
Appeal Decision

Site visit made on 3 September 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 6 November 2025

Appeal Ref: APP/C3620/C/24/3338062

Land to the rear of Longacre, 42 Reigate Road, Horley, Surrey, RH6 0HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Siegfried Gover against an enforcement notice issued by Mole Valley District Council.
 - The enforcement notice was issued on 11 July 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of entrance gates and close boarded fencing adjacent to the highway used for vehicular traffic.
 - The requirements of the notice are:
 1. Either
 - a) Remove entirely from the Land the entrance gates and close boarded fencing
 - or
 - b) Reduce the height of the entrance gates and close boarded fencing so that it does not exceed 1 metre in height at any point when measured from natural ground level.
 2. Remove from the Land all debris resulting from complying with Step 1.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: the appeal is dismissed and the enforcement notice is upheld

Procedural Matters

1. The appeal was originally submitted only on ground (a) as set out in Section 174(2) of the Town and Country Planning Act 1990 (the 1990 Act). However, on my reading of the appellant's Enforcement Appeal Statement submitted with the appeal, it was apparent to me that an appeal was also being made on ground (f) as set out in Section 174(2) of the 1990 Act, namely that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach requirements of the notice exceed what is necessary. The Council has commented on this matter under its response to ground (a) and I am therefore satisfied that no injustice would be caused by considering this ground of appeal.

2. The appellant maintains that the Council's reasons for issuing the Enforcement Notice are entirely inadequate and that the wording is confused and inaccurate but stops short of claiming that the notice is a nullity or is invalid. I find no fundamental defects with the notice and therefore do not consider the appellant's point further.
3. The planning policies cited in the reasons for issuing the notice are from the Mole Valley Core Strategy and the Mole Valley Local Plan, which were part of the development plan for the area at the time the notice issued. Shortly after the Council issued the notice, it adopted the Mole Valley Local Plan 2020-2039, which completely superseded those earlier documents. The parties were afforded the opportunity to comment on the policies in the new Local Plan, and I have determined this appeal having regard to the policies in that document.

Background

4. The appeal site has a lengthy and complex planning history. It is therefore helpful to set out the background to the breach of planning control that is alleged at the outset.
5. The appeal site forms part of a wider site that comprises a residential property to the east (known as Long Acre) and an adjoining area to the west that is used in connection with the appellant's business. The whole of the site is within the Green Belt.
6. The appeal site itself is wholly within the administrative boundary of Mole Valley District Council. However, the wider site occupied by the appellant's business straddles the administrative boundaries of Mole Valley District Council and Reigate & Banstead Borough Council.
7. In September 2022, the Council granted a Certificate of Lawfulness for Existing Use or Development (CLUED) in relation to the appeal site (Council Ref: MO/2022/1521/ECL). The use found to be lawful as of 5 September 2022 was the use for the storage, repair/renovation and the building of horseboxes (*Sui Generis*), and the erection of a workshop and hardstanding. I have not been provided with a copy of that CLUED.
8. At around the same time, a CLUED was granted by Reigate & Banstead Borough Council certifying that on 17 October 2022, the northern segment of the wider site (within the administrative boundary of that Council) was in lawful use for the storage, repair, renovation and building of horseboxes (*Sui Generis*), and creation of hardstanding.
9. On 13 June 2025, planning permission was granted for a development described as an extension to existing commercial unit/workshop (Use Class *Sui Generis*: building of bespoke horse boxes) and creation of staff and HGV parking area on the site. The application site was partly in the administrative area of Mole Valley District Council and partly in the administrative area of Reigate & Banstead Borough Council. This included the current appeal site. At the time of site visit, that planning permission had not been implemented.
10. In summary, the situation is that the western part of the wider site has the benefit of a Certificate of Lawfulness for Existing Use or Development for the storage, repair, renovation and building of horseboxes and an extant planning permission, whereas another part the wider site (in the administrative area of Reigate & Banstead Borough Council) is subject to an enforcement notice

against essentially the same use. That enforcement notice is the subject of a separate appeal (Ref: APP/L3625/C/23/3325231). It is in that context that I must consider the appeal on ground (a).

The appeal on ground (a) and the deemed planning application

11. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
12. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issues raised are:
 - whether the appeal site is 'Grey Belt' for the purposes of paragraph 155 of the National Planning Policy Framework (Framework)
 - if not, whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the Framework
 - the impact on the openness of the Green Belt
 - the effect, if any, on the character and appearance of the area, and
 - if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the appeal site is 'Grey Belt' for the purposes of the Framework

13. The definition of 'Grey Belt' is set out in Annex 2: Glossary to the Framework as:

For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

14. Central to that definition is the concept of 'previously developed land'. Insofar as relevant to this appeal, Annex 2: Glossary to the Framework defines previously developed land as including:

Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).

15. The operational development found to be lawful as part of the CLUED granted in September 2022 (MO/2022/1521/ECL) included hardstanding. Consequently, whilst this hardstanding may not have been lawful in planning terms on the date on which it was originally laid, it has subsequently become lawful through the passage of time. I am therefore satisfied that, as a matter of fact and degree, the hardstanding constitutes previously developed land.

16. This then leads to consideration as to whether the appeal site does or does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 of the Framework. In summary, these purposes are:
- (a) to check the unrestricted sprawl of large built-up areas
 - (b) to prevent neighbouring towns merging into one another, and
 - (d) to preserve the setting and special character of historic towns.
17. The appeal site is located to the rear of the residential property known as Long Acre fronting onto Reigate Road. That property is part of a ribbon of residential properties on either side of Reigate Road, albeit that the line of properties on the west side of Reigate Road is fewer in number and more widely spaced than the ribbon of residential properties on the east side. Moreover, the land and typically large gardens to the rear of the properties on either side of the Reigate Road provide a sense of openness to the area.
18. To the west of Reigate Road is the large built-up area of Horley. The gardens to the properties on both sides of Reigate Road therefore make a strong contribution to checking the unrestricted sprawl of Horley. The nearest towns of Horley and Dorking are widely separated, such that the appeal site does not prevent those towns from merging. To the extent that Horley and Dorking can be considered as being historic towns, neither does the appeal site contribute to the setting and special character of those historic towns.
19. The definition of 'Grey Belt' set out in Annex 2: Glossary to the Framework refers to land making a 'strong' contribution to checking the unrestricted sprawl of large built-up areas. The lawful use of the appeal site is for the storage, repair/renovation and the building of horseboxes. Operational development in the form of a workshop and hardstanding is also lawful. Having regard to the implications for the openness of the Green Belt arising from the combination of that use and operational development, the appeal site cannot be said to make a 'strong' contribution to checking the unrestricted sprawl of Horley.
20. For these reasons, I conclude that the appeal site does constitute 'Grey Belt' for the purposes of the Framework.

Whether proposal is inappropriate development for the purposes of the Framework

21. The breach of planning control alleged in the notice is the erection of entrance gates and close boarded fencing adjacent to the highway used for vehicular traffic. Paragraph 154 of the Framework indicates that development in the Green Belt is inappropriate unless it falls within one of exceptions set out in that paragraph. The breach of planning control alleged in the notice is not one of those exceptions.
22. Paragraph 155 of the Framework indicates that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where *all* the following apply (emphasis added).
- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan
 - b. There is a demonstrable unmet need for the type of development proposed

- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework, and
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework¹.
23. Turning then to the criteria (a), (b) and (c) of Paragraph 155 of the Framework, the first point to reiterate is that the (in this case) commercial development in the Green Belt should not be regarded as inappropriate unless of *all* those criteria apply do not fall to be considered. For completeness, I shall consider them briefly here.
24. In relation to Criteria (a), I have already found that the development would utilise grey belt land. I have found that the appeal site does not strongly contribute to checking the unrestricted sprawl of Horley. Consequently, it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
25. Criteria (b) is that there is a demonstrable unmet need for the type of development proposed. The entrance gates and fencing subject to the notice were erected in relation to the commercial use of the site for the storage, repair/renovation and the building of horseboxes. The Appellant explains that the fencing was installed in order to make the site more secure as well as to make it more visually attractive. The appellant goes on to explain that the business also now involves the storage of multiple high value vehicles as well as tools and machinery on site and therefore appropriate security in terms of fencing is entirely understandable and appropriate.
26. I fully understand that the high value vehicles in particular would potentially attract the possibility of theft. However, I have not been provided with evidence to show that the appellant's business is at a genuine risk in this respect. For example, I have provided with no evidence of previous thefts or attempted break-ins, such as police crime reference numbers.
27. I am not persuaded that the entrance gates and fencing that has been erected is the best (or for that matter the only) means of boundary treatment to achieve that purpose. The appellant has not explained what other alternatives that might be less harmful to the openness of the Green Belt were considered. In particular, the appellant has offered no explanation as to why a boundary formed of natural vegetation would not achieve that purpose.
28. In the absence of that evidence and explanation, the appellant's unsubstantiated statement regarding site security falls a long way short of demonstrating through evidence that there is an unmet need for this type of development.
29. In relation to criteria (c), paragraph of 110 of the Framework indicates that significant development should be focused on locations which are or can be made sustainable. The vehicular access to the appeal site is onto a narrow country lane, but from there has good access to a main road (Reigate Road, the A217). However, there is no evidence before me that the site is easily accessible by public transport and the site is some distance from the nearest

¹ The 'Golden Rules' only relate to major development involving the provision of housing and is therefore not relevant in this case.

bus stops. Consequently, I conclude that the appeal site is not within a sustainable location for the purposes of paragraph 110 of the Framework.

30. Paragraph 115 of the Framework indicates that sustainable transport modes should be prioritised taking account of the vision for the site, the type of development and its location. There is no evidence before me that this is the case with the appellant's business on the appeal site.
31. These considerations in relation to sustainable development may not be directly relevant to a development that comprises entrance gates and fencing. However, insofar as that development supports a commercial use, those considerations are relevant.
32. For all these reasons, I conclude that the breach of planning control alleged in the enforcement notice is inappropriate development in the Green Belt for the purposes of Paragraphs 154 and 155 of the Framework. Paragraph 153 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Character and appearance of the area

33. The appeal site is visually associated with Crutchfield Lane. For much of its length, Crutchfield Lane has the character of a rural lane, being bordered by trees in some places and with verges of grass and/or other vegetation. This rural feel is enhanced by the long-distance views over the open fields to the south. I therefore consider that, overall, the area surrounding the appeal site has a rural character and appearance.
34. The appeal site itself is somewhat of an anomaly in this respect. The existing workshop, boundary fence and vehicular accesses give the appeal site an urban appearance when viewed from Crutchfield Lane that is itself in stark contrast to its more rural surroundings.
35. Photographs embedded within the Council's evidence show the entrance gates and fencing shortly after they were first erected in or around June 2020. The entrance gates and fencing were very stark in appearance at that time. My observations at the site visit revealed that the entrance gates and fencing have subsequently weathered considerably and are now much less stark in appearance. In some places, vegetation has grown up in front of the fencing and effectively screens the fencing from view. In other places, this is not the case. In those locations, the full height and form of the fencing is readily apparent.
36. Even in their weathered state and thereby softened appearance, by reason of their height, form and materials the entrance gates and fencing have a distinctly urban character to them. As a result, the urban appearance of the entrance gates and fencing is wholly out of keeping with the rural character of Crutchfield Lane and the surrounding area. Accordingly, the entrance gates and fencing are unacceptably harmful to the character and appearance of the area.
37. I conclude that the breach of planning control alleged in the notice unacceptably harms the character and appearance of the area. I therefore conclude that the development is contrary to Policies EN2 and EN4 of the Mole Valley Local Plan 2020-2039 which, amongst other things, encourages

developments that are sensitive to their landscape context and require development to make a positive contribution to local character.

Other considerations

38. As indicated above, I fully understand that the high value vehicles in particular would potentially attract the possibility of theft. However, in the absence of any evidence to show that the appellant's business is at a genuine risk in this respect and what other forms of boundary treatment had been considered, that is a matter to which I only attach limited weight.
39. The appellant points out that National planning policy is clear on the point that rural businesses should be encouraged and facilitated to prosper and that this may involve trade-offs with other rural planning objectives. It is the appellant's view that businesses in rural locations may require some development in order to operate and prosper, including development which would not otherwise be permitted.
40. In principle, I see no reason to take a different view. However, the Framework encourages the *sustainable* growth and expansion of all types of business in rural areas (emphasis added). Sustainable development includes environmental as well as economic elements. The acceptability or otherwise of any development requires a balance between the two. I undertake that balancing exercise below.
41. In June 2025, planning permission was granted for a development on the western part of the wider site that included the extension to existing commercial unit/workshop and the creation of staff/HGV parking areas on the site. I fully recognise that upholding this appeal would result in the removal or substantial reduction in height of the entrance gates/fence, with the result that the activities granted by that planning permission would become more visible. This would include, for example, the parking of HGV vehicles with the attendant visual impact. Two points arise from this.
42. Firstly, there is the possibility (and I put it no higher than that) of replacing the entrance gates and fencing with another type of fencing that has an acceptable impact on the character and appearance of the area, including with a boundary treatment that comprises entirely or mostly of vegetation. It is reasonable to conclude that the provision of replacement entrance gates/fencing is an option that the appellant would pursue, such that the activities granted by that planning permission would become less visible and intrusive.
43. Secondly, at the time of my site visit that planning permission had not been implemented. There can be no guarantee that the planning permission would be implemented in the future.
44. For these reasons, I attach only moderate weight to the consequences of upholding the enforcement notice on the future effect on the character and appearance of the area.
45. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. However, the overall harms identified are intrinsic to the breach of planning control that has occurred when taken as a whole and could not be overcome by the imposition of conditions.

Green Belt balancing exercise and conclusion on the ground (a) appeal

46. In accordance with paragraph 153 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the development constituted by the breach of planning control alleged in the notice, including the harm to its openness. I further conclude that the development subject to the enforcement notice has unacceptably harmed the character and appearance of the area. That is a matter to which I attach significant weight. These harms could not be overcome by the imposition of suitably worded conditions.
47. Against this, I attach moderate weight to the benefit that results to the consequences of upholding the enforcement notice on the future effect on the character and appearance of the area. I attach only limited weight to the loss of security for the site in the event that the enforcement notice is upheld.
48. Consequently, the harm by reason of inappropriateness and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist.
49. For the reasons set out above, the breach of planning control alleged in the notice is also contrary to policies in the development plan. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan.
50. Accordingly, I conclude that planning permission ought not to be granted for matters stated in the notice.

The appeal on ground (f)

51. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements are expressed in the alternative: either remove the entrance gates and close boarded fencing in their entirety or reduce the height of the entrance gates and close boarded fencing so that it does not exceed 1 metre in height at any point when measured from natural ground level. The purpose of the notice must therefore be to rectify an injury to amenity.
52. The appellant contends that the steps required to be taken by the Enforcement Notice exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which is caused. Specifically, the appellant contends that the complete removal of the fence and gates is completely excessive and reconfiguration to 1m in height is not practical and is disproportionate.
53. As indicated above, in an appeal on ground (f) it is essential to understand the purpose of the notice as distinct from the reasons for issuing the notice. In this case, the purpose of the notice is to rectify an injury to amenity. There are two means by which to achieve that purpose. The first is to remove the

entrance gates and fence in their entirety. That is one of the compliance steps specified in the notice.

54. The second means by which the achieve the purpose of the notice is to reduce the height of the entrance gates and fencing to a lower height so that it no longer causes a harm to amenity. In this case, the Council has adjudged that height to be 1 metre above ground level, presumably because this is the maximum to which the entrance gates and fence could have been erected under Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015².
55. The logic behind that requirement is that if the step was just to remove the entrance gates and fencing in their entirety, the entrance gates and fencing could be re-erected to this height as permitted development anyway once the notice had been fully complied with. The alternative requirement at paragraph 5.1.(b) of the notice is therefore intended to avoid forcing the appellant to remove the entrance gates/fencing in their entirety before erecting the entrance gates and fencing at the lower height.
56. The appellant considers that the reconfiguration of the entrance gates and fencing to 1m in height is not practical and is disproportionate. The only other option open to the appellant to achieve the purpose of the notice is then to the remove entrance gates and fencing in their entirety. The appellant therefore has a choice. Carrying out one of those options is necessary to achieve the purpose of the notice. Neither option is excessive or disproportionate to the breach of planning control that has occurred.
57. I have considered whether there are any other suitable alternatives to the requirements stated in the notice which would achieve the purpose of the notice with less cost or disruption to the appellant, but none are obvious to me. Accordingly, the appeal on ground (f) fails.

Conclusion

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

Formal Decision

59. The appeal is dismissed and the enforcement notice is upheld.

Paul Freer
INSPECTOR

² Given that the entrance gates and fencing are adjacent to a highway used by vehicular traffic.