



Appeal Decision

Site visit made on 8 November 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 26th November 2025

Appeal Ref APP/W1525/C/23/3335761

Land at east of Two Oaks, Maltings Road, Battlesbridge, Wickford SS11 7RG¹

- 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 “1990 Act”).
- The appeal is made by Mr Ralph Victor Boughtwood against an enforcement notice by Chelmsford City Council.
- The enforcement notice was issued on 22 November 2023.
- The breach of planning control as alleged is the formation of a vehicle crossover and access, the formation of a hard surface, the erection of a gate and fences, and the construction of a building and concrete foundation slab.
- The requirements of the enforcement notice are to:
 - i. Demolish/disassemble and remove from the land the building (shown outlined in purple at the approximate location on the attached notice plan).
 - ii. Break up and scrape clear/remove from the land the concrete foundation slab (shown outlined in purple at the approximate location on the attached notice plan).
 - iii. Demolish and scrape clear/remove from the land the hard surface (shown outlined in blue at the approximate location on the attached notice plan).
 - iv. Demolish and remove from the land the entrance gate and fencing (shown outlined in black at the approximate location on the attached notice plan).
 - v. Demolish and scrape clear/remove from the land the hard surfaced vehicle crossover (shown outlined in green at the approximate location on the attached notice plan), including any foundations.
 - vi. Remove from the land all material and debris resulting from the actions taken in steps (i), (ii), (iii), (iv), and (v).
 - vii. Restore the land affected by the works carried out in steps (i), (ii), (iii), (iv), (v) and (vi) to its former condition, and
 - viii. reinstate the hedgerow adjacent to the highway within the approximate location outlined in green on the attached plan.
- The period of compliance with the requirements is 3 months but by 31 March 2024 for last step
- The appeal is proceeding on the grounds set out in section 174(2) (c), (a), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal succeeds on ground (g) but otherwise fails as set out in the Formal Decision below.

Ground (c)

1. The onus is on the appellant to show that the matters alleged do not constitute a breach of planning controls.
2. The appellant concedes, rightly, in my assessment, the gates and fences erected to the front are adjacent to the highway and exceed the limitation set out in paragraph A.1 sub-section (a)(ii) of schedule 2, part 2, class A to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). The fence and gates are in breach of planning controls because no express permission has been granted for them.
3. The vehicle crossover, access and the formation of a hard surface together alter the profile of the land, and their installation probably required some kind of technical knowledge and pre-planning. The work amounts to a significant engineering operation. Part 2, class B to the GPDO permits the formation, laying out and construction of a means of access to a highway

¹ I am also separately determining appeal refs 3335674 and 3335675 made by the same agent on nearby land at Rivaside. The agent is the same and the written submissions overlap.

which is not a trunk road or a classified road. The formation of an access is permitted where it is required in connection with development permitted by any class in schedule 2.

4. However, there is nothing before me to suggest the access is required in connection with permitted development. Additionally, the hard surfaced areas cannot benefit from permitted development rights, because class F to part 1 relates to hard surfaces incidental to the enjoyment of the dwellinghouse. Express permission is required for the access and vehicle crossover and hard standing.
5. In a similar vein, permitted development rights set out in part 4 class A applies to temporary buildings and structures but only in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. There is no evidence to indicate such operations have been permitted or are under way. Finally, part 6 permitted development rights do not apply either. This is because class B is only relevant if the land is comprised in an agricultural unit where the specified development is reasonably necessary for purposes of agriculture within the unit, which does not apply in this case.
6. Ground (c) must therefore fail.

Ground (a) and the deemed application

7. The terms of the deemed application are directly derived from the allegation. Planning permission is sought for the formation of a vehicle crossover and access, the formation of a hard surface, the erection of a gate and fence, and the construction of a building and concrete foundation slab.
8. Relevant local and national planning policy in force at the time of my decision must be considered. Local planning policies referred to in the reasons for issuing the notice are found in the Chelmsford Local Plan (LP) 2020. It is probably under review, and the Council will have regard to updated planning policy found in National Planning Policy Framework 2024 (“the NPPF”) and the Planning Practice Guidance (PPG). Having considered the LP policies relevant to the determination of this ground (a) appeal, I am content that they are broadly consistent with the main Green Belt policy aims set out in the NPPF.
9. The main issues are: 1) Whether the development constitutes inappropriate development in the Green Belt. 2) The effect on openness and purposes of the Green Belt. 3) The effect on the character and appearance of the surrounding area. 4) Whether or not acceptable development, having regard to the flood zone location, and 5) if inappropriate, whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Inappropriateness

10. The alleged development, taken separately or in its entirety, does not fall within the exception categories set out in NPPF154 sub-section a) to g). For example, no cogent reasons have been advanced to show the construction of a building and concrete foundation slab are required for agriculture, forestry, the provision of appropriate facilities in connection with a use of land, nor the extension, alteration or replacement of a building. Sub-paragraph h) explains that other forms of development such as engineering operations, might not be inappropriate development provided they preserve its openness and do not conflict with the purposes of including land within it. I will return to this later given the implications of grey belt policy.
11. Grey belt land includes previously developed land (PDL) and/or any other land that does not, in either case, strongly contribute to criterion (a), (b), or (d), which are found in NPPF143 and

make up purposes of designating land in the Green Belt. Prior to its subdivision into multiple plots, the site was part of wider agricultural land and does not meet the definition of PDL. However, given the location and position of the site, the site does not make a strong contribution to either checking unrestricted sprawl, preventing neighbouring towns from merging nor does it function to preserve the setting and special character of historic towns.

12. NPPF155 explains that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where sub-paragraph a) to d) are met. I consider that the development can be reasonably described as “other development” but sub-paragraph d) is irrelevant. It seems to me that the development utilises grey belt land and the limited scale does not, to my mind, fundamentally undermine the purposes, taken together, of the remaining Green Belt across the LP area.
13. That said, the evidence presented does not show to me there is a demonstrable unmet need for the formation of a vehicle crossover and access, the formation of a hard surface, the erection of a gate and fence, and the construction of a building and concrete foundation slab. Additionally, the site’s rural setting means it is not in a sustainable location thus this kind of development does not provide opportunities to maximise sustainable transport solutions. For these reasons, NPPF155 is breached.
14. Returning to NPPF143 sub-paragraph h) (ii), as I have said elsewhere, the vehicle crossover and access, the hard surface, the erection of a gate and fences replaced largely open and undeveloped land, and they have a spatial and visual effect given the site’s location. The access and hardstanding facilitate open-air parking of vehicles making it likely that the site will be used more intensively for that purpose. In my opinion, the openness of the Green Belt is thus harmed more than it might otherwise be. Furthermore, the vehicle crossover and hardstanding, even without parked vehicles, harm the open aspect of the Green Belt because of their siting. The visual harm is localised nevertheless the development is visible from public vantage points. The hard surfacing has turned otherwise undeveloped land into an area permanently covered with materials of a type and nature that are incongruous in this spacious setting.
15. The appellant maintains that the access, vehicle crossover and hardstanding can all be described as limited engineering operations and compares the 2018 and current aerial images arguing there is no difference in terms of openness as most of the site to the rear remains grassed. However, the engineering operations are noticeable. The scheme intrudes into this part of the Green Belt, which is characterised by mainly open and undeveloped parcels of land and hedgerows. Although other purposes of designating land in the Green Belt may not be breached, in the round, the scheme conflicts with the objective of safeguarding the countryside from encroachment and I find that to be a serious planning objection.
16. Drawing all the above points together, in my planning judgment, the development utilises grey belt land. However, it is at odds with NPPF154 a) to h), and NPPF155. That same finding is also applicable to part of the development alleged, namely, the formation of a vehicle crossover and access, and hard surface. I therefore conclude that the alleged development constitutes inappropriate development in the Green Belt. There is conflict with LP policies SPS1, SPS11, DM6 and DM10.

Character and appearance

17. The surrounding area is predominantly rural in nature but there are examples of built and sporadic development within the street scene. In this context, and while I disagree with the appellant’s arguments on openness, the design and layout of the access and vehicle

crossover, hard surfacing, gate and fence and building do not, individually or cumulatively, have a materially harmful visual effect on the character of the street scene. This is because of the plotland pattern of the development and the extent of existing screening and landscaping. The scale of development is not out-of-keeping with the rural character of the surrounding area.

18. Additionally, the Council is concerned about the type of material used because the vehicle crossover and the sprawling gravel surface are visible from the highway and through the access gate. However, several plots along the road have vehicle crossovers and gated access points. I too find that these are of varying design and some display urban characteristics. In this context, the fence and gates provide some open elements, are not experienced as excessively prominent additions to the front of the site and, in character and appearance terms, blend acceptably with their surroundings.
19. The development alleged does not have a materially harmful visual effect on the character and appearance of the street scene and locality. Accordingly, the design principles found in NPPF chapter 12, and in LP policy DM23, are met.

Flooding

20. The Council say the site is in Flood Zone (FZ) 2 and 3 and is highly vulnerable given the proximity to the River Crouch and insufficient information has been submitted to demonstrate the potential impact of flooding. However, as the PPG indicates, a flood risk assessment needs to be appropriate to the scale, nature and location of the development. In that context, there is a strategic flood risk assessment and, given the site's proximity to the source of flooding and its location in FZ2 and 3, the appellant's evidence found in the appeal bundle is sufficient to make an informed decision.
21. There are existing flood defences in the form of an embankment, seawall and sluices. However, the Environment Agency's flood zones refer to the probability of river and sea flooding ignoring the presence of defences, and there is no guarantee of these defences being permanent or maintained as they are beyond the appellant's control. Nonetheless, the development is limited in scale and comprises a small outbuilding, said to be 6 square metres, a vehicle crossover, gates, fences and hard standing which, according to the appellant is permeable. Given the location, layout and position, the development is unlikely to be at significant risk from flooding when compared to highly vulnerable use such as a residential caravan site. The evidence presented does not clearly show the development alleged is likely to increase the risk of flooding elsewhere.
22. I conclude that the development is unlikely to have a material effect on, or from, the risks of flooding. Accordingly, the development satisfies the main aims and objectives of LP Policies SPS2 and DM18, guidance found in NPPF chapter 14 and the PPG.

Other considerations

23. The following arguments, underlined and evaluated, are advanced in favour of the development.
24. The development is minor and needed in connection with the lawful use, which has been ongoing since 1980: however, there is nothing to indicate the development was required in connection with an agricultural or a lawful existing recreational or leisure use of the appeal site. The claim is that the existing recreational use is lawful due to the passage of time, but that is a potentially separate matter for the appellant to pursue.

25. I recognise the storage building, gates and fence may be required for security purposes given concerns about trespass, or the storage and safe keeping of plant and machinery. The alternative would be to grant planning permission for elements of the development enforced against. However, I am not persuaded the development can be severed because they function together given the location of the building, gates and fences, and spread of hard surfaced areas.
26. There is other development nearby: be that as it may, each development needs assessing on its individual merits and the existence of other forms of development are not a strong justification to grant planning permission, nor is there any evidence of a strong precedent.
27. Personal circumstances and human rights: The appellant rights under Article 8 of the European Convention on Human Rights² must be taken into consideration. This includes interference with private and family life. While there are concerns about the the effect of upholding enforcement notices, this ground (a) appeal relates to operational or engineering development. Nonetheless, interference must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8.
28. In this location, the inappropriate nature of the development represents a grave planning policy objection. There is a need for restrictive policies to be applied to such areas, and this restriction is an appropriate proportional response to that need. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of this case. I shall consider whether refusal would have a disproportionate effect on the appellant in my overall conclusions.

Planning balance

29. Substantial weight is given to the inappropriate nature of the development in the Green Belt and harm to openness. Despite the grey belt policy findings above, the development conflicts with at least one purpose of designating land in the Green Belt, which is a serious planning objection. There is conflict with Green Belt protection policies in the LP cited above. My findings on the second and third main issues do not weigh in favour nor against the development – neutral effect. On the other side, the need for the development in connection with an existing use, alternative scheme, security concerns and the existence of other forms of development nearby, carry limited weight. The appellant's personal circumstances carry minimal weight.
30. In my planning judgment, the advanced considerations in support of the appeal, whether taken individually or cumulatively, do not, on balance, clearly outweigh the conflict with planning policies designed to protect the Green Belt so as to justify the grant of a planning permission on the basis of very special circumstances. In all the circumstances, it is not disproportionate to refuse planning permission.

Ground (f)

31. The challenge is that the steps required exceed what is necessary to remedy the breach of planning controls. However, I have already assessed the merits of retaining the building, gates, fences, hard standing and building in connection with any existing use of the land. I have also considered alternative scheme like granting planning permission for elements of the development, but they are not severable. In my assessment, given the reasons for issuing the notice, I do not consider under-enforcement would remedy the breach. The latter is remedied by full compliance.

² The ECHR protections have been codified into UK law by the Human Rights Act 1998.

32. The steps required are proportionate and do not exceed what is necessary to achieve the purpose behind the notice, which is to remedy the breach by restoring the land to its condition before the breach occurred. Ground (f) fails.

Ground (g)

33. The appellant says that the period of compliance is too short because an alternative scheme would need to be worked up and submitted to the Council for its consideration. Given the level, nature and extent of the work needed to comply with the notice, I too agree 3 months is unreasonable. In addition, specifying compliance by a specific date is unclear. That said, 12 months is far too excessive given the identified planning harm. Given the requirements and the need to find alternatives, a suitable compromise is 8 months. Ground (g) succeeds to this limited extent only.

Overall conclusion

34. For all the above reasons, and having considered all other matters, the appeals on ground (c) and (f) fail. I conclude that ground (a) fails, and planning permission is refused on the deemed application. However, as I will vary the period of compliance, ground (g) succeeds to that limited extent.

Formal decision

35. It is directed that the enforcement notice be varied in section 6, period of compliance, by the deletion of all the text and numerals and the substitution therefor by the following text: "eight months".
36. Subject to the variation and the notices are upheld, the appeal is dismissed, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

A U Ghafoor

INSPECTOR