



Appeal Decision

Site visit made on 18 September 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/N1920/C/23/3331271

Land to North East side of Stagg Hill, Potters Bar, EN6 5QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Royale Property Management Ltd against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 12 September 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of land to a vehicle recovery depot including the storage of vehicles, with associated creation of an access road, formation of hardstanding, erection of timber fencing and storage of porta cabins (the unauthorised development).
 - The requirements of the notice are to:
 - Permanently cease use of the land as vehicle recovery depot and remove all vehicles stored on the land.
 - Block off the access road created off the A111, remove from the land the associated hard surfacing, and restore the land to its condition as existed before the creation of the access road.
 - Remove the timber fencing around the site and the recessed access gates towards the boundary with Stagg Hill (A111).
 - Permanently remove all hardscaping installed within the site and restore the land to its condition as existed before the unauthorised development.
 - Reinstall the topsoil and vegetative 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 six months from the date the notice takes effect.
 - 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.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - the deletion of the words "with associated creation of an access road" from the description of the breach of planning control at section 3;
 - the deletion of the second bullet point requirement within section 5 containing the words "Block off the access road created off the A111, remove from the land the associated hard surfacing, and restore the land to its condition as it existed before the creation of the access road";
 - the deletion of the words "and the recessed access gates towards the boundary with Stagg Hill (A111)" from the third bullet point in section 5; and
 - the deletion of the words "Six (6) Months" as the time period for compliance at section 6 and the substitution of the words "Nine months".

2. Subject to those corrections and variations, 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 1990 Act as amended.

Preliminary Matters

3. Under Regulation 4(c) of the Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002, an enforcement notice (EN) must specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise. There are obvious reasons for that provision. Given the gravity and serious implications of an EN it is clearly imperative that the land in question is clearly identified so that anyone with an interest may be aware of its content and effect. That tallies with the requirement in s172 of the Town and Country Planning Act 1990 (the Act) that copies of an EN must be served upon the owner and occupier of the land to which it relates and anyone else with an interest in the land in question.

4. It follows that an EN can only seek to enforce against development that has taken place in the land identified on the associated plan. To “attack” development that falls outside the identified area would not comply with the relevant regulations and would potentially deprive an owner, occupier or anyone with an interest in the land from being able to make an appeal if they were unaware of the consequences on account of copies of the notice not being served on them. There would be clear potential of harm to natural justice.

5. In this case, the plan attached to the EN identifies that the land in question is set in from the boundary with the highway at Stag Hill by some margin. On the ground and on overhead mapping one can detect the line of the former carriageway of Stag Hill before it was moved to the west, presumably as part of some highway improvements associated with the large roundabout at the Potters Bar interchange a short distance to the north. The western edge of the land identified on the plan attached to the EN effectively runs to the back edge of the line of the former carriageway.

6. A small building on the land immediately to the north of the access drive gives another line of reference. It is clear from comparing the overhead mapping to reference points on the ground that the access road from the site to Stag Hill falls outside of the land identified in the enforcement notice plan. Moreover, the southern boundary of the land identified on the plan follows the line of fencing which has been erected along that boundary. The access road kinks off from that boundary at an angle but that isn't reflected on the plan. The result is that the access and the access gates to the site fall to the south and west of the identified line.

7. The appellants made representations to that effect within their statement of case and the Council did not respond to those points within its own statement. Consequently, on the evidence before me the access and entrance gates fall outside the line identified on the plan. It is open to me to correct any defect in the notice and vary any associated requirement providing that would not cause injustice. That could include the substitution of the plan.

8. However, it would not be a minor change and it is by no means clear that the land over which the access drive crosses is within the same ownership as the land identified on the current plan. Thus, if I were to substitute a plan to include it I cannot be certain that any relevant owners or people with an interest in that land would be prejudiced on account of copies of the notice not having been served on them. That is not something

that is possible to do at this stage in proceedings. As such I am not satisfied that I can substitute the plan without causing injustice.

9. However, that does not dictate that the EN should be quashed. If I were to correct the description to remove reference to the creation of the access road and vary the associated requirements in respect of the access road and entrance gates that would bring the description of the alleged breach in line with the development that has occurred within the area identified on the plan attached to the EN. There would be no injustice to the appellant in that regard and, whilst I make no comment on the merits of that course of action, the Council could consider issuing a further notice in respect of land outside the identified area if it considered it prudent to do so. Therefore, in order to get the notice in order I shall proceed on that basis.

The Appeal on Ground (a)

10. The main issues in respect of the appeal on ground (a) are:

- i) Whether the development amounts to inappropriate development within the Green Belt;
 - ii) The effect on the character and appearance of the area, including the effect on protected trees; and
 - iii) If the development does amount to inappropriate development within the Green Belt, whether the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other material considerations, so as to amount to the very special circumstances necessary to justify a grant of permission.
- i) *Whether the Development Amounts to Inappropriate Development Within the Green Belt*

11. Paragraph 154 of the National Planning Policy Framework (the Framework) identifies that new development within the Green Belt is inappropriate unless it falls within a defined list of exceptions. Under subsection (h) engineering operations and material changes of use of land are not inappropriate providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy CS13 of the Hertsmere Core Strategy (2013) (the CS) is broadly compliant with the Framework in that respect.

12. Openness is a key characteristic of the Green Belt and has both a spatial and visual quality. In spatial terms development which occupies space that was previously free from development may have an impact on openness on account of its scale and volume, irrespective of how visible it is from public vantage points. However, the visual impact is also a relevant consideration in assessing the effect on openness.

13. Prior to the development taking place it would appear that the land was undeveloped, with overhead images depicting what appears to be grassland, overgrown with trees and scrub, forming part of a wider tract of countryside comprising fields and parkland landscape. In contrast to that undeveloped state the vehicle recovery depot with numerous vehicles, including larger recovery lorries, portacabins and associated covered structures has clearly had a significant, detrimental, effect on the openness of the Green Belt. The use of the land is intensive and the number of vehicles substantial.

14. Moreover, the enclosure of the site with tall, close-boarded, fencing has further eroded the previously open feel of the area. The appellant maintains that the hard surfacing is an engineering operation that has not, of itself, led to a reduction in the open character of the area. However, that is a somewhat artificial assessment because the formation of the hardstanding is directly linked to the use of the land; without it it would not be possible to store the various vehicles and associated items that the business relies upon. In its function, the hardstanding has undoubtedly had a significant adverse effect on the openness of the Green Belt.

15. Overall, the development has led to a substantial reduction in openness in spatial terms. Whilst set back from the highway, the use is also readily noticeable as one passes the site to the front such that the effect is also felt in visual terms. In addition, the development has resulted in substantial encroachment into the countryside, thereby running contrary to one of the key purposes of including land within the Green Belt, as set out at paragraph 143(c) of the Framework.

16. For the reasons set out, the development clearly amounts to inappropriate development within the Green Belt having regard to the policies of the Framework and policy CS13 of the CS.

Effect of the Development on the Character and Appearance of the Area

17. By its nature the recovery yard has a somewhat unsightly appearance on account of various vehicles and lorries, in different states of repair stored and parked across the site. In contrast to what would previously appear to have been verdant countryside, with trees and vegetation amongst areas of grassland, the visual impact is stark. The close-boarded fencing adds to that effect, presenting a sterile boundary not typical of low fences or hedgerows one would typically find in a countryside location.

18. The site is set back from the highway but it still represents a notable expansion of unsightly development into the countryside and one that is clearly visible from Stag Hill as one passes the site. The result undoubtedly causes harm to the character and appearance of the area.

19. The appellant contends that the visual impact could be mitigated through the use of planning conditions to secure additional landscaping. However, it is not clear where such planting would be located or whether the land beyond the existing fencing is within the appellant's control. Planting within the site would be difficult without ripping up the areas of hard surfacing and impacting on the storage of vehicles and other operations. In the absence of further details it is not clear how such a scheme would work. In any event, the primary visual impact comes from the front of the site which would need to be left open to enable vehicular access thereby negating the effect of any planting.

20. The enforcement notice refers to the effect on protected trees but little information has been provided by either party in that respect. The Council hasn't specified which trees in particular it is concerned about and hasn't provided a copy of any Tree Preservation Order in support of its case. For the most part, trees appear to be set away from the boundary, particularly those to the south. There is a mature tree set within the access drive but that would appear to fall outside the boundary of the enforcement notice, as described above.

21. In the absence of any information in respect of protected trees it is difficult to give the matter any weight. Nonetheless, for the reasons set out, the development has had a harmful effect on the character and appearance of the area, contrary to the aims of

paragraph 187(b) of the Framework and policy SADM11 of the Site Allocations & Development Management Policies Plan (2016) (the SADMP) which seeks to protect and conserve local landscape character.

22. It also contravenes policy SADM26 with respect of development standards in the Green Belt, particularly subsections (iv) which states that the scale of development should be compatible with its landscape setting and (vi) which states that existing trees, hedgerows and other features of landscape interest should be retained. On the latter point it is clear that trees and other vegetation were removed to facilitate the development and the appellant has provided no assessment of their effect on the landscape.

23. Whilst the appellant notes that the policies of the development plan are of some vintage, the aims of SADM11 and SADM26 are still broadly compliant with the policies of the Framework and can be afforded weight accordingly.

Other Material Considerations

24. Paragraph 85 of the Framework identifies that significant weight should be placed on the need to support economic growth and productivity and paragraph 88 identifies that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas. I have no doubt that economic benefits have accrued from the development in terms of the people employed at the site and knock on benefits to other businesses and services linked to the recovery yard.

25. Having said that, little information is presented in terms of the number of employees or any financial information relating to the business itself. Equally, no background information has been provided to indicate why this particular site was chosen, which other sites were examined or where the business operated from prior to relocating to this Green Belt location.

26. The appellant states that there is a severe shortage of brownfield land outside the Green Belt in Hertsmere. I appreciate that such sites may be difficult to find but the statement is not supported by any detailed analysis or figures. The Council has produced information created in support of the emerging local plan which indicates the extent of light industrial, general industrial and storage and distribution floorspace that has been granted planning permission within the borough, set against anticipated demand. In the Council's view there is no shortfall of supply against demand.

27. That information has yet to be tested through the examination process and I can attach little weight to it as a result. At the same time, the appellant's assertion that there is a severe shortage of available brownfield land outside the Green Belt in the district is supported by even less evidence which tempers the weight I can attach to the economic benefits. Overall, taking all of that together, the economic benefits attract moderate weight in the planning balance.

28. Interested parties have suggested that part of the land included within the plan attached to the EN is within a Local Wildlife Site. However, no further information is before me as to where that designation is or what its conservation objectives are. Consequently, it is difficult to assess the degree of impact and it is not a matter to which I can attach any weight.

29. Objections have also been received in relation to the increased vehicular activity to and from the site and the formation of the new access. However, there is no objection

from the highway authority and although the adjacent highway is busy, visibility in and out of the access is reasonably good. Therefore, matters of highway safety do not weigh against the development.

Whether Very Special Circumstances Exist

30. In line with paragraph 153 of the Framework I am required to give substantial weight to any harm to the Green Belt. In this case the development is inappropriate by definition, which is harmful of itself, and also causes harm to openness and encroaches into the countryside. It has also caused harm to the character and appearance of the countryside which is a matter that attracts moderate weight. The combined harm attracts very substantial weight.

31. For the reason set out I attach moderate weight to the economic benefits arising from the development. As prescribed by paragraph 153 of the Framework, the very special circumstances needed to justify inappropriate development will only arise where the benefits clearly outweigh the totality of the harm. That is not the case in this instance given the balance of harm and benefits set out above.

Conclusion on Ground (a)

32. The proposal is contrary to the relevant policies of the development plan, represents inappropriate development within the Green Belt, has caused harm to the character and appearance of the area. In the absence of any very special circumstances there is no reason to take a decision other than in accordance with the development plan and it follows that the appeal on ground (a) should fail and I will refuse to grant planning permission in respect of the deemed application.

The Appeal on Ground (f)

33. The appeal on ground (f) was made on the basis that it was unreasonable to require the access to be blocked off and the access gates removed when those elements fall outside the area identified on the plan attached to the enforcement notice. I addressed those matters above in order to get the notice in order and corrected the notice accordingly.

34. The remaining requirements go no further than is necessary to remedy the breach of control and the appeal on ground (f) must fail.

The Appeal on Ground (g)

35. The appellant contends that 6 months is less than should reasonably be allowed on the basis that it could take up to 12 months to secure alternative premises and gain planning permission for the use. Cases in respect of ground (g) essentially require a balance between the public interest in remediating the harm arising from the breach of control and the private interests of those effected.

36. The physical work could be completed in a matter of a few months once contractors were in place and the removal of vehicles would be a much quicker process, once alternative premises were found. It is not unreasonable to allow a period for the appellant to find alternative accommodation, which may or may not require planning permission depending on the existing lawful use. Nonetheless, the 12 month period requested seems excessive given the level of harm and public interest in restoring the site to its former condition.

37. A period of nine months would strike an appropriate balance in my view, enabling a reasonable period to secure alternative premises – a task which the appellant would no doubt pursue with urgency – and a subsequent period to restore the site to its former condition. The appeal on ground (g) succeeds to that extent and I shall vary the terms of the notice accordingly.

Conclusion

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

Chris Preston

INSPECTOR