Planning Inspectorate

Appeal Decision

Site visit made on 15 December 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 09 January 2026

Appeal Ref: APP/J0405/C/24/3337156
Turweston Hill Farm, Brackley Road, Turweston, Buckinghamshire NN13 5JB

- 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 Ian Francis-Jones against an enforcement notice issued by Buckinghamshire Council.
- The notice was issued on 19 December 2023.
- The breach of planning control as alleged in the notice is the undertaking of engineering operations to form a lake/drainage pond.
- The requirements of the notice are:
  Step 1 Permanently remove all imported soil/material used in the formation of the lake/drainage pond (shown in the approximate location shown hatched on the attached plan), from the Land.
  Step 2 Restore the landform to the level and condition that existed immediately prior to the unauthorised engineering works took place, by spreading of any site derived soil/material across the Land, infilling (with appropriate material) the lake/drainage pond void and removing the banks and built-up sides.
- The period for compliance with the requirements is: Nine (9) months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Ground (c)

1. For ground (c) to succeed, the onus and burden of proof is firmly on the appellant to demonstrate on the balance of probabilities that the lake/drainage pond does not constitute a breach of planning control. For example, because it is not development or is permitted development that does not require prior approval or otherwise need an express grant of planning permission.

   Development

2. I appreciate that the use of any land for the purposes of agriculture is not within the meaning of development in section 55(2)(e) of the Act. However, the notice does not pursue use of the Land.

3. In area and volume, photographs before me show extensive earth works and excavations in progress to form the lake/drainage pond on the Land, including water and drainage channels. I saw the significant size of it in situ and the area of reinstatement works, including rough grassland and some raised land levels. There is evidence that these works required heavy construction equipment and vehicles, including digger and dumper truck, and evidently some pre-planning.

4. Even if the lake/drainage pond was not finished or in use when the notice was issued in December 2023, the appellant confirmed in response to a Planning Contravention Notice (PCN) that by November 2023 top soil was still to be spread

and an outfall installed. Bar these residual works, the substantive works outlined above had occurred and the lake/drainage pond was plainly substantially complete.

5. Consequently, I am satisfied these groundworks involved engineering operations (as is therefore properly alleged in the notice) to form the drainage lake/pond and that it is development under section 55 of the Act.

Permitted development

6. The appellant then claims that the engineering operations, thus the drainage lake/pond, is permitted development by virtue of Article 3(1), Schedule 2, Part 6, Class A, paragraph A(b) and paragraph A2(2)(c), condition (i)[1], including for the purpose of flood protection or alleviation on a farm[2]. The paragraph A(b) permitted development right – any excavation or engineering operations – applies to agricultural land comprised in an agricultural unit of 5 hectares or more and the excavation and engineering operations must be reasonably necessary for the purposes of agriculture within that unit.

7. In essence, I am informed that Turweston Hill Farm (THF) comprises 18 hectares. The area of the Land (as defined by a thick black line in the notice plan) within THF has not been given. 'Agricultural land' is said to be used as an agricultural trade/business for hay/haylage making (including grass lets). In addition, for horse grazing (including grass or grazing liveries) and bees to make honey. The drainage lake/pond is on the agricultural land and there is also an equestrian business.

8. A plan is said to show, amongst other things, land used for hay making and horse grazing at THF, including on some of the Land. However, this plan was prepared in 2009. Moreover, it is not clear to me if it shows 18 hectares of land, considering also that additional land has been rented by THF in the past. The extent of hay/haylage making and horse grazing shown on the Land in this plan is also not entirely consistent with land marked as 'agricultural' in the PCN plan. Nor does either plan show land used for bee keeping.

9. There is no up-to-date plan (or other clear or consistent details) to confirm the current, full extent of land and activity at THF and on the Land, including location and area used for hay/haylage making, horse grazing or bee keeping, thus the extent and aggregate total of claimed agricultural land. It is not clear to me why some photographs, on the face of it, of grass fields or paddocks, many with horses in, show hay making, as the appellant suggests. Moreover, even if one aerial photograph shows bales of haylage on some of the Land, it is a snapshot from 2013. It has not been suggested that bales are shown in the sequence and time period covered by the other similar aerial photographs, some more recent, or why this would not have been the case.

10. I have not been informed about any relevant licence, registration or accreditation for any of this activity at THF, such as an agricultural or Couty Parish Holding number or Companies House listing, or reason why none is required. Nor if any applies to all of THF or some part of it, such as the Land. The appellant has not elaborated on who or what entity benefits from hay/haylage making (including if any is used by the equestrian business) or the horse grazing. Nor about to whom

[1] The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended
[2] Planning Practice Guidance paragraph 116

or where a grass crop or honey is sold and in what quantity or level of profit, if any. The appellant's occupation, if any, has not been given.

11. Essentially, and as I saw, the equestrian business includes a yard on the Land with stables, other buildings such as to store feed and tack, an outdoor manège and a horse walker. Much of the rest of the Land is sub-divided into regimented paddocks, some with piped water troughs. There were no field shelters. Some paddocks are next to a large, open square of rough grassland, mostly taken up by the broadly circular lake/drainage pond, which then slopes down to a narrow linear corridor of lower lying rough grassland that stretches in either direction along one side of a river.

12. There is evidence that horses can be trained/schooled (and riders taught) or are present for stud/breeding purposes or for competition, recreational, leisure or domestic use by their owners with a range of livery options. Horses may be cared for by staff, such as turning out into the paddocks and bringing in, mucking out, grooming, feeding, bedding and hay. There is also hacking, gallops and a cross country course on (in the absence of evidence to the contrary) land at THF, which could include on some of the Land. This equestrian activity is consistent with a lawful development certificate (LDC) secured by the appellant in 2009[3], including to keep up to 32 horses/ponies. I have also had due regard to the main parties interpretation of caselaw put to me, though no transcript has been provided[4].

13. I have not been informed that any horses at THF are working horses. Even for a basic grass livery, the equestrian business requires an owner to visit daily to care for their horse and feed it to ensure it is sound and healthy. There is, therefore, little to suggest that any horses are simply turned out to live on the land with a view to feeding them with food and water from the land. Such land would then likely be used for grazing and an agricultural use. Most horses at livery are more likely than not turned out in the paddocks when necessary or appropriate and returned to stables, including overnight, or to elsewhere in the yard to be cared for by staff, including fed and watered wholly or primarily by other means. If so, the paddocks are not simply used for grazing, so not an agricultural use. Such grazing as horses do is incidental because there is no way to prevent this.

14. In light of the above, on the evidence before me, horses in paddocks on the Land or elsewhere at THF do not subsist largely of their own accord, similar to livestock. But if any do, there is little evidence it is a prevalent activity. They are instead kept in association with other facilities or services offered by the equestrian business, so are integral to it. As such, the paddocks are not a functionally discrete agricultural use of land and cannot be decoupled from the overarching equestrian use, as the appellant otherwise maintains. Since activity on the Land or elsewhere at THF involves more than just putting horses out to graze, the primary use of this land is equestrian, not agricultural.

15. Moreover, cropping of grass is, on the face of it, largely incidental or ancillary to the equestrian use or an opportunistic means to earn some income from land that is not or cannot be used as paddocks. Either way, a subsidiary part of a mixed, primary use of the Land and THF for the equestrian business, including, and even if honey production is more than a hobby or interest, bee keeping.

[3] 09/01094/ACL
[4] *Belmont Farm v MHLG* [1962] 13 P&CR 417

16. Consequently, although the definition of agriculture in section 336 of the Act encompasses the breeding and keeping of livestock (including any creature kept for the production of food), and the use of land as grazing land, there is little evidence that THF, thus the Land, is solely or primarily used for agriculture or that any such part comprises 5 hectares or more. But even if both of these criteria are met, there is then little to suggest that any such land is so used for the purposes of a trade or business or is occupied as a unit for the purposes of agriculture, including buildings occupied for the purpose of farming the land – ie as any reasonable person would understand this phrase to mean growing crops or raising livestock by a farmer.

17. In these circumstances, neither THF or the Land is agricultural land or an agricultural unit within the requisite meaning of Part 6 paragraph D.1(1) and D.1(1)(a). Accordingly, Part 6 permitted development rights do not apply. On this basis, even if the lake/drainage pond has alleviated waterlogging and improved conditions for growing grass on part of the Land, its use as paddocks or to keep bees, this development cannot be reasonably necessary for the purposes of agriculture. The appellant has not suggested that the lake/drainage pond is permitted development for any other reason.

Prior Approval

18. The appellant submitted an application to the Council in 2010 to establish if prior approval was required for the construction of a lake[5]. For reasons that are not clear to me, the Council returned the application with an informal advice letter. Though not before me, the letter essentially set out that excavation works 'on agricultural land' were permitted by Part 6, subject to conditions, so did not require planning permission granted by the Council. I have no reason to doubt the appellant, that he eventually acted on this letter, but that is a matter for him.

19. The Council maintains it did not determine the application and there is little to suggest that the letter was its formal written notification that prior approval was not required. Because it was returned, there may not have been an application under consideration or the possibility of deemed prior approval. That is also not a matter for me and, in any event, apart from a similar description, there is little to suggest that in detail the 2010 lake is the same development pursued by the notice. The letter at least contained an important caveat about use of land if it was intended to rely on Part 6 permitted development rights.

20. Notwithstanding this, the appellant's annotated aerial photograph shows a 0.208 hectare lake/drainage pond and 0.213 hectares of associated earthworks around the south side of it. On this basis, and albeit approximate figures, it is common ground that the development would be 0.421 hectares in total and as such is said to be less than the relevant area (0.5 hectares) referred to in paragraph A.2(2)(c).

21. However, paragraph A.2(2)(c), and paragraph D.1(4), confirm that the relevant area should also include the area on which it is proposed to deposit waste material. In the absence of evidence to the contrary, some photographs show that an extensive area of land around the north side of the lake/drainage pond was used for this purpose. This has evidently not been taken into account by the appellant.

22. Given that 0.421 hectares is already close to 0.5 hectares, this significant omission undermines the appellant's claim that paragraph A.2(2)(c), condition (i) was not

[5] 10/01197/APP

engaged and prior approval not required for the siting of the excavation or deposit. On the evidence before me, it is more likely than not that the development is or exceeds 0.5 hectares and on that basis prior approval is required. Such approval cannot be given retrospectively.

Other considerations

23. The appellant considers that the Council has limited contradictory evidence. However, that which the Council has provided is relevant to the matters in hand. It challenges the appellant’s version of events enough to render them less than probable, including because much of the appellant’s evidence is inconsistent, vague or anecdotal so not sufficiently precise or unambiguous. There is also no affidavit or statutory declaration by the appellant (which might carry more weight) or evidence from others to corroborate the appellant’s evidence. These factors cast further significant doubt in my mind.

Planning permission

24. Taking all of these circumstances into account, and with regard to section 57(1) of the Act, there is little to counter that an express grant of planning permission is required for the development, comprising engineering operations to form the lake/drainage pond. I have not been informed that such permission was granted, or if it was, that it remains extant.

Conclusion

25. As a matter of fact and degree, the appellant has not demonstrated on the balance of probabilities that the lake/drainage pond does not constitute a breach of planning control. Consequently, ground (c) fails.

Ground (g)

26. I acknowledge that wet weather could hinder soil movement, thus progress towards removing the drainage lake/pond and restoration of this part of the Land. But this is largely an unknown factor. How long it took to form the drainage lake/pond has not been disclosed, or if weather influenced the time it did take. The Council maintains it took approximately a month in October 2023, though there is little to justify its assertion that reversing the works would take less time.

27. In any event, the period specified in the notice is already significantly more than a month. It would now extend into the first two months of autumn (September and October), which the appellant maintains is generally one of the driest periods with best ground conditions. There is, though, little to suggest that these works exclusively need dry weather, so no apparent reason why some could not be completed earlier in the year, including in the summer when there is also generally a good prospect of some dry weather.

28. The drainage lake/pond has been established now for some 2 years so I accept it is likely to have some wildlife potential. There is, though, little objective evidence, including from a competent person (such as an ecologist), that it has been ‘colonised’ by wildlife, including any protected species, or is an important habitat site. Nor that any statutory or legal wildlife obligation is engaged that might affect the timing of works. There is then little apparent reason why suitable precautions and mitigation or compensation could not be taken, if necessary.

29. The appellant does not otherwise dispute that the period specified in the notice is intrinsically sufficient to complete the works, including to secure necessary equipment, machinery, materials or labour. I am also mindful that the Council has powers under section 173A(1)(b) of the Act which give it discretion to extend the period for compliance, such as for any of the reasons outlined above, if justified. That would, though, be a matter for the main parties, whereas the period set out in the notice must be sufficient to begin with.

30. While I also appreciate the notable scale of works that would be involved and likely cost, there is nevertheless little to substantiate or justify the appellant's request for 12 months. In these circumstances, I consider that this would be a disproportionate extension of time and unduly perpetuate the harm caused by the breach of planning control, as set out in the Council's reasons for issuing the notice.

31. Consequently, on the evidence before me, the nine (9) month period in the notice to take the steps required by it does not fall short of what should reasonably be allowed. Accordingly, ground (g) fails.

Formal Decision

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

Robin Buchanan
INSPECTOR