



Appeal Decisions

Site visit made on 7 May 2025

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

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal A Ref: APP/N4720/C/24/3353669

Appeal B Ref: APP/N4720/C/24/3353671

Land at Hilltop Meadows, Roundhay Park Lane, Shadwell, Leeds LS17 8AS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Frank Bennett (Appeal A) and Mrs Sonia Bennett (Appeal B) against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 7 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land to a mixed use as residential and for the storage of stone associated with a stone merchants business, the stationing of two caravans, one with raised decking, the stationing of four containers for personal storage, and the creation of a new track.
 - The requirements of the notice are to:
 - STEP 1
 - i. Cease the use of the caravans as a separate units of residential accommodation.
 - ii. Cease the unauthorised storage of stone from the land.
 - STEP 2
 - i. Remove the caravans and containers from the land.
 - ii. Remove from the land all domestic garden structures, furniture, and associated paraphernalia.
 - iii. Remove from the land all stone, plant and vehicles connected a stone merchants business.
 - iv. Dismantle and remove all materials used in the laying of the new track.
 - STEP 3
 - i. Remove any materials and detritus from the land resulting from compliance with the above steps
 - STEP 4
 - i. Reseed the land from which the new track has been removed with an appropriate grass seed mix and repeat the seating if required to establish a grass cover
 - The period for compliance with the requirements is one year.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (d), and (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.
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Appeal C Ref: APP/N4720/W/24/3353675

Hilltop Meadows, Roundhay Park Lane, Shadwell, Leeds LS17 8AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Frank Bennett against the decision of Leeds City Council.
 - The application Ref is 24/00773/FU
 - The development proposed is proposed retrospective planning for change of use of land to residential, the stationing of two caravans, one with raised decking, and four storage containers for personal storage, and creation of a new track.
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Decisions – Appeal A and B

1. It is directed that the enforcement notice is corrected by:

- (i) the deletion of the words “the material change of use of the land to a mixed use as residential and for the storage of stone associated with a stone

merchants business, the stationing of two caravans, one with raised decking, the stationing of four containers for personal storage, and the creation of a new track” from section 3 of the notice and their substitution with the words “the material change of use of the land to a mixed use of the stationing of caravans for residential use, the storage of stone associated with a stone merchants business and the stationing of four containers for personal storage, and the creation of a new track and erection of raised decking”;

- (ii) the deletion of the word “land” from section 5 of the notice, and its substitution with the word “Land”;
 - (iii) the deletion of the words “ i. Cease the use of the caravans as a separate units of residential accommodation. ii. Cease the unauthorised storage of stone from the land” from Step 1 in section 5 of the notice and their substitution with the words “Cease the use of the Land for the mixed use of the stationing of caravans for residential use, the storage of stone associated with a stone merchants business and the stationing of four containers for personal storage, and the creation of a new track and erection of raised decking”;
 - (iv) the deletion of the words “connected a stone merchants business” from Step 2 in section 5 of the notice, and their substitution with the words “connected to a stone merchants business”;
 - (v) the deletion of the words: “Reseed the land from which the new track has been removed with an appropriate grass seed mix and repeat the seating if required to establish a grass cover” from Step 4 at section 5 and their substitution with the words “Restore the land to its previous condition prior to the breach having taken place”;
2. Subject to the corrections and variations the appeals are dismissed and the enforcement notice is upheld.

Decision – Appeal C

3. The appeal is dismissed.

APPEAL C

Preliminary Matters

4. I have taken the description of the development from the decision notice, as this more accurately reflects all elements of the development than the application form.

Main Issues

5. The main issues are:
- (i) whether the development would be inappropriate development in the Green Belt;
 - (ii) the effect of the development on the character and appearance of the area;
 - (iii) the effect of the development on the living conditions of future occupiers;
 - (iv) the effect of the development on biodiversity; and

- (v) if found to be inappropriate development, whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

6. The appeal site is a parcel of land off Roundhay Park Lane, located in the Green Belt. It lies close to development to the north, east, and west beyond boundary features. However, to the south it adjoins a tree-lined paddock with fields beyond, such that, even noting farm buildings, a clear sense of surrounding openness is retained. The development relates to the change of the use of the site to a mixed residential and storage use, including stationing of two caravans, one with raised decking, stationing of four containers for personal storage, and creation of a new track.
7. Policy N33 of the Leeds Unitary Development Plan 2006 (the UDP) states that except in very special circumstances, approval will only be given in the Green Belt for certain forms of development. While this aligns with the principle of the National Planning Policy Framework (the Framework), given inconsistencies, I attach limited weight to Policy N33 and greater weight to the Framework. Paragraph 154 of the Framework is clear that development in the Green Belt is inappropriate. This is subject to exceptions, including 154(e), limited infilling in villages, and 154(g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
8. The Framework does not provide a definition of 'limited infilling'. However, case law¹ has interpreted infilling as development in a gap in an otherwise built-up frontage. This largely aligns with the intention of Policy GB2 of the UDP, which states that infilling will only be permitted where the site has a frontage to the road, is a small gap bounded by existing development, and that the proposal is in scale and character with the area and does not consolidate ribbon development.
9. The appeal site does not fall within a built-up frontage. Both the site and the immediately neighbouring property to the north are set back from the Roundhay Park Lane behind dense hedging, while land to the south of the site is open and equally screened by planting. As such, even if I found the site to comprise previously developed land, it is not located in a gap in a built-up frontage. As such, the development is not limited infilling and would not meet the exceptions set out in paragraphs 154(e) and (g).
10. Paragraph 154(h) of the Framework lists other exceptions to inappropriate development. These include: (ii) engineering operations; and (v) material changes in the use of land. This is subject to such development preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. 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

¹ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

Green Belts are their openness and their permanence.” Openness has both a spatial and visual aspect.

11. The development has resulted in four sizeable storage containers at the site, along with two caravans and associated residential paraphernalia, including decking. Due to the scale and volume of these features, and the open views of the site from the paddock to the south, the development has reduced the openness of this section of the Green Belt both spatially and visually.
12. I note the appellant’s reference to the previous siting of storage facilities and a mobile home at the appeal site. However, from the evidence provided by the appellant, such facilities do not appear to have been of a similar or larger scale or volume to those of the development before me. I therefore find that the development fails to preserve the openness of the green belt. As such, it would not meet the exceptions set out in paragraphs 154(h)(ii) or (v).
13. For the reasons given, the development is inappropriate development, which is harmful to the Green Belt. As such, it would be contrary to the provisions of the Framework and Policies N33 and GB2 of the UDP.

Character and appearance

14. The appeal site lies to the south of a notably residential area and, on the western side of Roundhay Park Lane, marks the transition to an open area to the south, comprising numerous fields free from substantial built form. The main parties agree that, notwithstanding findings on Green Belt issues, the proposed caravans are of a suitable scale from a design perspective and, based on my observations, I have no reason to disagree. I further acknowledge the appellant’s position regarding the removal of abandoned machinery and rubble at the site, the dry stonewall repairs that have been undertaken, the various planting, and the reinstated historic metal estate fencing.
15. However, the storage containers that form part of the development are sizeable structures that dominate the eastern section of the site and provide an overtly industrial look that fails to reflect or reflect the predominantly residential surrounds to the north or the open aspect to the south. As such, they read as visually jarring features in the context of the area. While largely screened from Roundhay Park Lane by boundary planting, clear and uninterrupted views of the containers are possible from neighbouring land to the south. Abutting these open fields with limited visual transition in the way of boundary treatments, the containers appear incongruous. Overall, they fail to successfully integrate within the immediate area.
16. The appeal site forms part of an Urban Green Corridor as designated by Policy N8 of the Leeds Unitary Development Plan (Review 2006) (adopted June 2006) (UDP). The policy indicates that these green corridors link the urban area with the countryside and provide, or have the potential to provide, for informal recreation as well as contributing to visual amenity and nature conservation. Within these corridors, development has to ensure that the function of the land is retained, enhanced or replaced. Prior to the development, in particular the siting of caravans and containers, the limited structures at the site would have ensured that it contributed to the visual amenity of the green corridor. It would provide a visual transition from the residential area to the north to the open fields to the south.

17. However, the scale and volume of the structures associated with the development reduce the contribution the site makes to the visual amenity of this corridor. As outlined above, they would not relate well to the immediate surrounds. They result in the site appearing overdeveloped and highlight the linked industrial use, at odds with the green corridor. While the appellant states that the caravans could be painted green, I have limited information before me in this regard and, in any event, find that the scale and volume of the structures would remain incongruous.
18. For the reasons given, the proposal would have a significant adverse effect on the character and appearance of the area. As such, it would fail to comply with Policies N8 and N24 of the UDP and Policies P10 and P12 of the Core Strategy Leeds Local Plan 2014 (the CS) insofar as they seek to ensure development includes design considerations, is appropriate to its location, scale, and function, and that urban green corridors contribute to visual amenity.

Living conditions

19. The evidence before me suggests that the caravans that form part of the development are for residential purposes. No precise detail is provided on the amount of occupants that would reside in the caravans, however reference is made to the appellant's family, and the eventual intention for three family homes on the site. While no floorplans of the caravans are provided, I observed the interior of both during my visit.
20. The first caravan comprised a living/ kitchen area, with one double bedroom and one single bedroom. The second comprised an empty open plan area with a separate kitchen and bathroom. Overall I found the caravans to provide cramped living space that is unlikely to support the day to day needs of future occupants. While the first caravan provided bedspaces for up to three people, it offered limited living or circulation space to support this level of occupation. The second caravan lacked adequate facilities and would create an unduly restricted area for daily living.
21. I note that the Council has referred to internal space standards, being 39sqm for a one bedroom unit. Evidence before me suggests the internal areas of the caravans are 26sqm and 40sqm, respectively. However, even if I found the caravans to be dwellings for the purposes of these floor standards, it remains that I have observed that they would not provide adequate living conditions for the reasons outlined.
22. For the reasons given, the proposal would have a significant adverse effect on the living conditions of future occupiers. As such, it would fail to comply with Policy BD5 of the UDP and Policy P10 of the CS insofar as they seek to ensure that development protects residential amenity and should include useable space.

Biodiversity

23. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for biodiversity net gain, and it applies to all planning applications for non-major development submitted on or after 2 April 2024. Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition, which requires that at least a 10% increase in biodiversity value is met.
24. The evidence before me suggests that, in respect of the development, a valid application was deemed to be submitted after 2 April 2024, due to information

having been missing from the application on its earlier submission date. Accordingly, without any evidence to suggest that any other exemptions are applicable, the proposal is subject to a requirement for 10% biodiversity net gain. This remains the case even if the appellant was not expressly made aware of this by the Council.

25. I acknowledge the appellant's reference to various biodiversity measures that have taken place as part of the development, to include the repair of a drystone wall, the planting of trees and wildflowers, reduction of hardstanding, and natural vegetation. Nevertheless, it remains that I have nothing substantive before me to evidence a 10% biodiversity net gain.
26. For the reasons given, I cannot be certain on the information before me that the proposal would not result in harm to biodiversity. As such, it would fail to comply with the provisions of the Framework in this regard.

Other considerations

27. It is stated that the proposal would provide additional housing in the area. However, as outlined above I have found that such housing would not provide adequate living accommodation such that this benefit attracts limited weight.
28. Communication issues with the Council have also been raised by the appellant. However, this does not go to the planning merits of the appeal such that this does not attract weight in the planning balance. The appellant states that the proposal would utilise brownfield land and would comprise windfall development. However, even if I were to agree that this were the case and attribute significant weight in favour of the development as a result, it remains that even when taken together with the other benefits outlined, this would not outweigh the harm identified.

Human Rights

29. I acknowledge that the consequence of dismissing the appeal would be that any person presently residing in the caravans would be required to vacate. The loss of a person's home would be an infringement of their rights under the Human Rights Act 1998 (HRA). The cessation of the residential use would amount to interference and would engage the right for respect for private and family life, home and correspondence set out in Article 8 of the HRA. This is a qualified right, whereby interference may be justified if in the public interest, applying the principle of proportionality.
30. However, the notice allows for a one year compliance period, allowing residents to find an alternative home. As outlined, I have identified harm in respect of Green Belt, character and appearance, and living conditions. I also cannot be certain of no harm to biodiversity. The harm identified is of such weight that dismissing the appeal would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA.

Conclusion

31. The proposal would result in inappropriate development in the Green Belt. By definition, this would be harmful to the Green Belt and the Framework indicates that such harm should be given substantial weight. I have also found harm with regard to character and appearance and living conditions. I also cannot be certain that the proposal would not have an adverse impact on biodiversity.

32. I find that the other considerations in this case when taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. For the reasons given, I therefore conclude that the appeal should be dismissed.

APPEALS A AND B

Preliminary Matters

34. While no such grounds of appeal were submitted, arguments made in the appeal submission amounted to appeals on grounds (d) and (f). The main parties had the opportunity to provide comments in this regard and the appeals have proceeded on grounds (d) and (f) accordingly.
35. An appeal on ground (a) was also made. However, where an enforcement notice has been issued after 25 April 2024, ground (a) is barred if the requirements of s174(2A) of the 1990 Act are met. Namely, if the enforcement notice was issued: during the time allowed for determining a related retrospective planning application; or within two years of the date on which the related application ceased to be under consideration. The requirements of s174(2A) of the 1990 Act have been met in this case. Appeals A and B have therefore proceeded on grounds (d) and (g) only.

Enforcement Notice

36. The enforcement notice defines the Land at Hilltop Meadows, Roundhay Park Lane, Shadwell, Leeds LS17 8AS as “the Land”. However, in setting out the steps required to be taken, paragraph 5 refers to “land” rather than the correct defined term. In accordance with section 176(1)(a) of the 1990 Act I can correct the steps required to be taken in paragraph of the notice to refer to the Land.
37. Step 1 (ii) at paragraph 5 of the notice refers to the storage of stone “from” the land rather than “on” the land, and Step 2 (iii) states “connected a stone merchants business” rather than “connected with a stone merchants business”. I can correct these grammatical errors.
38. I can make the above corrections without injustice to the appellant or the local planning authority.
39. The allegation in the notice refers to the material change of use of the land to a mixed use to include residential use, and then separately to the stationing of two caravans. However, the stationing of caravans is not a use of land. Given the full allegation of the notice and the evidence of both main parties, it is clear this should refer to a mixed use to include the stationing of caravans for residential use. For these reasons, I can make this variation without injustice to the appellant or the local planning authority.
40. The allegation in the notice further refers to the stationing of four containers for personal storage. However, the requirements of the notice do not include the cessation of these containers for storage, and indeed set out each component of the mixed use individually. Given the full allegation of the notice, the evidence of both the main parties, and the requirement for these storage containers to be removed, it is clear that this requirement should be within the notice and the requirements should relate to the cessation of the mixed use as a whole. For these

reasons, I can make this variation without injustice to the appellant or the local planning authority.

Appeals on ground (d)

41. An appeal on ground (d) is brought on the basis that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters stated in the notice.
42. With regard to the use of the site, the notice, as corrected, refers to the material change of use of the land to a mixed use of the stationing of caravans for residential use, the storage of stone associated with a stone merchants business and the stationing of four containers for personal storage, and the creation of a new track and erection of raised decking. As such, the requirements seek the cessation of unauthorised storage of stone associated with a stone merchants business on the land. Such changes of use are immune from enforcement if no action is taken within 10 years from the change of use. Given the date of the enforcement notice, it is necessary to demonstrate that the material change of use took place on or before 7 October 2014 and continued for 10 years thereafter without interruption.
43. The appellant contends that a commercial use of the land with associated storage of stone has been in place for over 40 years. Although the Council's evidence suggests that the site was not listed for business rates until 2022, a statutory declaration has been submitted by a former owner of the site, which states that a landscape gardening and paving business operated from the site from 1983 – 2022. Reference is also made to a 1986 planning application referred to the use of the site at that time being for commercial purposes and the HGV licence of the former owner to support this stance. Aerial photographs dated 2002-2016 have also been submitted, which the appellant purports to show such storage of stone during this period.
44. The site was then acquired by the appellant in 2022, and they argue that a stone merchant business has been operated from this location since that date. Submitted aerial photographs show the situation on the site in 2022, 2023, and 2024, and appear to show that at least some parts of the site were in use for storage at these times, albeit that it is difficult to be certain of the precise nature of the use. Photographs have also been provided from within the site, showing the interior and exterior of the Nissan hut, with an element of stone storage visible, and a commercial vehicle, which appears to be related to a paving and walling business, leaving the site. However, despite their annotations, I cannot be certain of the dates of these photographs.
45. Nevertheless, even if I were to find the evidence before me sufficient to prove that the storage of stone associated with a stone merchant business existed for at least 10 years without interruption on the date of the enforcement notice, it remains that the enforcement notice relates to the material change of use of the land to a mixed use of the stationing of caravans for residential use, the storage of stone associated with a stone merchants business and the stationing of four containers for personal storage. As such, it is necessary for the appellant to show that the material change of use to this mixed use took place on or before 7 October 2014 and continued for 10 years thereafter without interruption, regardless of the length of time for which the purported use of the land for the storage of stone has existed.

46. There is nothing substantive before me to suggest that this material change of use as alleged in the notice took place on or before the date 10 years prior to the enforcement notice and continued without interruption for the 10 year period. As such, I find on the balance of probabilities that this has not occurred.
47. With regard to the access track and decking, such operational development will be immune from enforcement if no action has been taken within 10 years where substantial completion took place on or after 25 April 2024, or within 4 years where substantial completion took place after 25 April 2024. The appellant contends that the track in question was in place for some time prior to their acquisition of the site, and the submitted statutory declaration states that the circulation track is a long established section of track at the site.
48. The main parties agree that some form of track has been in place at the site, but opinions differ on whether it comprises the current circulation track that is subject to the notice. I have had regard to the various photographs submitted of the site, including the aerial photography ranging from 2006 – 2024. In addition, I note the purported business uses of the site and the fact that HGVs would require somewhere to turn to exit onto the public highway. I also observed the gates leading to the circulation track, which appear to be of some age.
49. Nevertheless, for an appeal to succeed on ground (d), the whole of the alleged development must be substantially completed, being that it has reached the stage at which no further planning permission would be required for any of the works done to it. A track of the precise extent and finish of the current circulation track is not evident in aerial photographs prior to that dated 3 September 2023.
50. As such, on the basis of the evidence before me I cannot find, on the balance of probabilities, that the current track was substantially complete before this date and, accordingly that it has existed for the necessary duration to be immune from enforcement action. Similarly, there is nothing substantive to suggest that the raised decking has been in place for the requisite period.
51. For the reasons given, the appeal on ground (d) fails.

Appeals on ground (f)

52. 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.
53. 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. 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.

54. The appellant contends that the reseeded of the land is excessive as it would go beyond restoring the site to its previous condition. I agree with this approach, as the evidence before me suggests that the land was not fully seeded prior to the development. To accurately reflect this, I can amend the steps required to be taken to remove reference to the reseeded of the site and to simply refer to restoring the land to its condition prior to the breach having taken place. I can make this amendment without injustice to the appellant or the local planning authority.
55. The appeals on ground (f) therefore succeed to a limited extent.

Other Matters

56. For the reasons outlined in connection with Appeal C above, I am satisfied that upholding the notice would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA.

Overall conclusions

57. For the reasons given above, I conclude that the Appeals A and B should not succeed. I shall uphold the enforcement notice with corrections and variations.
58. For the reasons given above, I conclude that Appeal C is dismissed.

C Rafferty

INSPECTOR

Appendix 1 - List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N4720/C/24/3352588	Mrs Hardcastle
Appeal B	APP/N4720/C/24/3352589	Mr. Hardcastle
Appeal C	APP/N4720/W/24/3352575	Mr & Mrs Hardcastle