



Appeal Decisions

Hearing and site visit on 26 February 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 18 March 2026

Appeal A: Ref APP/X2410/C/24/3357878

Land on the East side of Brand Hill, Woodhouse Eaves, Leicestershire LE12 8SX

- 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 appeal is made by Mr Gurdev Mattu against an enforcement notice issued by Charnwood Borough Council (the Council) on 19 November 2024.
 - The breach of planning control as alleged in the notice is: Change of use of existing vehicle access point and part of an agricultural and forestry track to a mixed use of agriculture, forestry and residential, and installation of an additional section of track for residential use, low-level lighting along the track and intercom system.
 - The requirements of the notice are to:
 1. Cease the residential use of the vehicular access, existing track and additional section of track. The additional section of track is hatched blue on the plan ref 101-25/(P)102D and attached as appendix 1.
 2. Remove all hard surfacing, surface dressing, base material, sub-base material, and geotextile/textile matting from the additional section of track hatched blue on the plan ref 101-925/(P)102D and attached as appendix 1.
 3. Place top soil to the same level as the neighbouring land on the area where the hard surfacing has been removed and reseed with a pasture grass mix.
 4. Remove the low-level lighting bollards, disconnecting the electricity supply to the lighting bollards and remove any electrical servicing cables associated with the lighting bollards.
 5. Remove the intercom system, disconnecting the electricity supply to the intercom system and remove any electrical servicing cables associated with the intercom system.
 6. Remove from the land any plant, machinery, tools, debris, waste, and materials arising from undertaking steps 2 - 5.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) (d) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act).
 - This decision supersedes that issued on 6 June 2025. That decision on the appeal was remitted for re-determination by order of the High Court on 21 August 2025.
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Appeal B: Ref APP/X2410/W/24/3358006

Brand Hill House, Brand Hill, Woodhouse Eaves, Leicestershire LE12 8SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gurdev Mattu against the decision of Charnwood Borough Council (the Council).
 - The application Ref P/24/0258/2, dated 13 February 2024, was refused by notice dated 8 November 2024.
 - The development is installation of track and use of existing vehicular access point and the track for access to existing dwellinghouse with associated works.
 - This decision supersedes that issued on 6 June 2025. That decision on the appeal was remitted for re-determination by order of the High Court on 21 August 2025.
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Decisions

1. It is directed that the enforcement notice be corrected by:
 - Deleting “installation” and “low level lighting along the track and intercom system” in section 3;
 - Replacing “vehicular access, existing track and additional section of track” with “additional section of track and cease the mixed use of the vehicle access point and part of the agricultural and forestry track” in step 1 of section 5; and
 - Deleting steps 2-6 of section 5.
2. Subject to these corrections (made partly due to successes on grounds (c) and (d)) and as far as it is relevant given my Decision on Appeal B and the effect of Section 180 of the Act, Appeal A is otherwise dismissed and the enforcement notice is upheld.
3. Appeal B is allowed and planning permission is granted for installation of track and use of existing vehicular access point and the track for access to existing dwellinghouse with associated works at Brand Hill House, Brand Hill, Woodhouse Eaves, Leicestershire LE12 8SX in accordance with the terms of the application, Ref P/24/0258/2, dated 13 February 2024, subject to the conditions in the attached schedule.

Procedural Matters

4. Inspector Phillips issued the initial appeal decisions which have been remitted back to the Secretary of State by order of the High Court. My task is to redetermine the appeals afresh. However, the initial appeal decisions are capable of being material considerations and I have referred to them where appropriate. I have also taken the representations of third parties into account.
5. Since the appeals were made, the Council has adopted a new Local Plan (19 January 2026). The development plan for the appeal site now comprises the Charnwood Local Plan 2021-2037 (LP) and the Woodhouse Parish Neighbourhood Plan 2020-2036 (NP). Policies of the emerging LP were cited in the reasons for refusal of the application (while noting that Policy DS5 of the emerging LP was renumbered DS4 in the adopted LP) and the parties have had a full opportunity to make their appeal submissions against those policies.
6. Since the initial appeal decisions were issued, the main parties have found common ground on a number of issues. This is particularly the case as regards the various grounds of appeal in Appeal A (albeit the appellant has since added a further quite separate ground (c) argument to which I am satisfied the Council has had a fair opportunity to rebut in detail both before and during the Hearing). And, although it was a reason for refusing the planning application, the main parties have also agreed that the appeal development can be made acceptable by the imposition of a suitable condition as regards biodiversity.
7. Further, the appellant has removed the low-level lighting bollards from the development and is not seeking consent for them. The Council has accordingly suggested that this element of the alleged breach be removed from the enforcement notice. I am therefore removing reference to the bollards from both the allegation and requirements of the notice, without causing injustice.

Appeal A Ground (c)

8. For success on this ground, I must be satisfied on the balance of probabilities that matters stated in the notice do not constitute a breach of planning control.
9. Inspector Phillips found that the intercom system, the subject of the appellant's initial case on this ground, was not a breach of planning control since it does not constitute development. Both main parties are not contesting that finding, and I have seen nothing to lead me to find otherwise. Consequently, ground (c) succeeds in this respect and I am accordingly removing reference to it in both the allegation and requirements of the notice.
10. The more recently raised argument under this ground is that there has not been a material change of use of the land, amounting to development for which planning permission is needed.
11. Part of a track used for agricultural and forestry purposes (and its access from Brand Hill) has changed in use so that it also serves as what is essentially a residential driveway to Brand Hill House (together with an additional section of track spurring off towards that dwelling). The character of use before this change was characterised by a relatively small number of trips by vehicles (likely to include those of an agricultural or forestry type) and which in my judgement were more likely, when compared to a typical range of residential trips to and from a dwelling, to occur during daylight hours due to the nature and necessity of carrying out such activities in good light. I therefore find, as a matter of fact and degree, that there is a significant difference in the character of the activities from what has gone on previously - to the effect that there has been a material change in use of the land. Planning permission is necessary for the development. Accordingly, ground (c) does not succeed in respect to this argued point.

Appeal A Ground (d)

12. For success on this ground, the appellant must demonstrate on the balance of probabilities that enforcement action was not possible on the date the notice was issued.
13. The additional section of track was created in April 2017, more than 7 years before the enforcement notice was issued. I agree with Inspector Phillips that the relevant immunity period under section 171B(1) of the Act is 4 years from substantial completion of the operational development (there being no application of the *Murfitt*¹ principle as the track is causative, and not ancillary or incidental, to the change of use). The Council does not contest this point, and I find for these reasons that it was too late for enforcement action to take place concerning the installation of the additional section of track on the date the notice was issued. Ground (d) therefore succeeds to this extent. I am correcting the notice accordingly to remove reference to the installation of the track from the allegation and to remove the various requirements relating to it.

Appeal A Grounds (f) and (g)

14. Due to the above successes on grounds (c) and (d), these grounds fall away and are no longer pursued by the appellant.

¹ *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598

Appeal B

Main Issues

15. Since the installation of the track is lawful development, the main issues in the appeal are the effects of the changed use of the existing vehicular access point ('Site Access 3') and of the track, along with associated works, upon the character and appearance of the countryside and the Woodhouse Eaves Conservation Area (CA).

Reasons

16. The appeal site lies within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.
17. The Character Appraisal defines the CA's special interest. Of particular relevance to the appeal proposal, it includes... *"The beautiful and peaceful wooded area of Brand Hill with its open meadows, oak and beech woodlands and Victorian plantations of evergreens, spruce, pine and larch"*.
18. In its character analysis of Brand Hill, the Appraisal says that... *"Brand Hill opens out with views across a large meadow with a line of pine trees running down the left edge and group of pines in the middle"*. Significantly, the track is situated before this opening out of views and is essentially hidden in sight from Brand Hill (when the access gates are closed) by trees and vegetation. Further, the track (which, along with the access gates, has already been established as lawful) occupies only a small part of the corner of a paddock/meadow. In my judgement, in these circumstances, the added use of the access and track by vehicles coming to and from the residential dwelling² would be so minimal in its effect (particularly given the limited visibility of the track) so as to cause no harm to the CA and would not cause an unwarranted intrusion into the countryside.
19. Further, the appeal development itself brings benefits to local character and appearance and to the CA.
20. The proposal would mean that 3 access points from Brand Hill within the control of the appellant on the same side of the highway would become 2, with 'Site Access 2' being removed (thereby removing unnecessary clutter upon the highway within the CA). Its gates, gateposts and hard surfacing would be replaced³ with landscaping including a section of native hedgerow. This addition, together with proposed planting of holly, yew and laurel by the track, is of an evergreen nature mentioned in the Character Appraisal's definition of special interest as regards Brand Hill (albeit new planting).

² Notwithstanding that residential use is likely to entail a greater number of trips than use by agricultural and forestry vehicles, and which are also more likely to be more spread out over a 24-hour period. I am also not persuaded that lights from vehicles (or the intercom system) would cause any harm given the illumination of the area by the streetlamps on Brand Hill (which are situated quite near the track access). Further, vehicular activity on Brand Hill (also within the CA) is of a much greater scale than occurring on the short track— making the latter have no significant impact within its context.

³ Notwithstanding that there is a similar gate at 'Site Access 1', I agree with Dr Edis that *"Removing the metal gate dating to c.1993 is not an issue of great moment or public interest, although taking it away would remove some modern clutter"* (Heritage Appeal Statement, December 2025). I also place significant weight on his expert opinion that the three sets of gates (at Site Access 1, 2, and 3) are modern features, of no heritage significance.

21. I do not find that the proposed vehicle deterrent posts (without illumination or reflectors), referenced by the Arboricultural Impact Assessment (AIA) in the context of nearby protected trees, would cause any harm to the countryside character or CA. Their low-level timber construction, next to an existing lawful track and in the context of nearby trees, make them unobtrusive and sympathetic to their surroundings.
22. Being only about 6m away from 'Site Access 2' (that access being lawful for movements to and from the dwelling), 'Site Access 3' used for the same purpose (with the associated solid timber gates and adjoining fence already being lawful physical features upon the streetscene) does not appreciably diminish the perceived gap between dwellings on Brand Hill. Further, I agree with Ms Boland that...*"There will be no discernible understanding of an increase in domesticity as a result of the proposals as the site is read as a part of the residential section of this road, the break to open countryside being east of the site"*⁴.
23. While I agree with Inspector Phillips that the appeal development does change the character of the appeal site (as I have found in determining ground (c) of Appeal A), I am unclear from his quashed decision why he necessarily found that causative of an 'unacceptable intrusion into the countryside'. Based on my assessment of the merits of this particular change of use, and my own planning judgement, I disagree for the reasons given above. He did not conclude as to harm to the CA.
24. I have also considered the findings of Inspector Crossen on a related appeal (APP/X2410/W/22/3308383). However, it is clear that appeal scheme was materially different. For instance, there is reference in the decision to details of external lighting while the scheme before me has removed such elements.
25. For all of the above reasons, the appeal scheme does not harm the character and appearance of this countryside location within the Charnwood Forest. It also causes no harm to the CA, but rather it preserves or enhances it. Accordingly, the proposal does not conflict with Policy H3 of the NP or Policies DS1, DS4, C1, EV1, EV4 and EV8 of the LP which together limit development in the open countryside to development that is carefully controlled so as to protect character and appearance, including of conservation areas. The development is in accord with the National Planning Policy Framework for the same reasons.

Other Matters

26. I place significant weight on the Transport Statement of Common Ground (TSOCG) which has been agreed with a Principal Transport Planner (Ruth Davis) of the Highway Authority, due to the role and expertise of that office. The Council disagrees with the Highway Authority as to the highway safety benefits that seem to be clearly identified in the TSOCG. It is of course entitled to do so, and it has set out its reasons. However, it seems to me that the Highways Authority was sufficiently aware of the necessary facts in coming to its expert opinion. I am particularly persuaded from my own observations and judgement that 'Site Access 3' has a safety benefit over 'Site Access 2' since the former's greater setback makes it less likely that a vehicle accessing the gates would overhang the live carriageway.

⁴ Appeal Statement

27. Consequently, I find that highway safety is a material consideration in favour of the appeal development.
28. The development, through compliance with a condition attached to permission, would also deliver a biodiversity net gain.

Planning Conclusions

29. The appeal scheme accords with the development plan as a whole, and there are no other considerations which outweigh those findings. I shall grant planning permission with conditions.
30. I am imposing a plans condition (Condition 1) for planning certainty, although I have not adopted the draft condition suggested by the parties prohibiting the placing of low-level timber posts in front of the gates as (for the reasons I have already given) I do not find that they are harmful to character and appearance. They would also seem appropriate for tree protection under the proposed scheme.
31. Condition 2 requires that no lighting shall be installed amongst the trees and woodland within the application site, in order to protect the character and appearance of the countryside and CA.
32. Condition 3 is imposed to ensure that schemes for biodiversity gain and for the management of Japanese Knotweed are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
33. Conditions 4-7, as suggested by the main parties, are necessary to ensure that the development is acceptable in highway safety terms. Condition 7 is necessary to reduce the possibility of material (such as loose stones) being deposited dangerously onto the highway through the provision of a short section of tarmacadam on the access drive. This is consistent with hard surfacing already in place at 'Site Access 2' and would not be harmful to character and appearance of the area.

Andrew Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Piers Riley-Smith (Counsel instructed by Rob Pattinson, Knights)
Matthew Wedderburn (Knights)
Sara Boland (Influence Landscape Planning and Design Limited)
Dr Jonathan Edis (HCUK Group)
Mark Devenish (SCP)

FOR THE LOCAL PLANNING AUTHORITY (LPA):

Daniel Henderson (Counsel instructed by the LPA)
Liam Ward (Principal Planning Officer)
Sarah Hallam (Team Leader, Planning Enforcement)
Mark Fennel (Team Leader, Natural & Built Environment)

INTERESTED PERSON: Councillor David Snartt

DOCUMENT provided after the opening of the Hearing

- 1 Draft Conditions

Appeal B - APP/X2410/W/24/3358006 – Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with:
 - Drawing "Proposed Site Plan Track" ref 101-925/(P)102D
 - Drawing "Proposed Soft Landscape Plan" ref N1123(08)001 rev #
 - Drawing "Tree Protection Plan" ref: MAT.001 (Draft 2)
2. No lighting shall be installed amongst the trees and woodland within the application site.
3. The use hereby permitted shall cease within 7 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - (i) Within 3 months of the date of this Decision, schemes for:
 - (a) a management plan for Japanese knotweed;
 - (b) a biodiversity gain planshall have been submitted for the written approval of the local planning authority and the schemes shall include timetables for their implementation.
 - (ii) If within 11 months of the date of this decision the local planning authority refuse to approve a scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (iv) The approved schemes shall have been carried out and completed in accordance with their approved timetables.

The biodiversity gain plan shall demonstrate:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- (b) the pre-development biodiversity value of the onsite habitat;
- (c) the post-development biodiversity value of the onsite habitat;
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development;
- (e) any biodiversity credits purchased for the development;
- (f) a timetable for implementation of the approved biodiversity gain plan; and
- (g) such other matters as the Secretary of State may by regulations specify.

The biodiversity gain plan shall demonstrate a 10% biodiversity net gain. When calculating the post-development biodiversity value of a habitat, the planning authority shall only take into account an increase in biodiversity value post-development where it is satisfied that the habitat creation or

enhancements delivering the increase will be maintained for at least 30 years after the development is completed.

Thereafter, the approved biodiversity gain plan's provisions shall be implemented in full, in accordance with the approved timetable, and maintained for at least 30 years after the development is completed.

In the event of a legal challenge to this Decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

4. Within 3 months of the Decision, the access arrangements shown on Drawing ref 101-925/(P)102D shall be implemented in full and retained and maintained in perpetuity.
5. Within 3 months of the Decision, vehicular visibility splays of 2.4m by 43m shall be provided at the site access shown on Drawing ref 101-925/(P)102D. These shall thereafter be permanently maintained.
6. Within 3 months of the Decision, pedestrian visibility splays of 2m by 2m shall be provided on the highway boundary on both sides of the access shown on Drawing ref 101-925/(P)102D. These shall thereafter be permanently maintained.
7. Within 3 months of the Decision, the access drive shown on Drawing ref 101-925/(P)102D shall be surfaced with tarmacadam for a distance of at least 5m behind the highway boundary and once provided, shall be retained and maintained in perpetuity.