



Appeal Decision

Site visit made on 2 December 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2026

Appeal Ref: APP/J2373/C/24/3348068

Land and building known as Midgeland Road, Blackpool, Lancashire, FY4 5JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Alice Ester Beale against an enforcement notice issued by Blackpool Council.
 - The notice was issued on 5 June 2024.
 - The breach of planning control as alleged in the notice is 'Without planning permission, erection of perimeter fencing, laying of hardcore, installation of electric feeds and water mains and the laying of footings for buildings.'
 - The requirements of the notice are to: Cease the development of the land for residential purposes; remove all hardcore; disconnect and remove all electricity fittings and hubs; remove all building footings in their entirety; re-establish the land as greenbelt, with grass, shrubs and trees; return the land to its lawful use as agriculture/horticulture.
 - The period for compliance with the requirements is: three months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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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Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the words 'for residential purposes' from the first requirement in Section 5 of the Notice;
 - deletion of the fourth requirement in Section 5 and its substitution with the words 'Remove all concrete footings and blockwork from the land';
 - deletion of the fifth requirement in Section 5 and its substitution with the words 'Reinstate the land to its condition before the breach took place'; and,
 - deletion of the sixth requirement in Section 5.
2. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Notice

3. Inspectors have a duty to try to get notices in order. If I consider the Notice is defective, I have broad powers under the provisions of s176(1)(a) of the Act to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellant or the Council. If the Notice cannot be corrected, I must quash the Notice.

4. A notice must be drafted fairly to tell a recipient what he has done wrong¹ and what he must do to remedy it². In *Oates*³ the High Court clarified that some degree of uncertainty or other defect in the relevant section of the notice does not mean there is non-compliance with s173(1). Whether a defect renders the notice null must be viewed in the context of: the importance or otherwise of that particular part of the enforcement notice; whether the defect is bound up with the remainder of that section; and, whether the enforcement notice would be valid in the absence of that defect. It is open to me to conclude that whilst part of the relevant section of the notice is uncertain, the notice as a whole complies with the statutory requirements and the offending part can be deleted without rendering the remainder of the notice null. Finally, *Oates* established that the Inspector should approach the exercise in a way which is not unduly technical or formalistic.
5. The Notice includes requirements to cease the development of the land for residential purposes; to remove all building footings in their entirety; re-establish the land as greenbelt, with grass, shrubs and trees; and, that the land be returned to its lawful use as agriculture / horticulture.
6. Notwithstanding that the appellant describes the alleged development as enabling works to future development (subject to planning permission) and, in support of the appeal has provided a proposed layout plan of a potential scheme for the residential development of the site, the Notice does not allege development for residential purposes. It is only concerned with operational development that has taken place. Accordingly, reference to a potential use of the site is merely supposition and, in the interests of the clarity of the Notice, should be deleted. As no residential use of the site was present on the land, no injustice would arise from that correction.
7. Section 2 of the notice describes the land affected by it. It refers to 'Land and building'. To distinguish between the recent development and the potential below-ground remnant brick building elements shown in the appellant's evidence, requirement 4 should be deleted and replaced with 'Remove all concrete footings and blockwork from the Land'. This is to ensure the Notice does not exceed what is necessary to remedy the breach of planning control. As this correction confines the requirement only to the development subject of the Notice, no injustice to the parties would arise.
8. The term 'greenbelt' in the requirements is undefined. It could be misinterpreted as Green Belt, for example, and it is unclear as to the nature of any extent of grass, shrubs and trees that might be required to achieve that. Together those requirements are uncertain. However, as the landowner will be the person with the best knowledge of what the site's previous condition was, a correction to 'Restore the land to its condition before the breach took place' would not cause injustice to the appellant, it would provide reasonable certainty as to what is required⁴.
9. While it is open for a previous lawful use to be reinstated by virtue of s57(4) of the Act, an enforcement notice cannot require it. Deletion of the offending part of the Notice would not cause injustice.

¹ s173(1) and (2)

² s173(3).

³ *Oates v SSCLG v Canterbury CC* [2018] EWCA Civ 2229

⁴ See *Lipson v SSE* [1976] 33 P&CR 95 and *Ormston v Horsham RDC* [1965] 17 P&CR 105

The Appeal on Ground (a) and the Deemed Application for Planning Permission

Preliminary Matter

10. An appeal on ground (a) is only concerned with the development alleged in the Notice. The Notice does not allege a use of the Land, and it is therefore only open to me to consider the operational development that has taken place.

Main Issues

11. The main issues are whether or not the development:
- is appropriate development in the Marton Moss Strategic Site;
 - preserves the character and appearance of the locality and the Marton Moss Conservation Area;
 - preserves green infrastructure;
 - incorporates sustainable drainage.

Reasons

Development at Marton Moss

12. The Council's spatial strategy for new development is to direct it primarily to central areas of Blackpool. However, strategic growth is supported in Marton Moss by Policy CS1 of the Blackpool Local Plan Part 1: Core Strategy (2012-2027) [2016] (the LP1) subject to recognition of its important character and compliance with other policies in the development plan. Policy CS2 limits new housing to identified sites. Policy HSA1 of the Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (the LP2) provides updated housing allocations. The site is not allocated for housing.
13. To protect the distinctive local character of Marton Moss, Policy CS26 of the LP1 limits new development to four listed exceptions. The development has not been demonstrated to fall within any of those exceptions. However, the policy anticipates a neighbourhood planning approach which was provided by the making of the Marton Moss Neighbourhood Plan in November 2023 (the MMNP) prior to the issue of the Notice.
14. The site is not an identified housing allocation in the MMNP but is subject to Policies MM2 and MM3. Through Policy MM3, a location-specific policy, development of the site is limited to that maintaining an open appearance and the specified uses in Policy MM2. This includes leisure or the conversion or extension of existing buildings, or replacement of existing buildings.
15. The appellant's photographic evidence suggests that the site accommodated former structures and drainage such that it would constitute a brownfield or previously developed land site. However, historic mapping from 1971 suggests glasshouses and buildings were only present on the adjacent sites at that time. There is little evidence provided of the site's previous lawful use. Notwithstanding, even if the site fell within the National Planning Policy Framework's (the Framework) definition of previously developed land, the development remains outside of the exceptions to development in the strategic area. This is because no buildings capable of re-use remain on the land.

16. As the development subject of the Notice has not been demonstrated to fall within any of the defined categories of acceptable development for the site, it conflicts with Policies CS1, CS2 and CS26 of the LP1, Policy HSA1 of the LP2, and Policies MM3 and MM2 of the MMNP as they set out the Council's spatial strategy for new development.

Character and appearance

17. The site is located in an area of now diminished market gardening activity that retains ranges of glasshouses and small-holdings but has seen regular plots redeveloped and new residential, equine and other commercial and animal-based enterprises introduced. The area is characterised by a network of rural lanes serving loosely dispersed properties amongst generous areas of mainly hedged paddocks, open fields and large gardens that give rise to a predominant open and rural character.
18. The retained pattern of development is distinct from the urban areas to the north and more undeveloped open countryside to the south. It is the character and appearance of the area's historic significance that the Marton Moss Conservation Area (the CA) designation seeks to preserve.
19. There is no dispute between the parties that the site was formerly covered in vegetation and bordered by a timeworn fence. The development has resulted in the stripping of the site surface and/or its substantial coverage with stone hardcore. Aside from the mesh fence to the road frontages, only low level structures and various pipes project above ground level. The limited extent of above ground development retains a sense of openness. However, the substantial loss of natural vegetation cover and its replacement with surfacing incongruous to the locality has failed to preserve the naturalised character and appearance of the site which is typical of the locality and CA.
20. Policy MM3 identifies the significance of the site at a key junction regarded as a gateway to Marton Moss. In addition to seeking preservation of the site's openness, it explicitly seeks to secure an appropriate boundary treatment.
21. The appellant's evidence shows the former cast concrete post and rail fence to be in a timeworn condition. This is recognised in the MMNP. Although the appellant describes the mesh fencing as aesthetically pleasing in comparison, in an area where low walls and hedges are the predominant boundary treatments, the scale, design and material of construction fail to respond to the local character of development or, therefore, preserve or enhance the character of the locality. The introduction of high mesh fencing is not a characteristic form of development in the CA.
22. The appellant asserts that the fence could be removed once boundary landscaping has been established. However, there is limited detail of planting proposals before me, nor evidence to show how long that process might take. It is therefore unclear as to what screening effect planting might have in the interim on either the fence or the existing development across the remainder of the site. Furthermore, retention of the hard surface within the site is unlikely, to my mind, to be conducive to providing effective short or long-term screening. A condition requiring boundary landscaping would be unreasonable as it may not necessarily make the development acceptable in planning terms.

23. I recognise that the Notice does not require the removal of the boundary fence such that, in the event that the Notice is complied with, s173(11) of the Act would effectively grant planning permission for it. However, as any future compliance, or otherwise, is unknown this is a matter of negligible weight in the appeal.
24. Under the duty imposed under s 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I conclude that the development causes harm to the character and appearance of the CA and undermines its historic significance.
25. The Framework is clear at Paragraph 212 that 'great weight should be given to the asset's conservation'. The harm is no greater than 'less than substantial' in the context of Section 16 of the Framework, however, less than substantial harm does not equate to a less than substantial planning objection.
26. I recognise that the appellant asserts that the works are only preparatory for future site development. However, there is little to indicate that the site either has planning permission for its future development, or that a development plan compliant scheme could be delivered there in short course. Accordingly, there are negligible public benefits that could outweigh the identified harm to the CA.
27. Taking those matters together, I find the development that has occurred conflicts with Policies CS7 of the LP1, DM27 of the LP2, and Policies MM2 and MM3 of the MMNP as they require development to be well designed, enhance and contribute to the character of Marton Moss, include appropriately designed boundary treatments, and preserve or enhance the character or appearance of the Marton Moss Conservation Area.

Green Infrastructure

28. According to the Council, the development has resulted in the removal of trees and hedgerows from the site. This is not disputed by the appellant. In addition, the appellant's images of the site prior to its development show a grass covering on the visible parts. Although pioneer vegetation has re-established itself in some areas of the hardcore layer, only limited established vegetation remains along parts of the site boundary.
29. In addition to changing the character and appearance of the site, the removal of trees and other vegetation for replacement with hardcore will doubtlessly have reduced its biodiversity value. As a formerly vegetated area connected to others, it would have contributed to the lateral movement of wildlife as part of a wider network of green spaces. To my mind, the stripping of the site and erection of mesh fencing on two boundaries will unlikely have benefitted movement on or across the land as part of a network.

In the absence of evidence to demonstrate otherwise, I find the development conflicts with Policies CS6 and CS7 of the LP1, Policy MM1 of the MMNP and the Framework as together they require development to retain existing trees and hedges; protect existing and provide and enhance green infrastructure networks and corridors and access to them; to secure wildlife habitat creation; and, to enhance biodiversity.

Sustainable Drainage

30. The site development includes water feed pipes, waste pipes and larger drainage infrastructure pipes. However, little detail of their actual purpose, layout, flows, percolation rates, flow attenuation measures or future management, for example, have been provided. Furthermore, it remains unclear where it discharges to and whether this relies on earlier drainage discovered by the appellant. It is not therefore possible to determine whether or not the installed drainage has been designed on sustainable drainage principles.
31. As I can only consider the development that has taken place, it would serve little purpose to impose a condition requiring a sustainable drainage scheme as it may serve no legitimate purpose. Such a condition would be unreasonable and conflict with Paragraph 57 of the Framework and the relevant legal tests.
32. For the reasons above, I find the development conflicts with Policy DM31 of the LP2 and MM1 of the MMNP as they require a developer to demonstrate that site surface water would be discharged by the most sustainable drainage option available and in accordance with up-to-date guidance.

The Planning Balance and Conclusion on Ground (a)

33. I acknowledge the appellant's assertion that a development could be made acceptable in terms of highway access, drainage and landscaping. However, those policy requirements are not benefits in favour of retaining the existing development and do not outweigh the conflicts with the Council's spatial strategy for new development, the harm to the character and appearance of the locality and Marton Moss Conservation Area and biodiversity. The development is contrary to the development plan when read as a whole and the deemed application for planning permission should be refused.

Other Matters

34. I note the appellant's contention that the site is post-coded and that a pre-application response provided by the Council in 2022, prior to the adoption of the LP2 and MMNP, suggested some details of the scheme may be acceptable. However, these are not significant matters in the appeal.

Overall Conclusion

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

R Hitchcock

INSPECTOR