



Appeal Decisions

Site visit made on 25 June 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal A Ref: APP/N4720/C/24/3348768

Appeal B Ref: APP/N4720/C/24/3348769

Spear Fir Farm, Spear Fir, Bardsey, Leeds LS17 9EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr and Mrs H. L & E Burns (Appeal A) and Mr H.L Burns (Appeal B) against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 27 June 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of a hardstanding to create an access track not reasonably necessary for the purposes of agriculture.
 - The requirements of the notice are to:
Step 1 Dismantle and remove all materials used in the laying of the vehicular access including the foundations and any other features connected with the use of the land as an access track;
Step 2 Reseed the land from which the vehicular access has been removed with an appropriate agricultural grass seed mix and repeat the seeding if required to establish a grass cover.
 - The periods for compliance with the requirements are:
Step 1 four months;
Step 2 in the first available planting season following the completion of Step 1.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f) 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.
 - Appeal B is proceeding on the grounds set out in section 174(2) (c), (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the words “the laying of a hardstanding to create an access track not reasonably necessary for the purposes of agriculture” from section 3 of the notice and their substitution with the words “the creation of an access track”;
 - the deletion of the word “land” at section 5 and its substitution with the word “Land”;
 - the insertion of the words “and restore the Land to its previous state before the development took place” after the words “access track” at section 5 of the notice;
 - the deletion of the words “Step 2 Reseed the land from which the vehicular access has been removed with an appropriate agricultural grass seed mix and repeat the seeding if required to establish a grass cover.” at section 5 of the notice; and
 - the deletion of the words “Step 2 is to be implemented in the first available planting season following the completion of Step 1” from section 5 of the notice.
2. Subject to the corrections the appeals are dismissed, the enforcement notice is upheld and, in respect of Appeal A, planning permission is refused on the

application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Enforcement Notice

3. The enforcement notice describes the breach as, without planning permission the laying of a hardstanding to create an access track not reasonably necessary for the purposes of agriculture. The main parties disagree as to whether hardstanding is present however it is a matter of fact that an access track has been created. I can therefore correct the notice to take out the disputed detail of hardstanding to ensure no uncertainty arises. In this regard I note that the requirements of the notice do not refer to hardstanding. I can also remove reference to the track not being reasonably necessary for the purposes of agriculture as this is unnecessary detail. I can make these corrections without injustice to the main parties.
4. The enforcement notice defines the land at Spear Fir Farm, Bardsey, Leeds LS17 9EA as “the Land”. However. In setting out the requirements, section 5 of the notice refers to “the land” rather than the correct defined term. I can correct this section of the notice to refer to “the Land” without injustice to the main parties.
5. The appellant argues that the section of the track shown within the blue line boundary of the notice should be deleted, as this has now been removed. I observed that this section has been removed during my visit, and note the Council’s acceptance of this point. However, the notice was issued on 27 June 2024, and the evidence before me suggests that this section of the track was removed in July 2024. As such, the plan attached to the notice was correct at the time of issue and does not need to be amended.

Appeals A and B on ground (c)

6. An appeal on ground (c) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters do not constitute a breach of planning control. The onus is on the appellant to make their case on the balance of probabilities.
7. The appellant states that the surfacing of the field track with rolled stone does not constitute development, referring to the fact that there are no foundations and that the work was carried out by the appellant with their own equipment.
8. Section 55(1) of the 1990 Act states that development means the carrying out of building, engineering, mining or other operations in, on, over or under land. Section 336(1) of the 1990 Act is clear that engineering operations include the formation or laying out of means of access to highways. It does not specify that the works need to be substantial, but that something amounting to the formation and laying out must take place as a matter of fact and degree.
9. The appellant’s evidence is clear that the track starts from a lawful field access from a private lane, which then adjoins Blackmoor Lane. As such, it provides a means of access from the site to the highway and, even if constructed from rolled stone only, involves the laying out of an obvious track across the site. The Courts have held that it is not necessary for the operations to be supervised by a person with engineering knowledge, and the person carrying out the work does not have to be an engineer. As such, the development comprises “engineering operations”.

10. However, even if I were to find that the development did not comprise engineering operations, I observed the track to be well bedded into the ground, even noting the appellant's contention that it lacks a foundation. It results in a clear physical change to the land of such permanence that it could also comprise "other operations".
11. Taking all of the above together, I find that the creation of an access track as alleged in the enforcement notice, as corrected, constitutes development for which there is no grant of planning permission and therefore the matters as alleged in the notice constitute a breach of planning control.
12. For the reasons given, the appeals on ground (c) fail.

Appeal A on ground (a)

13. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issues

14. The main issues are:
 - (i) Whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - (ii) The effect of the development on openness
 - (iii) The effect of the development on the character and appearance of the area; and
 - (iv) 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.

Reasons

Whether the proposal would be inappropriate development

15. The appeal site is Spear Fir Farm, situated in Bardesy within the Green Belt. It is sited in the open countryside, and contains residential development, accessed via Spear Fir, surrounded by open fields. The development comprises the creation of an access track. This is constructed from the south of the site and runs northwards.
16. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate, albeit subject to certain exceptions. The appellant refers to the exception at 154(a), being buildings for agriculture and forestry. However, there is nothing substantive before me to suggest that the development is a structure or erection that would constitute a building. Rather, given my findings on ground (c) above, the most relevant exception would be that at paragraph 154(h)(ii), being engineering operations provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
17. Policy N33 of the Leeds Unitary Development Plan Review (2006) (UDP) seeks to protect the Green Belt. In that respect, its aims are broadly consistent with the Framework. It outlines that only certain types of development would be acceptable

within the Green Belt except in very special circumstances. However, this policy does not specifically identify engineering operations and therefore, it is out of step with the Framework. I therefore afford substantial weight to the Framework with regard to this main issue.

18. Accordingly, whether the development would constitute inappropriate development will depend on whether it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

Openness and purposes of the Green Belt

19. 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.” It has been established that openness has both a spatial and visual aspect.
20. From a spatial perspective, while the track is single width in nature, it is of a considerable length and traverses across a large portion of the otherwise open farm land at either side. Although it does not introduce vertical built form, its dimensions introduce notable development. As such, it fails to preserve the spatial openness otherwise present at this section of the site.
21. From a visual perspective I acknowledge that wider views of the development are limited. To the south, it abuts a private lane, with views from Blackmoor Lane being fleeting, and views from Spear Fir to the east are distant. The track lies largely flush with the ground, close to mature hedgerows and has somewhat overgrown margins that provide an element of screening from wider viewpoints. However, it remains that, from closer range views within the site, it is clearly seen to be occupying space that would previously have been free from such development and there is nothing substantive to suggest that this would cease to be the case even if it were to partly green over during the passage of time. Accordingly, there remains a modest impact on the visual openness of this section of the site.
22. Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment, a clear purpose of the land as per the Green Belt Assessment. Due to its dimensions and built nature within an immediately open part of the countryside, the development would amount to encroachment into the countryside, conflicting with the purposes of including the site within the Green Belt.
23. Taking all of the above together, the development would not benefit from the exception at paragraph 154(h)(ii) of the Framework. There is no suggestion that it would meet any other exception. Accordingly, the development would amount to inappropriate development within the Green Belt and result in harm to the openness of the Green Belt, contrary to Policy N33 of the UDP and the provisions of the Framework.

Character and appearance

24. Despite the presence of residential development in the wider site, the section of Spear Fir Farm immediately adjacent to the development is decidedly rural in nature. It sits in a hillside location above the residential built form below and, even noting nearby buildings to the east, is largely comprised of and defined by the sprawling open fields.

25. While my attention has not been drawn to anything specific, I acknowledge the appellant's contention that access tracks are not unusual features within rural landscapes. As outlined above, I further recognise that the development does not introduce vertical built form, runs along mature hedgerow and has overgrown margins, and is formed of an aggregate material that will partly green over with time.
26. However, it remains that the dimensions of the development are sizeable, even noting the overall land of the farm holding. Although single width, the formal appearance of a dedicated track of this length appears as an imposing and somewhat urban feature, out of place among the nearby fields. Although wider views may be limited, and the development may not conflict with any principal or cherished views as set out in the Bardsey-cum-Rigton Neighbourhood Plan, within the confines of the site itself the development is unduly prominent and fails to reflect or respect the immediate character of the site.
27. For the reasons given, the development results in significant harm to the character and appearance of the area. As such, it fails to comply with Policy GP5 of the UDP, Policies P10 and P12 of the Leeds Core Strategy, and the provisions of the Framework insofar as they seek good design that is appropriate to its location and conserves the character of the landscape.

Other considerations

28. The appellant contends that the track is essential for the efficient and safe access to the farm and surrounding fields. They outline that planning permission for nearby residential development has restricted other field access points, leading to alternative routes being provided to ensure no conflict between domestic and farming activities. They assert that, due to its material, the development provides year-round traction without which this part of the site would be impassable, and safety concerns would arise due to farm vehicles not being designed to travel on steep grassed gradients. Without the track in place, it is claimed that the land would become rutted and in need of repair, or that alternative routes may be created, leading to further safety issues or visual harm.
29. However, even noting the appellant's position regarding the residential development and its impact on surrounding field access points, their evidence is clear that access for farm vehicles can also still be taken via the storage yard at the corner of Spear Fir, such that limited weight can be attributed to the track being necessary for this purpose. There is also limited substantive evidence that without the track safety issues would arise and, in the case of visual amenity, no information on potential alternative routes has been provided. In any event, even with rutted land, the site would look less urban and developed than the more formal track that is currently in place.
30. Although raised as part of the ground (f) appeal, the appellant also refers to the possibility for additional landscape planting to screen the development which could also provide biodiversity net gain benefits. However, no further information on what such planting would be is provided such that I cannot be certain it would overcome the harm caused or provide a benefit. Overall, I attach limited weight to the other considerations raised by the appellant.

Green Belt balance

31. The development is inappropriate development in the Green Belt, and causes harm to the openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have also found harm results to character and appearance. Even when taken cumulatively, the other considerations advanced in support of the scheme do not clearly outweigh the harm identified. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Other Matters

32. The appeal site lies within an identified Special Landscape Area. However, the Council is clear that it is not advancing this as a reason for issuing the notice.

Conclusion

33. For the reasons given above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse the deemed application for planning permission.

Appeals A and B on ground (f)

34. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms of any planning permission which has been granted in respect of the land; by discontinuing any use of the land; or by restoring the land to its condition before the breach took place.
35. Given that the requirements of the notice, the purpose of the notice is to remedy the breach of planning control. The appellant argues that the steps required by the notice exceed what is necessary. In this regard, they raise the potential for additional landscaping. However, I observed the site during my visit, and noted the presence of the development identified in the enforcement notice. From my observations the only way to remedy the breach would be to remove the development in its entirety and to restore the appeal site to its prior condition.
36. Nevertheless, I acknowledge the appellant's argument that an existing site access has existed at the end of the track for the entirety of their ownership, and that a fallback position exists whereby the track would still be used without the rolled stone, such that it would appear rutted. Case law has established that the appellant is the person best placed to know the condition of the land prior to the breach. As such, I can vary the notice to include a requirement to return the land to its condition prior to the development taking place. In addition, I will remove the requirement to re-seed the land, which is excessive given both the fallback position referenced and that it would go beyond what is necessary to remedy the breach. I am satisfied that the varied requirements would still remedy the breach of planning control and that I can make these variations without injustice to either of the main parties.
37. The appeals on ground (f) therefore succeed to a limited extent.

Overall Conclusion

38. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

C Rafferty

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N4720/C/24/3348768	Mrs E Burns
Appeal B	APP/N4720/C/24/3348769	Mr H.L Burns