



Appeal Decision

Site visit made on 6 October 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th October 2025

Appeal Ref: APP/G5180/C/24/3348338

Land at East of Holwood, Plot 1a, Holwood Farm, Shire Lane, Keston BR6 7HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr James Arthur against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 14 June 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 a mixed use of agriculture, storage (including the storage of scaffolding, building materials, caravans and motor vehicles and the siting of storage containers and lorry trailers) and the deposit of waste with, for the purpose of those non-agricultural uses, the erection of structures'.
- The requirements of the notice are: (a) Cease the use of the land for storage (including the storage of scaffolding, building materials, caravans and motor vehicles and the siting of storage containers and lorry trailers) (b) Cease the use of the land for the deposit of waste; (c) Remove all stored items (including scaffolding, building materials, caravans, motor vehicles, storage containers and lorry trailers) from the land; (d) Demolish all structures used for non-agricultural purposes and remove all resultant debris from the land; (e) Remove all deposited waste from the land; (f) Restore the land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is within 6 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f), and (g) of the Act. 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 of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.

The notice

1. I have a duty to get the notice in order. The alleged breach of planning control refers to a material change in the use of the land from agriculture to a mixed use comprising agriculture, storage, and the deposit of waste (the MCU), 'with, for the purpose of those non-agricultural uses, the erection of structures'. The reference to structures is ambiguous because it is not possible to identify them from the notice, as there are no details of their number or approximate positions to separate them from any agricultural structures.
2. Having regard to the reasons for issuing the notice, it relates primarily to the MCU. The erection of structures is alleged to be 'with' the MCU, and taking the notice as a whole, it suggests the erection of those structures was associated with, and facilitative of, the MCU. If that is the case, and the structures are part and parcel of the MCU, it is not essential for the description of the alleged breach to refer to them, even if they are required to be demolished/removed.
3. Considering the imprecise description of the alleged unlawful structures, I shall correct the notice using my powers under section 176(1) of the Act by deleting

reference to them from the alleged breach. This will not cause injustice to any parties, as it does not affect the appellant's case and it will remain open to the Council to take further enforcement action against any structures it considers to be in breach of planning control. Furthermore, it remains open to me to consider whether it is necessary for the notice to require the removal of any structures when dealing with the appeal under ground (f).

Ground (c)

4. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that the MCU was not in breach of planning control. Claims relating to how long ago the alleged breach may have taken place and the planning merits of any development are not relevant to this ground of appeal, which focuses on the legal arguments as to why the MCU may not have been in breach of planning control.
5. Section 57 of the Act sets out that planning permission is required for the carrying out of any development of land. Section 55 provides the relevant meaning of 'development', which includes the material change in the use of any land.
6. It has not been disputed that a material change in the use of the land from agriculture to a mixed use comprising agricultural, storage, and waste deposit uses took place before the notice was issued, even if waste is no longer present or being deposited. Based on everything I have read and seen, there has been a significant change in the character of the use of the single planning unit from when it had a primary use for the purposes of agriculture, compared to its mixed use for agriculture, storage, and the deposit of waste, where none of those uses are incidental to each other.
7. The change of use was therefore material and there is no information before me to suggest the MCU benefitted from planning permission, including any granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For these reasons, I find that the MCU was unauthorised and in breach of planning control.
8. The appeal under ground (c) must therefore fail.

Ground (d)

9. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that at the date when the notice was issued no enforcement action could be taken in respect of the MCU.
10. With regard to section 171B of the Act, if the MCU took place at least ten years before the date the notice was issued, and the mixed use continued without any substantial interruption since, no enforcement action could have been taken. Case law¹ clarifies that the appellant's evidence should not be rejected simply because it is not corroborated, and if there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

¹ *Gabbitts v SSE & Newham LBC* [1985] JPL 630

11. I have been referred to a number of statutory declarations (SDs), signed statements, aerial photographs, and business records. The dates of the aerial photographs are not in dispute.
12. Regan McVaddy's SD states that he first visited the site in early 2011, having had a storage container delivered to what he refers to as 'the yard' in March 2010. That storage container is claimed to have remained on the land for 'many years' for use as a storage compound by his company, while he was aware that land around his container was also used for the storage of construction materials when he visited on a weekly basis. His SD also mentions another storage container was used by another tenant to store all-terrain vehicles, alongside building materials. A delivery note attached to the SD from AB Lift Transport Limited refers to the delivery of a shipping container storage unit to the site on 19 March 2010. The appellant's signed statement claims the same. This is also consistent with the June 2010 aerial photographs, which show what appear to have been one or two storage containers in an area the appellant has annotated 'A1' and described as 'first compound in situ since June 2010'.
13. The SD of Billy Sales explains that he has stored building materials and plant machinery at the site since October/November 2009, and he is familiar with outside storage within 'the compound'. Garry Moore has also provided a SD setting out that he has been storing roofing materials at 'the yard' since 2009.
14. James Arthur Senior has provided a SD setting out that he has visited the site between 2009 and 2019, when he and his son occupied it for the purpose of storing vehicles such as cars, vans and lorries. He and his son both used the site for outside storage and also saw 'the compound' being used for outdoor storage over the years. The appellant's signed statement claims the same, but goes further in explaining that their cars, vans and plant have been stored in the A1 area, and that two yards behind 'the main yard' have been in existence since 2018. The appellant also refers to his father renting out 'the top field' to Nicola Haridimou and Tracey Mead for horses since 2012, with a caravan provided to Ms Mead in 2013 remaining on the land since, alongside another caravan provided by herself since.
15. Ms Haridimou and Ms Mead have both provided signed statements stating the same as the appellant in respect of their use of a field for the keeping of horses since 2012. Ms Haridimou states she witnessed outdoor storage within 'the compound' and recalls there being two shipping containers and some cars parked there, while Ms Mead states that when she began renting the land, there was a container in the A1 area. Ms Haridimou also says she had use of 'the yard'.
16. Raymond John Falzon claims in a signed statement that he first visited the site in 2010 and has been familiar with it since, having occupied it for the purpose of storing materials on 'the yard', beginning in 2011.
17. Michael Allen has provided a signed statement claiming that he visited the site with his daughter for riding a quad bike during 2010 and 2011, and then visited the site to collect materials for work purposes between 2019 and 2022, during which times he had seen 'the compound' used for open storage purposes.
18. Apart from Mr McVaddy's SD, all statements include the line: 'the site edged in red on the attached plan ("Plan to show land uses from 2010")' was in use, in 2009/2010/2012. However, while aerial photographs dated June 2010 and July 2013 are attached to those scanned SDs, neither of these are titled 'Plan to show

land uses from 2010' and neither of them are signed to confirm they are the documents to which those SDs refer. Moreover, notwithstanding the other information provided within the SDs, this repeated statement does not specify what purposes any land was in use for in 2009/2010/2012 or consistently since. Mr McVaddy's SD and the signed statement of the appellant are the only statements which clarify that the declarant is referring to the site by its address.

19. Copies of Assured Shorthold Tenancies (ASTs) entered into by the appellant, Total Homes Limited and Total Homes & Developments Ltd relate to the periods 5 December 2012 to 4 December 2015, 6 January 2016 to 5 January 2019, and 1 July 2019 to 1 July 2022. The first of these refers to a tenancy of 'the storage cabin, known as and forming Storage Container' at the site for use as residential premises only. The second refers to a tenancy of 'the storage container, known as and forming Storage Container' at the site for use as a residential premises only. The third refers to a tenancy of 'the storage unit, known as and forming Storage Unit' at the site for use as a residential premises only.
20. An invoice from Alltype Roofing Supplies (Group) Limited dated 5 August 2015 refers to various building materials, including 480 lengths of 25mm x 50mm batten to be dispatched to the appellant at the site address on the same date. Signed delivery notes from United Grab Hire dated 4 March 2011, 18 September 2012, 9 August 2013, 20 February 2015, and 8 July 2017 refer to 13 and 16 tons of crushed materials to be delivered to the appellant at the site.
21. I do not doubt that all the SDs and signed statements were made in good faith. However, many of them lack detail of specifically what was seen at the site and when, and over which periods. I assign significant weight to those which are in the form of SDs on account of the serious implications set out in The Perjury Act 1911 where a person makes a false statement. This weight is limited by the ambiguity of the SDs and their lack of detail and precision.
22. The statements need to be considered alongside the other evidence. The ASTs are confusing as they refer to use as residential premises, yet they support claims that there was an agreement between the appellant and a company relating to a storage container on the land between December 2012 and July 2022 (apart from most of December 2015 and January to July 2019). The invoice and delivery receipts also support the claim that building materials were taken to the site between March 2011 and July 2017. The aerial photographs, however, paint a very different picture to that implied by the undetailed written statements.
23. I have already commented on the June 2010 aerial photograph, which appears to show one or two storage containers in the A1 area. I take this area to be that described variously as 'the main yard' or 'the compound'. This area appears to comprise an extensive light coloured area in the June 2010 aerial photograph, which is typical when vegetation/earth has been removed/levelled, and/or hard surfacing laid. In comparison, the July 2013 aerial photograph shows much of the area covered in vegetation, with two shapes which could be two storage containers remaining in similar positions.
24. A second compound is annotated 'A3' in the July 2013 aerial photograph, and what have been described as a caravan ('A4') and a horse shelter ('A5') are also annotated. Overall, although some items which may be a low-level of building materials and two storage containers could be present in the June 2010 and July

2013 aerial photographs, these images show the use of the land at those times was likely substantially different in character compared to today. It is difficult to reconcile the June 2010 or July 2013 aerial photographs with the statements.

25. Indeed, the July 2014 aerial photograph, which is of limited quality, appears to show thicker vegetation across the site, with no discernible items which could comprise storage containers or building materials. That said, the A1 area appears more clearly defined, compared to its appearance in the July 2013 aerial photograph. While the July 2013 aerial photograph shows what may have been a single vehicle/plant in the A3 area, little appears to be present in that area in subsequent aerial photographs.
26. The June 2015 aerial photograph shows the A1 and A3 areas were cleared, and some sort of activity taking place, with what could have been building materials or waste around the edges. The two shapes which may have been storage containers in the July 2013 aerial photograph can be seen in similar positions, suggesting that they were present when the July 2014 aerial photograph was taken. An item, which could be a caravan, is located adjacent to the A5 horse shelter, but the A4 caravan is not present. A few unidentifiable items may be present in the A3 area.
27. The A3 area was used for vehicle parking during my site visit and appears to have very few, if any, identifiable items sited there in the aerial photographs dating from before September 2018. The A5 horse shelter was not present during my site visit. Although a caravan was present in the A4 area, it appeared different to that present in the July 2013 aerial photograph, which does not appear to be present in unclear July 2014 and October 2015 aerial photographs, or the clearer June 2015 and April 2017 aerial photographs. A caravan is then present in the A4 area in aerial photographs since May 2018.
28. During my site visit I saw what appeared to be four or five compounds, or areas occupied by different persons for industrial type uses, such as storage of storage containers, scaffolding items, roofing items, vehicles, and other items. Some of those areas were separated by moveable fencing. In addition, there was a grassed area split into paddocks occupied by a range of animals, including goats, horses, sheep, and poultry, where animal enclosures and caravans were present.
29. The use of the site seen during my site visit was therefore largely consistent with what can be seen in the aerial photographs dated March 2021, June 2021, March 2022, and May 2022. The aerial photographs dated April 2019, June 2019, and April 2020 are less consistent with what I saw during my site visit, but they still show what appear to be various vehicles and items on the land in some areas. For example, the areas used for the storage of scaffolding business items and roofing business items can be seen clearly in the aerial photographs from April 2019. However, this is in stark contrast to the September 2018 aerial photograph which shows paddocks present to the northern end of the site and very little else, apart from what may be a storage container and one or two caravans, vehicles and possibly a small amount of building materials on the land. While the A1 area is identifiable in the September 2018 aerial photograph, most of the site is covered in vegetation, which has subsequently been cleared and covered in hard-surfacing.
30. I note the appellant's Planning Contravention Notice (PCN) response. The copy of the PCN response provided is undated and unsigned, and it was predicated on an

alleged unauthorised material change of use to the processing of waste materials. However, the answers provided by the appellant refer to the land being used for the storage of cars, vans and building equipment in 'yard on left as enter plot' (which I take to be the A1 area) since 2009, and in 'yards on left and right just past it (the A1 area)' since 2017-18.

31. In summary, although I have been provided with a number of SDs and signed statements, these lack detail and it has not been explained how they may be consistent with the aerial photographs, particularly those dated between July 2014 and September 2018. The aerial photographs show there was a significant change in how the site was used, and the character of its use, at some point between September 2018 and April 2019, and I have seen how there were many more storage containers, vehicles, scaffolding business items and roofing business items present during my site visit compared to what is shown in the pre-2019 aerial photographs.
32. The invoices, delivery notes, and tenancy agreements add little to support the appellant's case. There is no evidence that the deposit of waste on the site continued throughout the relevant period and it is difficult to understand, on the submissions, how any low-level storage use taking place prior to September 2018 was significant enough to comprise part of the mixed use. I have been referred to a caravan and a horse shelter present in the July 2013 aerial photograph, but I am unconvinced these remained in place for any significant periods. The aerial photographs suggest that multiple caravans were not present on the land prior to 2018, and the written statements provide little clarity.
33. The appellant's evidence lacks detail and fails to provide a coherent explanation of how the land has been used and when throughout the relevant period. For example, there is little information relating to the deposit of waste, yet it is not disputed that this forms part of the mixed use claimed to be lawful. Considered alongside all other evidence, particularly the aerial photographs, the appellant's evidence is not sufficiently precise or unambiguous to show, as a matter of fact and degree, that the MCU took place on or before 14 June 2014. It has not been shown, on the balance of probabilities, that the material change of use to a mixed use of agriculture, storage and the deposit of waste took place at least ten years before the notice was issued and that the mixed use has continued since.
34. The appeal under ground (d) therefore fails.

Ground (a) and the deemed application for planning permission

35. The main issues are:

- Whether the MCU is inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
- The effect of the MCU on the openness of the Green Belt;
- The effect of the MCU on nature conservation; 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 required to justify the MCU.

Whether inappropriate development

36. The site is located within the Green Belt. The Framework explains that substantial weight should be given to any harm to the Green Belt, including harm to its openness, and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework states that development in the Green Belt is inappropriate unless one of various exceptions applies. Policy 49 of the Bromley Local Plan (2019) (BLP) and Policy G2 of the London Plan (2021) (LP) reflect this.
37. Although part of the mixed use is for the purposes of agriculture, there is very little before me to suggest that the MCU, as a whole, did not comprise inappropriate development within the Green Belt. None of the exceptions listed in the Framework apply in this particular case. I therefore find that the MCU comprised inappropriate development in the Green Belt, contrary to Policy 49 of the BLP and Policy G2 of the LP unless very special circumstances apply.

Openness

38. Paragraph 142 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and permanence. Paragraph 143 sets out the purposes Green Belts serve, which include assisting in safeguarding the countryside from encroachment. Openness is therefore a fundamental quality of the Green Belt, which has spatial and visual aspects.
39. The site is located at the end of a country lane in a remote location. It is a short distance outside the built-up outskirts of Orpington, but its surroundings are rural in character and comprise open fields and trees interspersed with occasional buildings. Views of the site are limited from public land, and thick vegetation largely shields views from neighbouring properties.
40. Waste is no longer being deposited on the land, and I saw items are being stored in tightly packed compounds at low heights. The MCU has resulted in an intensive and compact commercial use of the land (albeit with agriculture remaining present), within a countryside location. Despite the site being remote and well-screened by vegetation, the use is uncharacteristic for this location and conspicuous on account of the large number of associated vehicles and structures (including storage containers). It is not typical of what may be expected where genuine agricultural diversification projects are undertaken on plots of similar sizes.
41. The compact nature of the non-agricultural elements of the mixed use and the low-level heights of items stored on the land lead me to find that the MCU has had a modest negative effect on the openness of the Green Belt, both visually and spatially.

Nature conservation

42. The Council has confirmed that the land is not within, but it is 'immediately adjacent to', a Site of Importance for Nature Conservation (SINC). Nevertheless, it is claimed that the site connects green spaces and could provide valuable commuting and foraging networks. No evidence has been provided to support these claims, and it is unclear what species may have been affected by the MCU and to what extent, if any.

43. I have almost no useful information on this point from either of the parties, but it is not disputed that the site is immediately adjacent to a SINCE and that any harm caused in respect of nature conservation objectives could be addressed by mitigation measures secured by conditions, if planning permission is to be granted.
44. Policy 69 of the BLP states that development which may significantly affect the nature conservation interest or value of a SINCE will only be permitted if it can be shown that the reasons for the development outweigh any such harm, or if the harm can be overcome by mitigating measures. This is broadly consistent with Policy G6 of the LP. As the Council has not provided any information as to how such harm may be caused, but it is content that any potential harm could be addressed by a condition, I find that the MCU could comply with Policy 69 of the BLP and Policy G6 of the LP, subject to conditions requiring appropriate ecological surveys/mitigation, if planning permission is to be granted.
45. Policy 68 of the BLP applies to development affecting Sites of Special Scientific Interest. As there is no suggestion that the MCU has any such effect, there is no conflict with this policy.

Other considerations

46. It is claimed that the non-agricultural elements of the mixed use support the viability of the agricultural element, and align with diversification principles. Little has been provided to support this claim, and it is entirely unclear whether the viability of any agricultural activity relies on the non-agricultural elements of the mixed use. Moreover, even if I was satisfied that the non-agricultural elements support the viability of an agricultural enterprise, there is little to show why or how this should weigh significantly in favour of the MCU.
47. The site was in use for landfill in the 1980s, but I have not been provided with any explanation of why this may weigh in favour of the MCU. I am also aware that there must be economic benefits associated with the MCU, including employment opportunities, but I have not been provided with details as to their magnitude. Nonetheless, I note the PCN response refers to five employees visiting the site per week for storage purposes. I therefore assign modest weight to these benefits in favour of the MCU, commensurate with its scale.
48. I have identified harm which is caused to the Green Belt on account of the MCU being inappropriate development as described by the Framework, and on account of it having a modest negative effect on the openness of the Green Belt. As set out above, the Framework advises that any harm to the Green Belt should be assigned substantial weight and that inappropriate development should not be approved except in very special circumstances, which will not exist unless such harm is clearly outweighed by other considerations.
49. Taking all matters raised into account, there are no other considerations constituting very special circumstances which clearly outweigh the substantial weight the Framework advises I must assign to the harm the MCU causes to the Green Belt.

Conclusion on Ground (a) and the deemed application for planning permission

50. The MCU is inappropriate development in the Green Belt and causes a modest level of harm to the openness of the Green Belt. There are no other considerations

constituting very special circumstances which clearly outweigh the harm caused. Any potential harm caused to nature conservation objectives could be addressed by conditions. The MCU is therefore capable of complying with Policy 69 of the BLP and Policy G6 of the LP, but it is contrary to Policy 49 of the BLP and Policy G2 of the LP. The MCU also conflicts with the Framework.

51. For the above reasons the MCU conflicts with the development plan as a whole and there are no other considerations which indicate planning permission should be granted for it. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

52. To succeed under this ground of appeal the appellant needs to show that the steps required to be taken, or the activities required to cease, exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity.
53. The notice requires the cessation of the non-agricultural elements of the mixed use and the removal of all items and structures associated with those elements, along with any resulting debris, to restore the land to its former condition. The purpose of the notice is therefore to remedy the breach, rather than any injury to amenity, and I need to consider whether this could be achieved with less cost and disruption.
54. I have not been referred to any alternative steps which would achieve the purpose of the notice. Instead, it has been suggested that a phased approach could see the gradual reduction of stored items and waste deposits, but I do not see how the steps required to be taken could be described as excessive to achieve the purpose of the notice. Furthermore, although it has also been suggested that compliance could cause unspecified environmental harm and 'may involve a variety of legal and regulatory requirements, including obtaining permits and ensuring compliance with safety standards', there is nothing before me to show it would be particularly difficult or impossible for the notice to be complied with.
55. I have explained why I shall correct the description of the breach to remove reference to the erection of non-agricultural structures. Step (d) requires the demolition of all structures used for non-agricultural purposes, which is also vague and imprecise. Based on everything I have read and seen, I take Step (d) to be referring to two buildings clearly visible in the May 2022 aerial photograph used for the storage of items associated with a scaffolding business and a roofing business. I have not been referred to any other structures which may be 'non-agricultural' and part and parcel of the MCU. I shall therefore vary Step (d) to ensure it requires the removal of those structures, with reference to the May 2022 aerial photograph for clarity. It will be a matter for the Council to consider whether further enforcement action against any other structures which may be unlawful would be expedient, which will need to be described with sufficient precision.
56. The appeal under ground (f) therefore succeeds, but only insofar as I shall vary Step (d) as set out above, to provide the necessary precision.

Ground (g)

57. To succeed under this ground of appeal the appellant needs to show that six months falls short of what should reasonably be allowed for the notice to be

complied with. It has been claimed 12 months would be more sufficient considering the complexity of unspecified tasks, planning, resource allocation, and regulatory approvals, as well as the owner's severe hardship, which has also not been explained fully. Compliance with the notice would have financial and employment implications for the appellant and other parties, but the purpose of the notice means this cannot be avoided, and it has not been shown how an extended compliance period would avoid or soften these effects.

58. There is no evidence before me to show that any parties would be unlikely to secure alternative premises and transition smoothly, as well as comply with all other requirements, within six months.

59. The appeal under ground (g) therefore fails.

Conclusion

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

Formal Decision

61. It is directed that the enforcement notice is corrected and varied by:

- The deletion of the text 'with, for the purpose of those non-agricultural uses, the erection of structures' at section 3 of the enforcement notice;
- The deletion of the text 'all structures used for non-agricultural purposes' at Step (d) of section 5 of the enforcement notice and the substitution of the text 'the scaffolding business storage structure and the roofing business storage structure in the approximate areas edged in red on the attached Photograph A'; and
- The attachment to the enforcement notice of Photograph A attached to this decision.

62. Subject to the correction 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 Act.

L Douglas

INSPECTOR

Photograph A

This is Photograph A referred to in the decision dated: 24th October 2025

by L Douglas BSc (Hons) MSc MRTPI

Land at East of Holwood, Plot 1a, Holwood Farm, Shire Lane, Keston BR6 7HH

Reference: APP/G5180/C/24/3348338

