



Appeal Decision

Hearing held on 21 April 2026

Site visit made on 21 April 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2026

Appeal Ref: APP/E3715/C/26/3377300

**Land Adjacent to White House Farm Industrial Estate, Oxford Road,
Princethorpe, Rugby CV23 9QD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Carmelita Aballar Brown against an enforcement notice issued by Rugby Borough Council.
 - The notice was issued on 20 November 2025.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission engineering operations comprising of the importation and laying down of materials to materially raise the ground level and to form a bund.
 - The requirements of the notice are to:
 - (i) Remove from the land the unauthorised hardstanding and all imported materials used to raise the ground level and form the bund.
 - (ii) Return the land to the condition it was in before this breach of planning control took place.
 - The period for compliance with the requirements is 56 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by:
 - 1) The deletion of the words “the unauthorised hardstanding and” from requirement (i) in section five of the enforcement notice.
 - 2) The deletion of 56 days and the substitution with six (6) months as the time for compliance in section six.
2. Subject to the variations, 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 Enforcement Notice

3. The requirements refer to removing an unauthorised hardstanding which is not subject of the allegation. At the Hearing, the parties were unable to confirm whether there is a hardstanding however, at my visit I observed that although the ground was relatively hard underfoot, probably as a result of the material used to raise the ground level, there was no hardstanding. I shall vary the requirements to reflect that, doing so will cause no injustice since this neither enlarges nor reduces the scope of the notice.

The appeal on ground (c)

4. An appeal on ground (c) is that the matters alleged do not constitute a breach of planning control. The burden of proof is on the appellant, and the relevant test is the balance of probabilities.
5. The appellant's case on this ground was made on the basis that a small area of hardstanding would be permitted by virtue of Part 6 Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
6. Part 6 Class B of the GPDO, states, subject to limitations and conditions, that certain types of works and operation, which are reasonably necessary for the purposes of agriculture within that unit, are permitted development. Such works and operations include, amongst others, the provision of a hard surface. However, there is no hard surface (hardstanding).
7. The raised land level and bund were formed from waste deposits however, whilst Class B also permits the deposit of waste, the development that has occurred constitutes an engineering operation which is not permitted by Part 6 Class B.
8. The appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. On the balance of probabilities, planning permission is required but not granted for the development. The appeal fails on ground (c).

The appeal on ground (a) the deemed planning application

Main issues

9. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and development plan policy.
 - The effect of the development on the character and appearance of the area.
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

10. Policy GP2 of the Rugby Borough Council Local Plan 2011 – 2031 (June 2019) states that in the Green Belt new development will be resisted; only where national policy on Green Belt allows will development be permitted.
11. The National Planning Policy Framework (Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 153 states that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in very special circumstances.

12. Paragraph 154 of the Framework establishes that development within the Green Belt is 'inappropriate' unless certain exceptions apply. Such exceptions include engineering operations as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
13. Paragraph 155 of the Framework states that development in the Green Belt should not be regarded as inappropriate where the development would utilise 'grey belt' land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan (155a); where there is demonstrable unmet need for the type of development proposed (155b); and where the development would be in a sustainable location (155c).
14. There is no dispute between the parties that the land could be considered to be grey belt land, and I need not consider this further. However, all of the criteria need to be met in order for the development to qualify as not inappropriate development.
15. In respect of criteria b (whether there is a demonstrable unmet need), the appellant stated that the primary reason the development was required was for security - to secure the site and protect the appellant's property, being the adjacent White House Farm Industrial Estate and the appeal site itself.
16. However, whilst these circumstances could constitute very special circumstances, and whilst I have some sympathy for the appellant, in my view their desire for the security proposed does not constitute an unmet need for the purposes of paragraph 155. Even if I am wrong, for the reasons given later in my decision, the evidence does not indicate that the appeal development is the only way such security could be achieved, and it could not therefore be said that there is a demonstrable unmet need for the *type* [my emphasis] of development proposed.
17. Accordingly, without needing to consider the other relevant criteria, the development cannot be regarded as not inappropriate, through the provisions of paragraph 155.

Openness

18. Openness in terms of the Green Belt is the absence of development and has been found by the courts to have a spatial as well as a visual aspect. This assessment is not about the quality of the development, in itself, or its effect on the character and appearance of the area.
19. Images in the appellant's submissions show the condition of the site prior to the development taking place and show what appears to be a generally level grassed paddock bordered with native hedgerows and mature in hedge Oak and Ash trees with a semi-natural ancient woodland (Ryton Wood) forming part of the boundary.
20. It is stated in the appellant's Landscape and Visual Impact Assessment (LVIA) that the base of the earth bund is approximately seven metres wide, with the top being up to three metres wide and the overall height between two and four metres.
21. It was evident from what I saw and the appellant's images that a significant quantity of material, which includes crushed brick and stone, has been used to raise the level of the land and form the bund. Given that the level of the land has

been raised, albeit by an undetermined amount, and the scale and extent of the bund, in spatial terms the development has reduced openness.

22. There is no dispute that potential visibility is almost entirely restricted to within the site, Oxford Road and Sunrise Park and such views are only limited. Accordingly, in visual terms, the effect on openness is very limited. In this context, whilst overall the harm to openness is limited, the development has failed to preserve the openness of the Green Belt.
23. It follows that the countryside has not been safeguarded from encroachment, and thus there is conflict with one of the purposes of including land within it. I conclude the development amounts to inappropriate development in the Green Belt.

Character and appearance

24. The appeal site is located between a relatively modest industrial estate, which includes coach parking, and a gypsy and traveller site. Notwithstanding, the neighbouring uses, it is in a countryside location where land is mostly in agricultural use. It is stated in the LVIA and I observed that the landscape in the locality is characterised by gently undulating pasture bounded by hedgerows and mature trees.
25. In submissions and at my visit my attention was drawn to other earth bunds, including those surrounding the coach parking, those at Sunrise Park and Fern Field. However, I note that in the appeal decision¹ provided by the appellant in respect of Fern Field, the Inspector found bunds on the site to constitute inappropriate development and upheld an enforcement notice in respect of them.
26. In its current condition the site is largely covered in vegetation, comprising mainly of patchy grass and weed growth, with the bund having a discordant, predominantly unnatural appearance as a man-made element of the landscape.
27. Nevertheless, given the location of the site between an established industrial estate and gypsy and traveller site, the very limited short-range visibility of the bund and that appropriate planting with native trees and shrubs may increase the bunds assimilation to some degree over time, I consider there is no material harm to the character and appearance of the area and no conflict with the overall design aims of Policy SDC1 of the Local Plan.

Other considerations

28. There are around 18 units in the industrial estate occupied by various businesses, including two coach companies, Warwickshire Travel and Catteralls Coaches, as well as a landscaping company Planned Scapes. The industrial estate is therefore evidently a source of employment and contributor to the local economy.
29. In submissions and at the Hearing it was explained that there is a direct relationship between the appeal site and the security of the industrial estate. It was explained that there were, prior to development being carried out, significant thefts, in particular of diesel. There were also incidences of vandalism, fly tipping, harm to grazing animals as a result of dogs let loose on the land, and incidences with pellet guns being fired towards animals, as well as horses being brought on to graze the land. It was stated that there have been no further incidences since the

¹ APP/E3715/C/25/3367453

development was carried out, which was supported by letters from Warwickshire Travel and Planned Scapes.

30. The appellant stated that intruders entered through the broadly northwest boundary of the appeal site, which includes the gate onto Oxford Road and across the field, and the bund was provided in response to complaints from businesses in the industrial estate.
31. At my visit I saw that there is a reasonably wide drainage ditch along part of the northwest boundary, beyond which is an established hedgerow, but what appeared to be a somewhat rough pedestrian access had been formed into the site.
32. I acknowledge that Warwickshire Travel provide essential school transport and undoubtedly the described criminal activities would have an impact on them and other businesses in the industrial estate, particularly those relying on diesel. The protection of animals is also an important consideration.
33. At the Hearing, the limitations of CCTV were discussed, and I was told that other security options had been considered, although no details could be provided. Whilst I have sympathy with the appellant and businesses, it has not been demonstrated that the raising of the ground level, nor the extent of bund is necessary to prevent access to the industrial estate. Moreover, since it appears that the bund has not prevented pedestrian access through the broadly northwest boundary, this significantly tempers the weight that I give to the matter of security such that it is a matter of modest weight.
34. It is stated in the Preliminary Ecological Appraisal (February 2026 update) (PEA) that the majority of the paddock is of low ecological value consisting primarily of improved grassland. The features of highest ecological value within the site are identified as the bordering trees and hedges, which have moderate to high ecological value and the adjacent Ryton Woods Site of Special Scientific Interest (SSSI).
35. In broad terms it is the appellant's case that there would be more environmental harm caused by removing the bund and that the bunds' retention together with a sensitive (to the SSSI) and appropriate landscaping scheme would be significantly more beneficial, have positive impacts upon the appearance of the Green Belt and local landscape character as well as biodiversity.
36. It is stated in the appraisal that "works associated with intended removal, using large machinery may damage limbs or further compact any base material doing more harm than benefit. It is recommended that the bund is retained and landscaped with UK native tree and shrub species to buffer the hedgerows and to create a net biodiversity benefit."
37. The Council's Tree Officer and Ecologist also stated that any attempts to remove the bunding would mean large scale works which in itself could lead to tree damage, and removal of existing bunding may result in disturbance and destruction of valuable habitat.
38. Nevertheless, the PEA also recommended that the bunding on the boundary with the SSSI was removed, without expressing misgivings about the impact of removal works on the semi-natural ancient woodland. Moreover, the PEA does not

consider or evaluate alternative methods, other than large machinery, for removal of the bunding. Whilst it seems there would be an overall gain to biodiversity, this would however only be achieved as a result of the landscaping which would be required to mitigate the impacts of the development already carried out. Overall, therefore, these matters are of modest weight.

39. The appellant referred to the First Protocol (A1P1) to the European Convention on Human Rights in respect of the appellant's rights to secure and protect their property. However, whilst the appellant may have to find alternatives to secure their property, the action taken by the Council was proportionate, serving a legitimate planning aim necessary in the wider public interest.
40. The appellant stated that if the appeal were dismissed, they would erect a two-metre-high wall or palisade fencing around the site because of the substantial impact of criminality on valuable businesses. Nevertheless, as I have found the site to be well screened from public views, and in the absence of details about what such a wall may look like, this is a matter of little weight.
41. The appellant alleged there are benefits in respect of noise buffering, visual screening, protection of adjacent residential amenity, pollution interception, water management, and wind protection. However, in the absence of substantive evidence that there is harm in respect of these matters, the alleged benefits are of negligible weight.

Other Matters

42. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice and as built. Nevertheless, I do have the power under s177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice.
43. Under ground (f) the appellant suggested that the bund could be lowered however, no details were provided. In the absence of details, it is unlikely that this would address the harm to openness and is therefore a matter of negligible weight.

Green Belt Balance

44. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework goes on to require that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
45. The lack of identified harm to the character and appearance of the area is a neutral matter which does not weigh in favour of the development.
46. I have found harm to the Green Belt by way of inappropriateness and to its openness and one of its purposes. While I am sympathetic to the predicament of the appellant and other persons, the other considerations raised in support of the development do not individually or collectively clearly outweigh the harm that I have identified to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the development

conflicts with the Green Belt protection aims of Policy GP2 of the Local Plan and the Framework.

47. For the above reasons I conclude the development is in conflict with the development plan when read as a whole. The appeal therefore fails on ground (a).

The appeal on ground (f)

48. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)).
49. I have considered the appellant's suggested lesser steps under ground (a) above.
50. The notice, as varied, requires all the imported materials used to raise the ground level and form the bund to be removed and the land returned to its condition before the breach took place. Its purpose is therefore to remedy the breach of planning control.
51. Since the requirements do no more than seek to achieve the purpose of the notice, to remedy the breach of planning control, they are not excessive. The appeal on ground (f) therefore fails.

The appeal on ground (g)

52. The ground (g) appeal is that the compliance period falls short of what should reasonably be allowed. The appellant suggested a minimum of six months based on the need to secure a civil engineering contractor and remove the volume of material.
53. It seems to me there is a significant volume of material that would need to be removed and that undoing the operations would need sufficient specialist equipment or machinery and likely require some greater care and attention, including arrangements off-site.
54. Accordingly, even if account is taken of the need to remedy the harm, the notice does not afford the appellant reasonable time to comply with the requirements of the notice. Looking at the case in the round, the requirements to undertake all the works within 56 days would place a disproportionate burden on the appellant. Accordingly, I shall extend the period for compliance to six months. The ground (g) appeal succeeds.

Conclusion

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

Felicity Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ian Gidley	Director of Land and Planning Consultants
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FOR THE LOCAL PLANNING AUTHORITY:

Callum Mason	Senior Planning Officer
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James Ward	Planning Enforcement Officer
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