



Appeal Decisions

Site visit made on 12 January 2026

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 February 2026

Appeal A Ref: APP/N4720/C/25/3364564

Appeal B Ref: APP/N4720/C/25/3364565

Land at Haigh Meadow Barn, Wakefield Road, Rothwell, Leeds LS26 0RZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against an enforcement notice (“the notice”) issued by Leeds City Council.
 - The appeals are made by Ms Leigh Dardzinski (Appeal A) and Mr Ben Aran Thompson (Appeal B).
 - The notice was issued on 26 March 2025.
 - The breach of planning control as alleged in the notice is, without planning permission, the unauthorised erection of a new detached dwelling.
 - The requirements of the notice are to demolish the unauthorised dwelling in its entirety and remove all the materials and domestic paraphernalia resulting from the demolition from the land.
 - The period for compliance with the requirements is 1 year.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Act. 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f), (g) of the Act.
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Appeal A – Decision

1. The appeal is dismissed, the notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Decision

2. The appeal is dismissed and the notice is upheld.

Preliminary Matters

3. The appeal site’s planning history includes a grant of prior approval¹ for the change of use of 2 agricultural barns to form 3 dwellinghouses. While the appellants repeatedly describe the dwelling subject of this appeal as having arisen through conversion, they have not appealed on ground (b)² and the allegation that a new detached dwelling was erected is therefore not formally disputed. The evidence concerning the use of steel reinforcing brackets to support the roof trusses in the kitchen/diner area does not identify any surviving fabric from the previous building.
4. The Government published a consultation on proposed reforms to the National Planning Policy Framework (“the Framework”) and other changes to the planning system during the appeal. The consultation period has not ended, and the draft Framework does not constitute Government policy or guidance, although it may be treated as a material consideration in local plan examinations and appeals. Accordingly, it was not necessary to revert to the parties on this matter, and I have

¹ 18/00588/DPD.

² That (the matters stated in the notice which may give rise to the breach of planning control) have not occurred.

assessed the appeals having regard to the version of the Framework published in December 2024 and amended on 7 February 2025.

The Notice

5. The appellants contend that the notice is a nullity or invalid because:
 - (a) On its face, it does not tell them the matters which appear to the Council to constitute the breach of planning control.
 - (b) The reasons for issuing the notice refer to a residential curtilage that is not a matter alleged to be in breach of planning control, and the notice omits any requirement to remove it.
 - (c) The notice does not identify or properly deal with other, associated, development on the land relating to its residential use including the construction of an access road, a parking area and a separate barn.
 - (d) The notice fails to specify any need for the land to be returned to its previous condition.
 - (e) The reasons for issuing the notice incorrectly cite paragraph 145 of the Framework.
6. It is further contended that any corrections or variations made to address (a) to (e) above would result in a notice which is wholly different in terms of the description of the alleged breach, the spatial extent, and the framing of requirements. It follows that, if that were the case, the appellants would suffer injustice because their case is made in respect of the notice as it was issued.
7. Taking points (a) to (e) in turn:
 - (a) The notice unambiguously states that the Council considers the breach of planning control to be the unauthorised erection of a new detached dwelling.
 - (b) A matter not alleged in the notice does not fall to be considered in this appeal.
 - (c) As (b) and I understand the access road is now permitted.
 - (d) Under-enforcement would not be a reason for a notice to be found a nullity.
 - (e) The reasons for issuing the notice clearly describe paragraph 154 of the Framework, which is addressed in the appeal on ground (a). The erroneous reference to paragraph 145 is therefore inconsequential.
8. For these reasons, the notice is not a nullity or invalid and there is no need to make corrections to it that might give rise to concerns about injustice.

Appeal A – the appeal on ground (a)

9. While the appellant refers to policies of the development plan and the Framework on the re-use, extension, or alteration of buildings in the Green Belt (“the GB”), those policies do not apply to the erection of a new dwelling.
10. The main issues in this appeal are therefore:

- Whether the erection of the new detached dwelling is inappropriate development within the Leeds Green Belt (“the GB”).
- If the erection of the new detached dwelling constitutes inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and so amounts to the very special circumstances required to justify it (“the GB balance”).

Reasons

Inappropriate development

11. Policy N33 of the Leeds Unitary Development Plan (Review 2006) Volume 1: Written Statement (“the UDP”) identifies that planning permission will normally only be granted for 7 categories of development within the GB. These generally align with the 8 forms of development that paragraph 154 of the Framework indicates are not inappropriate in the GB. However, no exception in policy N33 or paragraph 154 that could support the erection of a new detached dwelling has been identified.
12. The appellant also refers to paragraph 155 of the Framework, which allows that the development of homes in the GB should not be regarded as inappropriate if 4 criteria, a - d, apply. While she provides evidence to support her contention that criteria a, c and d³ apply, the wording of paragraph 155 is clear that, to succeed, all 4 criteria must apply.
13. Criterion b is that there is a demonstrable unmet need for the type of development proposed. Footnote 56 to the Framework confirms that, for new housing, this means the lack of a 5-year supply of deliverable sites, including any relevant buffer, or where the Housing Delivery Test was below 75% of the housing requirement over the previous 3 years. The appellant does not produce any evidence that this criterion applies using either measure, neither does she challenge the Council’s evidence that it has a 6.6-year supply of deliverable housing sites. It has therefore not been demonstrated that criterion b applies, so the exception provided by paragraph 155 cannot be claimed, regardless of any assessment against criteria a, c and d. The erection of the new detached dwelling is therefore inappropriate development within the GB.
14. When considering the degree of harm arising from inappropriate development, it is helpful to refer to the purposes of the GB set out in paragraph 143 of the Framework. This is particularly relevant in view of the appellant’s contention that the land constitutes grey belt, being land that does not strongly contribute to any of the following purposes of the GB:
 - To check the unrestricted sprawl of large built-up areas (purpose a).
 - To prevent neighbouring towns merging into one another (purpose b).
 - To preserve the setting and special character of historic towns (purpose d).
15. It is agreed that the site does not strongly contribute to purpose d, so only purposes a and b require further assessment.

³ 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; 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 Framework.

16. In terms of sprawl, the site is within a part of the GB that is largely free of existing development, certainly when compared with the nearby urban areas of Belle Isle, Middleton, Stourton/Leeds Valley, Rothwell, and Robin Hood. The embankment carrying the M1 is a nearby physical feature that, with the M621, restricts and contains the expansion of Belle Isle, Middleton, and Stourton/Leeds Valley.
17. The principal physical feature lying between the site and Rothwell is the A61, a single carriageway road passing through relatively flat terrain at this point. While the road and an adjacent pylon line would be significant factors in the design and layout of any future development, it cannot be assumed that they would restrict sprawl. Part of Robin Hood lies on the same side of the A61 as the site, so there are no physical features that could limit its future sprawl toward and across the site.
18. The site contributes less strongly in terms of the potential merging of neighbouring towns. The M1 embankment creates permanent visual separation between Belle Isle and Middleton on one side and Rothwell on the other. If Rothwell were ever to merge with Robin Hood, it would most likely occur on the other side of the A61.
19. Nevertheless, and on the facts, I agree with the Council that the site lies within an area that forms part of a significant buffer between urban areas. It strongly contributes to checking the unrestricted sprawl of large built-up areas, one of the 5 purposes of the GB, so it is not grey belt land.

Other considerations

20. The occupiers of a dwelling are likely to rely upon private car use in most locations. In this case, the Council considers the area to be unsustainable because it is not well served by public transport. In contrast, the appellant notes that a range of frequent bus services operates on the A61, with bus stops on both directions near the access to the site. She also considers the site to be conveniently located for accessing a range of shops and services in Rothwell.
21. Neither party has identified the relevant bus routes or the frequency of service, or the relevant shops and services in Rothwell. However, paragraph 110 of the Framework notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be considered in planning decisions. Accordingly, and given the lack of detail before me, I do not find the location to be unsustainable.
22. The appellant acknowledges that the dwelling replaced a smaller building and she offers a planning obligation to remove a bay from an adjacent agricultural building to secure an overall reduction in built form on the land. She suggests this mitigation would enable the development to accord with local and national planning policy. However, as noted, neither provides support for the erection of a new dwelling in the GB in these circumstances. It therefore needs to be determined whether the proposed mitigation would constitute exceptional circumstances sufficient to clearly outweigh the harm to the GB by reason of inappropriateness and any other harm.
23. The appellant further indicates that, if the proposed mitigation were found insufficient, she would accept a planning condition requiring complete demolition of the agricultural building as an alternative. While she also suggests the planning obligation could be amended to do the same, or a different one could be drawn up to that end, I can only take account of the one that is before me.

24. While the obligation and the suggested condition would address the quantum of built development, the building to be reduced or removed is located closer to and thus can be seen as part of a group with Haigh House and The Grange. In contrast, the dwelling stands apart and shifts the focus of development away from the group and into what would otherwise be open countryside. The reduction or removal of the barn would not alter that. While there was previously a building of similar dimensions in the same place, it was demolished without planning permission for a replacement in place, so it cannot feature in the equation.
25. Furthermore, an agricultural building and a dwelling can have quite different effects on the perception of openness within the GB by reason of the activity associated with them. There is no evidence that the agricultural building is still in use but if it were, such use would most likely be seasonal and sporadic. In contrast, a dwelling will regularly generate activity, including the daily passage of vehicles, year-round. Furthermore, while the notice does not identify a curtilage, it would be naïve to expect the occupiers of a dwelling to not make some incidental use of adjacent land, such as car parking for example, with its own spatial and visual effects.
26. For these reasons it has not been demonstrated that the proposed reduction or removal of the agricultural building would offset or overcome the harm of the dwelling to the GB by reason of inappropriateness.
27. While reference has been made to a grant of prior approval for the change of use of an agricultural building to a dwellinghouse, it is accepted that this was not carried out and it is no longer capable of being implemented. The building that would have been put to the new use no longer exists, so the prior approval is not a fallback, and I cannot afford it any weight in support of the appeal.

The GB balance

28. The erection of the dwelling is inappropriate development within the GB and, by definition, harmful to it. It is erected on land that strongly contributes to the purpose of checking the unrestricted sprawl of large built-up areas. I afford substantial weight against the grant of planning permission to these factors.
29. The absence of objections on highway safety and flood risk grounds and the fact that the location has not been shown to be unsustainable are neutral matters and do not weigh for or against the grant of permission. As noted, the suggested reduction or removal of the adjacent agricultural building has not been demonstrated to mitigate the harm that the new dwelling causes to the GB.
30. I have also noted the support for the appellant's case given by a neighbour and the ward councillors. However, that support does not raise any issues relevant to the appeal that have not been considered as part of the matters above.
31. The identified factors in support of the appeal do not, individually, or collectively, clearly outweigh the harm to the GB by reason of inappropriateness. The very special circumstances required to justify the erection of the new dwelling have therefore not been shown to exist.

Conclusion on ground (a)

32. For the reasons given, the erection of the dwelling is inappropriate development that causes substantial harm to the GB which has not been shown to be capable of

appropriate mitigation or to be clearly outweighed by other considerations. It is therefore contrary to policy N33 of the UDP and Part 13 of the Framework.

33. Given the importance of policy N33, the proposal is contrary to the development plan as a whole and there are no material considerations to indicate that the appeal should not be determined in accordance with the development plan. The appeal on ground (a) must therefore fail.

Appeals A and B – the appeals on ground (f)

34. An appeal on this ground may succeed if it can be demonstrated that a requirement of the notice exceeds what is necessary to remedy the breach of planning control or, alternatively, any injury to amenity it may cause.
35. The notice requires the demolition of the new dwelling and the removal of all materials and items arising from the demolition. Its purpose is therefore to remedy the breach of planning control, the erection of a new detached dwelling.
36. The appellants reiterate points considered above in respect of nullity and invalidity or in the appeal on ground (a) but do not identify any reasons why the notice might require more than would be necessary to remedy the breach of planning control. Lesser steps that would remedy the erection of a new detached dwelling have not been identified. In these circumstances, the appeals on this ground must fail.

Appeals A and B – the appeals on ground (g)

37. A letter from the local NHS Trust confirms that an appellant has received follow-up care after treatment and surgery in 2022. The letter also states that another family member living in the new dwelling was diagnosed with a serious illness in 2023. The appellants confirm that this family member requires their continual care.
38. Upholding the notice would have a significant impact on the appellants and the family member because they would lose their home. That would interfere with their rights to respect for their home and family life and property under Article 8 of the European Convention on Human Rights as set out in Schedule 1 of the Human Rights Act 1998.
39. The rights set out under Article 8 are qualified rights, which means they may be interfered with in accordance with the law and in the interests of public safety in a democratic society. In this instance, no evidence that alternative housing options are unavailable has been provided. Nevertheless, I recognise that compliance with the notice would have an emotional toll and may have an effect on wellbeing.
40. However, and taking all matters into account, the harm arising from the erection of a dwelling in this GB location is such that it is proportionate, as found in the appeal on ground (a), to uphold the notice and refuse to grant planning permission. The protection of the public interest in this way cannot be achieved by means that avoid interfering with the rights of the occupiers under Article 8.
41. The appellants suggest an alternative period for compliance of 5 years or longer, depending upon the future health of the appellant and the family member. For understandable reasons, it is not indicated how far this could extend.
42. Personal matters rarely justify permanent development and extending the compliance period to 5 years or more would be tantamount to granting a time-

limited planning permission. That would contradict the expediency of issuing the notice and my finding in the appeal on ground (a).

43. In these circumstances I cannot conclude that the period of 1 year falls short of what should be allowed having regard to the appellants' situation. That is despite it being unclear what the Council knew about the appellants' circumstances and their ability to comply with the notice within 1 year when it was issued.
44. In reaching this view I am mindful that section 173A(1)(b) of the Act allows a local planning authority to extend the period for compliance with a notice. However, this would be entirely for the Council's discretion, considering the evidence made available to it, and I cannot say, for the reasons given above, whether it would be in the public interest.
45. On the evidence before me, it has not been demonstrated that the period for compliance falls short of what should be allowed, so the appeals on this ground must fail.

Appeal A – Conclusion

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

Appeal B – Conclusion

47. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the notice.

Mark Harbottle

INSPECTOR

Appendix 1
List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N4720/C/25/3364564	Ms Leigh Dardzinski
Appeal B	APP/N4720/C/25/3364565	Mr Ben Aran Thompson