



Appeal Decision

Site visit made on 31 March 2026

by **Mark Caine BSc (Hons) MTPL MRTPI LSRA**

an Inspector appointed by the Secretary of State

Decision date: 7 May 2026

Appeal Ref: APP/M0655/C/25/3363478

Land at Fowl Farm, Back Lane, Cuerdley, Warrington, WA5 2XQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Steven Murphy, Pit Stop Cafe against an enforcement notice issued by Warrington Borough Council.
- The notice was issued on 17 March 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the material change of use of the land to a mixed use of agriculture and a café, with associated building sited on hardstanding accessed from an enclosed decking platform with a walkway, and paraphernalia including a buff brick building, tables, water tank and bin'.
- The requirements of the notice are to:
 - a) Cease the use of the land as a cafe.
 - b) Remove from the land and not return the building, hardstanding, decking platform with walkway, and all associated paraphernalia including the buff brick building, tables, water tank and bin from the land shaded green on the attached plan.
 - c) Following compliance with requirement (b) restore the land to its condition prior to the breach taking place.
- The period for compliance with requirements (a) and (b) is two calendar months from the date on which the notice takes effect. The period for compliance with requirement (c) is three calendar months from the date on which this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

The Enforcement Notice

1. Section 176(1) of the Act states that, on appeal, the Secretary of State may (a) correct any defect, error or misdescription in the enforcement notice; or (b) vary the terms of the enforcement notice, if they are satisfied that the correction will not cause injustice to the appellant or the LPA.
2. The words "and not return" in the requirements of the notice are unnecessary having regard to S181(1) of the Act which states that compliance with an enforcement notice shall not discharge the notice. The requirements of an enforcement notice thus have an enduring effect. These words are therefore required to be removed from the notice. Furthermore, to ensure that the requirements are described in the same terms as the allegation, and for the purposes of clarity, it is also necessary to insert the word "associated" in front of the word "building" in the first line of section 5 b) of the notice. I am satisfied that I can make these corrections without causing injustice to the appellant or the Council.

Appeal on ground (a)

3. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the matters stated in the notice as constituting a breach of planning control.

Main Issues

4. The main issues are:
 - Whether the development is inappropriate development in the Green Belt;
 - The effect of the development on the character and appearance of the area; and
 - If the development is inappropriate, whether any harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Whether Inappropriate Development

5. The appeal site lies within the Green Belt. In accordance with national planning policy, Policy GB1 of the Warrington Local Plan 2021/22-2038/39 (2023) (Local Plan) sets out that within the Green Belt planning permission will not be granted for inappropriate development, except in 'very special circumstances'. Other forms of development defined in national planning policy to be an exception to inappropriate development within the Green Belt are supported by Policy GB1, subject to meeting other relevant Local Plan Policies and relevant Supplementary Planning Documents.
6. Paragraph 142 of the National Planning Policy Framework (the Framework) sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
7. Paragraph 154 of the Framework establishes that development within the Green Belt is 'inappropriate' unless certain exceptions apply. The main parties agree that the exceptions pertinent to this appeal are 154 g) limited infilling or the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt, and 154 h) (v.) material changes in the use of land, as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. There has also been a suggestion that the café represents local transport infrastructure under 154 h) (iii.).
8. As to the question of whether the site may be regarded as previously developed land, the appellant argues that the site has not been used for agriculture for over 10 years and contends that there was previously a building on the site which was also used as a roadside café. I have had regard to the submitted Google Street images which show the stationing of various other storage containers and portable buildings on (or close to) the site since 2008. However, from the evidence before me there is no suggestion that any development there was or has become lawful, either through gaining planning permission or because of the passage of time.

9. In accordance with the definition in the Framework, a pre-requisite of 'previously developed land' is that it has been lawfully developed. I am therefore unable to find that the appeal site is previously developed land and that it qualifies as an exception under paragraph 154 g). Accordingly, there is no need for me to consider whether the development causes substantial harm to the openness of the Green Belt.
10. The Framework does not define 'local transport infrastructure' and therefore, it is a matter of planning judgement for the decision-maker. In my view, for a development to be considered under this exception all three elements (local, transport, infrastructure) would need to be met. Such developments that may be permissible could therefore include 'Park and Ride' schemes or infrastructure to support public transport such as a bus shelter or an interchange that has a demonstrable requirement to be located in the Green Belt. A sole commercial café, regardless of its location next to a highway, does not, in my judgement, fall under this exception.
11. Moreover, the introduction of the café building, decked platform, hard surfacing and associated paraphernalia has clearly given rise to a spatial loss of openness as it has resulted in development on a site that would have otherwise comprised a largely open field. Openness has both spatial and visual dimensions. The development of this green field is clearly visible from several vantage points along Widnes Road and Mowcroft Lane and appears more urbanised than was previously the case. The additional activity associated with the comings and goings and vehicle movements of customers has also undermined the openness of the Green Belt further.
12. As a result, I find that the development does not preserve the openness of the Green Belt in both visual and spatial terms. In light of this, and the rural character and appearance of the area, it therefore follows that the development impacts on the Green Belt purpose of safeguarding the countryside from encroachment as set out at paragraph 143 of the Framework. Accordingly, the development does not satisfy any of the exceptions under paragraph 154 h).
13. Furthermore, even if the appeal site meets the definition of grey belt land, it is still regarded as inappropriate development, as there is no persuasive evidence that the development addresses a demonstrable unmet need of the type required by Paragraph 155 b).
14. The café may provide a convenient facility for passers-by including drivers, walkers, cyclists and people working at Fiddler's Ferry Power Station or on the redevelopment of this site. I also have no reason to doubt that it is located in a strategic green link. In addition, it has been put to me that it creates a stopping point that helps customers feel safe during the day and night and that customers can also sit outside and enjoy views across the adjoining farmland situated within the Green Belt.
15. However, there is little before me in respect of how the business operates, including the hours of operation and whether it is open in the evening. Nor is there any evidence provided to demonstrate the existence of an unmet need, or to explain why alternative arrangements, such as a mobile catering unit, could not provide similar facilities and services. Whilst many petrol stations and motor

services are found on or adjoining motorways or roads to serve passing motorists, these are not always in the Green Belt.

16. Therefore, although the development meets a degree of demand and provides welfare and safety benefits when open, demand alone does not amount to an unmet need. In light of this, there is no need to consider the remaining criteria in Paragraph 155 of the Framework.
17. For the above reasons, the development fails to meet the exceptions set out in Paragraphs 154 g), 154 h) (iii), 154 h) (v) and 155 of the Framework, and Local Plan Policy GB1. Accordingly, the development constitutes inappropriate development in the Green Belt.

Character and Appearance

18. The appeal site sits within an open field that is bound by hedgerows and trees and is located on the northern side of Widnes Road. There is also a wider network of agricultural fields to the north, east and west of the site. Despite the presence of Fiddler's Ferry Power Station and some housing, the prevailing character of the immediate area is rural, dominated by open agricultural fields, hedgerows and trees.
19. Although it is relatively small scale and functional for its purpose, the development's prominent and exposed siting in proximity to a lay-by on the Widnes Road highway, in combination with its prefabricated box-like profile and raised decked area has resulted in the introduction of a utilitarian feature that appears visually conspicuous in the context of this spacious verdant site and surroundings. Whilst there may be some well defined boundary lines, this impact is compounded by the development's black and red colour, which draws the eye, and further accentuates its visual prominence. The discordant effect of the development, as previously noted, is readily apparent from a number of public vantage points.
20. I therefore find the development to not be sympathetic, or enhance or reinforce local distinctiveness, but to cause unacceptable harm to the character and appearance of the area. It thereby conflicts with Policy DC6 of the Local Plan which seeks, amongst other matters, for good design having regard to principles such as local character, landscape setting, and the use of high quality materials.

Other Considerations

21. I am aware of the speech made by Rt Hon Rachel Reeves in 2025 in respect of 'kickstarting economic growth'. The Framework advises that significant weight should be placed on the need to support economic growth through the planning system, taking account of local business needs and wider opportunities for development. The Framework is also supportive of a prosperous rural economy, the development and diversification of agricultural and other land based rural business, and the growth and expansion of all types of businesses in rural areas.
22. The café is an independent business in a rural location that provides employment and a contribution to the local economy. However, no detailed evidence has been provided to substantiate the level of these benefits. Given the limited commercial scale and operational nature of the development, any economic or other benefits are likely to be very modest when considered in the context of the Borough as a

whole. Furthermore, there is little to demonstrate that such benefits could not be reasonably achieved through alternative and less harmful means. I therefore attach limited weight in favour of the development to these benefits.

23. I am informed that the works were undertaken in good faith, in agreement with the landowner, believing that planning permission was not required for the development. I also have no reason to doubt that the appellant has invested a lot of time and money into the business. However, ignorance of planning regulations is not a reason to justify development.
24. I also appreciate that no vehicular cross overs or off-street parking areas have been created. However, the lack of harm in this respect and the provision of secure and safe cycle storage and waste storage areas, which are to be expected, are neutral factors that do not weigh in the scheme's favour. The same is true with regard to the point that customers are unlikely to make specific trips to the facility and would pass the site in any event.
25. Reference has been made to the possibility of a planning condition that is personal to the appellant. Nonetheless, personal circumstances seldom outweigh more general planning considerations, particularly where development is permanent. For the reason that they could be repeated so often in Green Belt situations across the country, such personal circumstances are not, on their own, capable of amounting to very special circumstances in the terms of national planning policy. Furthermore, notwithstanding the development at Fiddler's Ferry, it would not, in my view, be appropriate to grant a temporary permission given the fixed form and long-term nature of the café building and the works that have been carried out. These matters therefore carry very limited weight.

Green Belt Balance and conclusion on ground (a)

26. I have found the development to be inappropriate development in the terms set out by the Framework. The Framework requires me to give this harm substantial weight. Further, it has a harmful effect on the character and appearance of the area. The other considerations, referred to above, do not therefore clearly outweigh the substantial harm that I have identified due to inappropriateness, and other harm to the character and appearance of the area. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the development conflicts with Local Plan Policies GB1 and DC6, and with Section 13 of the Framework which seeks to protect Green Belt land.
27. I also need to consider, by way of alternative, the possibility of a temporary permission instead. I was invited, by the appellant, to consider a temporary permission for a period of 5 - 10 years. In principle, a temporary permission (personal to the appellant) would serve to reduce the severity of harm identified. This must be the case, because the generation of harmful impacts and duration of exposure to harm would be less than in the case of permanent development. However, I conclude that this scenario still fails to clearly outweigh the harm identified and to justify quashing the notice. It would therefore also not be an appropriate outcome.
28. Accordingly, the development conflicts with the development plan and there are no other considerations to warrant taking a decision otherwise than in accordance

with it. The appeal therefore fails on ground (a) and planning permission will not be granted.

Appeal on ground (g)

29. The appeal on ground (g) is made on the basis that the period specified in the notice falls short of what should reasonably be allowed. The periods for compliance are two and three months as set out in the header of this decision.
30. The appellant considers these periods to be too short due to the consequences that this would have on employees, and the amount of time that it would take to close down the business, remove internal equipment and arrange for relevant supplies to be disconnected. The time to arrange the closure of the road, the crane lifting of the building onto a lorry and to return the site back to its original state, along with the submission of an amended planning application are also given as reasons for requiring additional time. In the appeal evidence a period of twelve months has been sought for compliance with requirements (a) (b) and (c).
31. Other than stating that this would take in excess of three months, there is no substantiated evidence before me in respect of the number of employees or the effects on them. Nor is there anything provided to demonstrate that a crane and highway closure would be necessary, or to pinpoint how long each of these reasons would take. Furthermore, given the clear divergence in the cases of the main parties and my findings in respect of the principle of development, it is unlikely that this matter could be resolved through the submission of an amended planning application.
32. On that basis, a compliance period of twelve months, which would be tantamount to a grant of temporary planning permission, is not justified. Given the limited physical work required to remedy the breach, and the absence of evidence regarding the time expected to facilitate this, I am not persuaded that there is need to extend the period for compliance in the notice to any extent. As such, I am satisfied that it is a proportionate response to the breach of planning control that has occurred. The appeal on ground (g) therefore fails.

Conclusion

33. 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.

Formal Decision

34. It is directed that the enforcement notice is corrected by:
 - The deletion of the words “Remove from the land and not return the building” and the substitution of the words “Remove from the land the associated building” in section 5 b).
35. 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.

Mark Caine INSPECTOR