved.
79. In terms of the purposes of including land within it, I see no reason why the use of the existing building and a small parcel of land adjacent to it would conflict with any of the Green Belt purposes. It does not involve the sprawl of large built-up areas nor the merging of neighbouring towns. Moreover, there is no evidence that the Green Belt on this land preserves the setting and special character of historic towns. Furthermore, since the building itself is lawful, the use of it and the adjacent land will not conflict with the purpose of safeguarding the countryside from encroachment or assist in urban regeneration.

80. I conclude therefore that the use of the existing agricultural building for storage or distribution (Use Class B8), and the provision of a roller shutter door to side elevation, is not inappropriate development in the Green Belt. Consequently, there is no conflict with the Framework, Policy CS13 of the CS or Policy SADM26 of the SADMPP, and the need for very special circumstances does not apply.

Highway Safety

81. The works to widen the existing access with additional hardstanding which were subject of Appeal A do not form part of the proposal in this appeal. Consequently, and following my decision in Appeal A, the pre-existing vehicular access would be utilised.
82. The Council consider that insufficient information has been submitted to demonstrate that the access to the site is suitable for a B8 use, and that it would not result in adverse impacts to highway safety. The appellant though contends that the access is sufficient as it would only serve a small building contractors' business with limited vehicle movements, potentially as little as one per day. Given the retrospective nature of the application, the business has operated from the site for around the past five years.
83. The site is accessed from Stag Hill, a classified A road which is subject to the national speed limit. The internal access road itself is in good condition and surfaced in concrete, with good visibility in both directions when exiting the site. There is also plenty of room within the application site for vehicles to park and turn. I have not been made aware of any accidents or issues that were caused or linked to the B8 use of the site over the past five years, or the agricultural use which existed prior to that. Consequently, the access has served vehicle movements associated with the B8 use for a number of years, as well as presumably farm machinery prior to that, without any known concerns.
84. I observed during my visit that the site is operated by a relatively low-key business, and I find no reason to dispute that there would only be around 1-2 vehicle movements a day associated with it. The size of both the building and application site also restricts the size and nature of the business that could operate from there. I am therefore satisfied that the use does not generate significant traffic movements. Given the seemingly irregular and infrequent nature of larger vehicle movements associated with the use, which has operated for around 5 years without any evidence of any highway complaints, it is my view that the limited highway movements associated with the appeal site do not result in unacceptable harm to highway safety.
85. Paragraph 116 of the Framework advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe.
86. Factoring all the above matters in together, I find that there is insufficient evidence before me to conclude that there would be an unacceptable risk to highway safety or a severe impact on the road network. This approach is mandated by the Framework, and I am obliged to have regard to it. I therefore conclude that there would be no unacceptable impact on highway safety in accordance with the Framework. As such, there would be no conflict with Policy CS25 of the CS and

Policy SADM40 of the SADMPP which seek, amongst other things, to ensure that developments do not harm the safety of any users of the highway network.

Conditions

87. The Council provided a list of suggested planning conditions, and the appellant subsequently confirmed that there was no objection to these. I have considered the suggested conditions and had regard to paragraph 57 of the Framework, which sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, and precise and reasonable in all other aspects.
88. To that effect, I do not find it reasonable or necessary to impose a planning condition relating to noise from plant and machinery operating from the site given that there is no evidence before me to suggest that the use causes any undue harm in terms of noise disturbance. Similarly, given the size of the application site and that part of it was previously covered in hard standing – such as the vehicular access track, I do not consider it necessary for a blanket removal of permitted development rights relating to the formation of hardstanding to be imposed.
89. A condition setting out the approved plans is included for certainty, and to ensure that there is no potential harm to the openness of the Green Belt conditions restricting the use of the premises to that of a Building Contractor's and requiring all materials and machinery to be stored internally within the building are imposed. I also find it both necessary and reasonable to impose conditions restricting the hours of operation at the site and requiring the submission a proposed lighting scheme in advance of any external lighting being erected on site. These conditions will avoid any undue harm being caused to the openness of the Green Belt or the living conditions of nearby residents.

Conclusion on Appeal B

90. For the reasons set out above, I find that the development accords with the development plan when read as a whole, and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. For the reasons given above, I therefore conclude that Appeal B should be allowed and planning permission is granted, subject to the attached conditions.

Overall Conclusions

91. Appeal A – For the reasons given above I conclude that the appeal does not succeed, save for ground (g). I have therefore upheld the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
92. Appeal B – I have found that the development accords with the policies of the development plan when read as a whole. There are no material decisions that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be allowed.
93. Appeal C - I have found that the development conflicts with the policies of the development plan when read as a whole. There are no material decisions that

indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, the appeal is dismissed.

David Jones

INSPECTOR

SCHEDULE OF CONDITIONS – APPEAL B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: A 005 Location Plan; A101 Proposed Block Plan and Floor Plans; A202 Proposed Elevations.
- 2) The site shall be used for the storage of machinery, materials, and vehicles related to a building contractor's business and for no other purpose (including any other purpose in Class B8) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) Machinery shall be operated, processes shall be carried out, and deliveries shall be taken at or despatched from the site only between 0800 and 1900 on Mondays to Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
- 4) All materials and machinery shall be kept and stored within the building shown on approved plan A101. There shall be no external storage within the site.
- 5) No external lighting shall be installed at the site until a scheme detailing the proposed lighting has been submitted to and approved by the local planning authority. All external lighting shall be installed and maintained thereafter in accordance with the approved scheme.