



Appeal Decisions

Site visits made on 6 & 27 January 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 APRIL 2026

Appeal A Ref: APP/A4710/C/24/3339844

Appeal B Ref: APP/A4710/C/24/3339845

Land southeast of Long High Top, Back Lane, Hebden Bridge, HX7 7PF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr Martyn Stocks and Appeal B by Mrs Ivy Stocks against an enforcement notice issued by Calderdale Metropolitan Borough Council.
 - The notice was issued on 2 February 2024.
 - The breach of planning control as alleged in the notice is 'Without planning permission,
Breach 1: The construction of two buildings on the Land
Breach 2: The erection of a silo on the Land
Breach 3: The erection of five shipping containers on the Land
Breach 4: Engineering operations consisting of the formation of a vehicular access track on the Land from Back Lane
Breach 5: The undertaking of engineering operations on the Land being excavation and the raising of ground levels creating three artificial platforms
Breach 6: The laying of hardstanding on the Land'.
 - The requirements of the notice are to: (i) Remove the two buildings described in Breach 1 at paragraph 3 of this Notice from the Land (ii) Remove from the Land all building materials arising from compliance with requirement (i) above (and all associated plant, machinery, the generator and equipment stored on the Land in connection with the two buildings as seen in the digital photographs attached to this Notice at Appendix 2) and restore the Land to its condition before the breach took place. (iii) Remove the silo described in Breach 2 at paragraph 3 of this Notice from the Land. (iv) Remove from the Land all building materials arising from compliance with requirements (iii) above and restore the Land to its condition before the breach took place. (v) Remove the five shipping containers described in Breach 3 at paragraph 3 of this Notice from the Land and restore the Land to its condition before the breach took place. (vi) Remove the road plainings from the Land used to form the vehicle access track described in Breach 4 at paragraph 3 of this Notice and restore the Land to its condition before the breach took place by re-seeding it with grass. (vii) In respect to the breach referred to in Breach 5 at paragraph 3 of this Notice, grade the Land so that the contours of the Land are restored to their former natural levels and re-seed it with grass. (viii) Remove the hardstanding described in Breach 6 at paragraph 3 of this Notice and restore the Land to its condition before the breach took place and re-seed it with grass.
 - The period for compliance with the requirements is: 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal C Ref: APP/A4710/W/24/3357100

Land southeast of Long High Top, Back Lane, Heptonstall, Hebden Bridge, Calderdale, HX7 7PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M Stocks against the decision of Calderdale MBC.
 - The application Ref is 21/01504/FUL.
 - The development proposed is; 'Two agricultural barns for the housing of animals and the storage of feed, agricultural machinery and equipment together with associated engineering operations, construction of a new access off Back Lane, and regrading of parts of the footpath in order to re-instate it (Part Retrospective) (Amended Plans including relocation of two bays)'.
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Decisions

Appeals A and B

1. The appeals are dismissed and the enforcement notice is upheld.

Appeal C

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are three appeals relating to the same site. Appeals A and B are identical and against an enforcement notice (the Notice) requiring the removal of the development alleged within it. Appeal C is against the refusal of part-retrospective planning permission for some of the development subject to the Notice, the proposed alteration of the existing buildings, and works to reinstate a public right of way (PROW) currently impeded by them. I deal with Appeal C first as this may have implications for the grounds of appeal against the Notice.
4. On 16 December 2025 the Government published a consultation on revisions to the National Planning Policy Framework (the Framework). That ended on 10 March 2026. However, no further changes to the Framework published on 12 December 2024 have been made to date, and because the proposed changes may be subject to amendment or deletion, the draft provisions are afforded negligible weight in this appeal.

Appeal C – The Refusal of Planning Permission

Main Issues

5. The main issues are:
 - whether the development is inappropriate in the Green Belt having regard to the Framework and any relevant development plan policies,
 - the effects on:
 - biodiversity, including the likely effects on the South Pennine Moors Phase II Special Protection Area (SPA), the South Pennine Moors Special Area of Conservation (SAC), and the South Pennine Moors Site of Special Scientific Interest (SSSI);
 - flood risk and ground stability relating to drainage at the site; and,
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Green Belt

6. The significant part of the site, including the majority of the buildings, the access, the yard area and part of the proposed path reinstatement works lie within the Green Belt. The Government's approach to protecting the Green Belt is set out in

Section 13 of the Framework. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.

7. Paragraph 154 of the Framework sets out a number of exceptions to otherwise inappropriate development in the Green Belt. These are mirrored in Policy GB1 of the Calderdale Local Plan 2018/2018 – 2032/2033 [March 2023] (the CLP). There is no dispute between the main parties that, without any requirement to demonstrate specific need, the agricultural buildings meet the exception to inappropriate development as set out in Paragraph 154 a) of the Framework.
8. Paragraph 154 h) provides for further exceptions, including engineering operations, provided they preserve openness and do not conflict with the purposes of including land within the Green Belt.
9. Whether harm is caused to openness depends on a variety of factors such as the scale of the development, its locational context and its spatial and/or visual implications¹. Moreover, in the context of paragraph 154 h) it is the openness of the Green Belt that must be considered and not the openness of the site as such. In my view, under each of the exceptions cited at paragraph 154 h) it is contemplated that there will be some degree of change to what was previously there. Any new engineering operation is likely to result in some change in openness whether that is spatially and/or visually.
10. The Paragraph 154 h) qualifying requirements cannot act to exclude all listed exceptions and thus there is an inherent acceptance within that provision that some effect on openness is permitted. Put another way, whether the openness of the Green Belt is preserved, or conversely harmed, cannot mean that a development can only be regarded as 'not inappropriate in the Green Belt' if the openness of the Green Belt would be left entirely unchanged. It can only sensibly mean that the effects on openness must not be harmful.
11. Here there has been engineering operations to terrace the land to provide level bases and access to the undisputed buildings, and operational space for manoeuvring and storage associated with the agricultural use of those buildings and the wider land. Although the terraces cut into the hillside, the overall effect is to reduce or limit the visual incursion of the buildings and stored items.
12. The nature of upland farming necessitates facilities to be practically sited. They also require reasonable vehicular access to facilitate operations. The access track is a spur off an existing similarly constructed track extending from Back Lane; it sits flush with the local topography. In that context, I find the limited length of the track has minimal spatial or visual effect on the openness of the wider Green Belt and is proportionate in scale to that of the overall development.
13. The proposed works to regrade the route of the public right of way (PROW) would be an effective reversal of some of the work that has taken place. It would be a partial reinstatement of ground levels to more closely reflect the original topography. Although not necessarily the natural vegetated slope prior to the development, the effects on openness would also be negligible. For similar reasons, I find the proposed remedial works to reinstate the PROW would not adversely affect the Area Around Todmorden.

¹ See PPG Paragraph: 013 Reference ID: 64-013-20250225

14. As operations to facilitate the rural enterprise in an upland landscape and reinstate part of the ground to reflect the natural slope, the overall effect of the engineering operations on the spatial and visual openness of the locality are negligible and the openness of the Green Belt duly preserved. Furthermore, as distinctly works intended to support the agricultural use of the land, their isolated position in the rural landscape cannot be said to be a form of urbanising encroachment.
15. For the above reasons, I find the development that has taken place and the proposed alterations on the site would not constitute inappropriate development in the Green Belt. It would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Accordingly, it complies with Policy GB1 of the CLP and Section 13 of the Framework and very special circumstances are not required to justify the development.

Habitats Sites

16. The site lies close to the South Pennine Moors SPA, SAC and SSSI. It lies within the Impact Risk Zone for the SSSI – indicating potential risk to the SSSI as it underpins the European SPA and SAC sites. The designated areas consist of blanket bog with areas of upland dry heath and species-poor acid grassland supporting nationally important bird breeding populations and a diverse assemblage of breeding migratory birds. As introduced development for the purpose of animal housing, the development has potential to cause adverse effects on the ‘habitats’ sites.
17. The development results in the more intensive use of the land through the provision of the agricultural buildings for housing animals and the activities on the immediate operational areas. The development had/has some potential to cause dust, pollution and/or displacement effects both during construction and/or its operation.
18. At the time of the Council’s consideration of the planning application, Natural England (NE) identified that there was insufficient information in relation to the potential for harmful effects which may arise from air quality impacts on the habitats sites and potential disturbance of SPA bird features. As such, significant adverse effects on the qualifying features of the habitats sites could not then be ruled out.
19. The Conservation of Species and Habitats Regulations 2017 require a Competent Authority to consider whether or not the development could adversely affect the integrity of the habitats sites, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
20. Due to the substantial absence of detailed assessment of likely effects against the baseline of the pre-developed site, I also found that likely significant effects could not be ruled out. The appellant has, at my request, subsequently provided additional information² to facilitate an Appropriate Assessment of the scheme. With the benefit that information, I have also further consulted NE as the statutory nature conservation body and, in the interests of fairness, the Council have had an opportunity to respond.

² Futures Ecology: FE371 / Long High Top, Colden, Hebden Bridge / EP / JSE; Redmore Environmental: Ecological Air Quality Assessment Ref 10559r1

21. The air quality assessment concludes that neither the construction effects of dust nor the predicted annual deposits of ammonia, nitrogen or anticipated effects of acid deposition associated with the intensive keeping of animals at the site would have significant effects on the qualifying features of the habitats sites or the functionally linked land, either in isolation or in combination with other projects. Carried out with regard to NE's standing advice: 'Air pollution and development: advice to local authorities', and pertinent guidance from the Institute of Air Quality Management, the report concludes no further detailed air quality assessment is required. I find little basis to disagree with that reasoned conclusion.
22. However, an identified shortcoming in the original ecological assessment, dated March 2024, saw only comparison of effects of the development against the then existing ecological status of the developed site. The appellant's updated desk-based assessment demonstrates by comparison of aerial photographs and local imagery that the site previously had distinct characteristics compared with the habitats sites. However, it does not dispute that the site and surrounding land could have represented functionally linked land supporting some bird species for which the European SPA site is designated. Accordingly, because of the absence of baseline bird data prior to the commencement of the works, the appellant acknowledges that he is unable to scope out significant displacement or disturbance effects on the land or on the more distant protected area arising from both the past construction period and ongoing use of the site.
23. Moreover, there is little assessment of the proposed works to the buildings or reinstatement of the PROW. The appellant has not evaluated the worst-case scenarios nor proposed any form of proportional mitigation that might be necessary. Even if I were able to conclude on the effects of the operations to date, in the absence of detail of what the proposed works might entail, or any confirmation of the actual absence of nesting or feeding opportunities of the relevant bird species, the potential effects of those works have not been demonstrated and, applying the precautionary principle, I cannot be sure that the development has not or would not have an adverse effect on the integrity of the habitats sites. In those circumstances, Paragraph 193 of the Framework indicates that planning permission should be refused.
24. The lack of a more detailed assessment may also have omitted to identify possible effects on the Council's designated Wildlife Habitat Network (WHN). I note the Council's suggestion that a Biodiversity Net Gain Assessment would potentially assist in demonstrating any effects of the development on the WHN. That is distinct from any statutory requirement because the planning application pre-dated the legislation requiring it. Nevertheless, in the substantial absence as to any conclusion on that matter, avoidance measures or proposed mitigation to offset any effects, the appellant has failed to demonstrate that the WHN would not be adversely affected by the development.
25. For the above reasons, I find the development conflicts with Policy GN3 of the CLP as it seeks to maintain the integrity of the green infrastructure network and critical biodiversity assets. It also conflicts with Section 15 of the Framework.

Drainage

26. Following an objection in relation to site drainage by the Lead Local Flood Authority, further information was provided by the appellant in relation to surface

water drainage. This included a detailed infiltration test for the site, which was confirmed by the Authority to be acceptable. However, the objection was sustained on the basis of a lack of assessment of overland flow routes and the effects of subsurface flows from percolated water downslope of the site. According to the Council, this is due to known flooding issues at the site.

27. The site is in Flood Zone 1. It is not identified to be in a Critical Drainage Area or Groundwater Source Protection Zone, nor within in any of the circumstances set out in footnote 63 of the Framework such that a site-specific flood risk assessment is required. Furthermore, there are no demonstrated requirements under policies CC2 or CC3 of the CLP for a site-specific flood risk assessment in the case circumstances. The neighbouring land downslope consists of largely undeveloped fields and a woodland.
28. While the Council refers to the recently adopted Flood Risk and Drainage SPD, that document does not form part of the local development plan. Furthermore, I am not directed to any relevant section of the guidance requiring the detailed assessment sought. In the absence of evidence to demonstrate why the level of information requested might be essential, or why land subject of similar overall levels of pre-development infiltration might be destabilised, I find it somewhat disproportionate to the development in question and without justification.
29. The Council has not provided substantive evidence of localised flooding issues or reasons to suspect instability on or about the site. Nor has it produced detail of any flooding attributable to the development in question. Based on the evidence before me, there is no conflict with Policies CC2 or CC3 of the CLP or the Framework.

Other Matters

30. Amongst other things, third parties have expressed concern in relation to the detail of works necessary to reintroduce the line of the PROW and whether those would be sustainable and provide a suitable facility for users. While I agree that the level of detail is limited, an enforceable condition could be imposed on any grant of planning permission to secure the construction detail and terms of implementation. I note also that other remedies to this concern may also exist, however those are beyond my consideration.
31. I acknowledge the various concerns expressed by interested parties, including in relation to the appearance of the development and other items stored (or previously stored) on the site; the effects of noise arising from the use of a generator; other effects on nearby residents' living conditions; and, light pollution, for example. However, pursuant to my finding on the main issues, my decision does not turn on those matters.
32. According to a nearby resident, the nearest property to the site includes a dwelling dating back to the 1700's. However, as that building is neither shown to be listed or considered as a non-designated heritage asset by the Council, and there is little evidence to demonstrate any historic significance, it is not possible to proceed to consider the effects of the development upon it in that light.
33. I note the concerns that matters raised in the enforcement notice are not necessarily referred to in the Council's reasons for refusal of the planning application. Although the cases are travelling together, they are subject to distinct procedures, and each relates only to the relevant description/allegation of

development. It is not for me to comment on matters outside the scope of each of the appeals.

Appeal C Conclusion

34. Despite my findings in favour of the appellant in relation to the Green Belt, flood risk, drainage and associated land stability, these matters do not outweigh the potential harm to the integrity of the neighbouring habitats sites and functionally linked land, or the local Wildlife Habitat Network. I therefore conclude that the appeal should be dismissed.

Appeals A and B - Ground (f)

35. An appeal on ground (f) is that the steps required by the Notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by the breach. As the Notice requires the removal of the buildings, silo and track, and the regrading of the formed terraces, the purpose of the Notice is to remedy the breach of planning control.
36. The appellant highlights that the entire removal and reinstatement of the site exceeds what is necessary to remedy the identified harm. However, notwithstanding that the appellant has failed to demonstrate that extent of harm, or that it does not arise because of the development, retention of any part of it would not remedy the breach of planning control. Accordingly, the appeal on ground (f) must fail.

Appeals A and B - Ground (g)

37. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant seeks a longer period of 18 months on the basis of the welfare needs of livestock kept on the holding.
38. In balancing the public and private interests bound up in this case, I find that the period of 12 months for the completion of the works is reasonable. Pursuant to my finding in Appeal C, it would offer the appellants an opportunity to carry out further investigations with a view to addressing the outstanding concerns. If that opportunity was not to be utilised, the specified timeframe would facilitate works to reinstate the Land during the warmer months when ground conditions would be more favourable. It would also allow an opportunity to arrange other shelter provision for next winter. For those reasons, the appeal on ground (g) fails.

Conclusion on Appeals A and B

39. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

R Hitchcock

INSPECTOR