



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: 18 May 2026

Appeal Ref: APP/W4325/C/24/3352601

Land at Larton Livery, Frankby Stiles, Frankby Road, Frankby, Wirral CH48 1PL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr William Titley, Larton Livery Ltd against an enforcement notice issued by Wirral Metropolitan Borough Council.
- The notice was issued on 26 August 2024.
- The breach of planning control as alleged in the notice is; Without planning permission:
 - (1) the material change of use of the part of the Land shown in the approximate position hatched blue on the Plan from use for grazing horses to mixed use for:
 - the exercise of pets, mainly in connection with the kennels business operating from the Land;
 - a car park; and
 - the storage of goods; and
 - (2) unauthorised operational development on the Land associated and integral to the material change of use referred to at paragraph 3(1), comprising the formation of a large area of hardstanding and construction of a pet exercise area shown in the approximate position hatched blue on the Plan.
- The requirements of the notice are to:
 - (5.1) Permanently rip up and remove all hardstandings (including the pet exercise area), fencing and other paraphernalia associated with construction of the pet exercise area, from the approximate location shown hatched blue on the Plan;
 - (5.2) Permanently remove from the Land all resulting waste materials and rubble arising from compliance with paragraph 5.1;
 - (5.3) Permanently cease the unauthorised use of part of the Land hatched blue on the Plan:
 - (a) as a pet exercise area;
 - (b) as a car park and remove all vehicles on the part of Land hatched blue on the Plan;
 - (c) for the storage of goods
 - (5.4) Reinstatement the part of the Land hatched blue on the Plan to its former contours, profiles and surface treatment to restore that land to pasture to match the land immediately to the north of the Land.
- The period for compliance with the requirements is within a period of 6 months after the date on which this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.

Preliminary Matters

1. Since the appeal was submitted, the Wirral Local Plan 2022-2040 (2025) (Local Plan) has been adopted and a revised version of the National Planning Policy Framework (the Framework) has been published. As a result, the policies that are cited in section 4 of the enforcement notice have been superseded. The Council has confirmed that the relevant policy in the Local Plan is WS 1. The main parties have been given the opportunity to comment on the relevance of

these documents during the appeal process, which I have had regard to in my decision.

2. At the time of my visit, it was apparent that a glasshouse and cabin had been erected within part of the site that is indicated as being used for outside storage in the appellant's evidence. The appellant has confirmed that these were erected after the enforcement notice was issued. As such, and for the avoidance of doubt, they do not form a part of my considerations in this appeal.

The Enforcement Notice

3. 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.
4. The word "permanently" in the requirements is 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 the enforcement notice thus have an enduring effect. Furthermore, given that the notice requires the hardstanding to be removed I consider the words "rip up" to be unnecessary. I am satisfied that I can make these corrections without injustice to the appellant or the Council.

Appeal on ground (a)

5. 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.
6. An edged red plan has been submitted by the appellant which excludes a portion of the site that is hatched blue in the original plan attached to the enforcement notice. The appellant has confirmed that the areas outside of the red line are not being challenged under ground (a) of the appeal. As such, the appeal does not seek planning permission for the material change of use of land for the storage of goods and the formation of hardstanding in those areas. I have dealt with ground (a) on that basis.

Main Issues

7. The main issues are:
 - Whether the development is inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt; and
 - If the development is inappropriate, whether any harm by reason 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

8. The land to which the enforcement notice relates is located in the Green Belt. Local Plan Policy WS 1 requires conformity with national policy when assessing development proposals in the Green Belt.

9. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework establishes that development within the Green Belt is 'inappropriate' unless certain exceptions apply. These exceptions include the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Subject to the same caveats, certain other forms of development are also not inappropriate in the Green Belt, including engineering operations and material changes in the use of land (such as changes of use for outdoor sport or recreation).
10. The appellant argues that as the main purpose of the development is as a pet exercise area it is a form of outdoor recreation. I also note the Council's reference to the dog exercise area being a potential exception under paragraph 154 of the Framework.
11. Nonetheless, whilst taking a dog for a walk may constitute a recreational activity for the dog owner, and I am aware that the public can book this area, the development has not created a facility to solely enable people to walk their dogs. Indeed, the appellant has confirmed that this part of the development is fundamental to the kennel business operation at Larton Livery which provides day care for dogs. Although I have had regard to an appeal decision (APP/M3645/W/23/3331071) submitted by the appellant, this appears to be in relation to a dog walking field and a dog agility training area rather than any commercial kennels. On the evidence presented I therefore cannot be certain that it represents a direct parallel to the appeal development. As such, I am not persuaded that this part of the alleged matters falls squarely within the ambit of an outdoor recreational use, even though dogs are exercised whilst they are at the site.
12. Furthermore, the appellant accepts that the car park is not solely used in connection with the pet exercise area, but for other uses on the adjoining wider site and I saw a sign to indicate that it was an overflow car park at the time of my visit. My site observations also confirmed that many of the people parking their cars in this area were not using the pet exercise area. It therefore follows that this is not an appropriate facility for outdoor recreation, and thereby not an exception under paragraph 154 b) of the Framework.
13. Moreover, the combination of all of the elements that facilitate the material change of use, including the fencing, archway and engineering operations such as the hardstandings, artificial turf surface and car park, have given rise to a spatial loss of openness as it results in development where there was previously none, on a site that would otherwise comprise a largely open field.
14. The development of this former green field, despite the low-lying landscape and porous surface of the pet exercise area, is clearly visible from several public vantage points along Frankby Road and appears considerably more urbanised than was previously the case. The additional activity associated with the comings and goings and vehicle movements to the site also undermines the openness of the Green Belt further. The surrounding soft landscape and the use of wooden post and rail fencing and the lack of concrete slab construction, does not provide sufficient mitigation to overcome this harm. The development thereby has an

adverse impact on, and fails to preserve openness, in both visual and spatial terms.

15. The use and its facilitating structures also conflict with the purposes of including land within the Green Belt, which include assisting in safeguarding the countryside from encroachment. In light of the above, the development does not fall within exceptions 154 b) or h) of the Framework. A planning condition to remove the archway and ensure a maximum height of 1.8 metres for the boundary treatment would not overcome the harm that I have identified in these respects.
16. Although I am informed that the kennels have been awarded a 5 star licence, there is little before me to substantiate that the outdoor pet exercise area is a mandatory licensing requirement for the kennel enterprise. Nor is there any firm evidence that its removal would result in the closure of the business or that the overflow car park is needed for the safe operation of the wider site. Furthermore, even if the development was found to be critical to the continuity of certain elements of the business, I am still not persuaded that it would help to address 'unmet need' in the sense of the public interest.
17. Therefore, even if the appeal site meets the definition of grey belt land and the further caveat in paragraph 155a), and I found it to be in a sustainable location, it would still be regarded as inappropriate by virtue of paragraph 155 b) of the Framework, as there is not a demonstrable unmet need for the development.
18. For the above reasons, the development fails to meet the exceptions set out in paragraphs 154 and 155 of the Framework, and Local Plan Policy WS 1. Accordingly, the development constitutes inappropriate development in the Green Belt.

Other Considerations

19. It has been put to me that neighbouring occupiers are not impacted by noise and disturbance and that there is no built development within the site boundary that would be vulnerable to flooding. However, the lack of harm in these respects are neutral factors that do not weigh in the development's favour.
20. I have also read the rationale for the development and recognise that it supports an existing business. However, as previously noted, there is little evidence before me to substantiate the claim that the operation of the wider site was unsafe in highway terms or that it is necessary to ensure the continued operation of the existing commercial kennels. These matters therefore attract limited weight in the overall Green Belt balance.
21. Furthermore, given my findings in relation to the operation and use of the pet exercise area I can only attribute any associated health and recreation benefits to the people living and working nearby very limited weight. The loss of this area would not prevent health and recreation benefits being gained elsewhere instead.

Green Belt Balance and Conclusion on ground (a)

22. I have found the development to be inappropriate development in the terms set out by the Framework. The Framework establishes that substantial weight should be given to any harm in the Green Belt. As such, even when taken together, the other considerations reviewed above do not clearly outweigh the substantial harm that the development has caused. Consequently, the very special circumstances

required to justify the development have not been demonstrated. As a result, the development conflicts with Local Plan Policy WS 1 and Section 13 of the Framework which seeks to protect Green Belt land.

23. 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 on ground (a) should therefore not succeed, and I shall refuse the deemed application for planning permission.

Appeal on ground (f)

24. An appeal on ground (f) is brought on the grounds that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters stated in the notice or, as the case may be, remedy any injury to amenity which has been caused by such breach.
25. Section 173(4) of the 1990 Act states that the purpose of an enforcement notice is to (a) remedy the breach of planning control, or (b) remedy any injury to amenity which has been caused by the breach. The 1990 Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
26. In this case the requirements of the notice are to cease the alleged unauthorised uses of the land, and to reinstate the land to its former contours, profiles and surface treatment to restore the land to pasture to match land to the north of the site. As such, the purpose is clearly to remedy the breach.
27. The appellant's ground (f) appeal is that the requirement to reinstate and restore the land to match the land immediately to the north is excessive. It is argued that the land to the north of the site is not under the ownership of the appellant and does not match the condition of the site before the material change of use took place as it was used for horse grazing. It is also put forward that the land to the north is used for silage production which is inconsistent with the former use of the appeal site.
28. As previously noted, the requirement in paragraph 5.4 of the notice can only go so far as to restoring the land to its condition before the breach took place (my emphasis). Accordingly, a notice cannot require improvements to land, or restoration beyond its previous condition. In this case the appellant will be the person with the best knowledge of what that previous condition was. I therefore concur that the requirement in paragraph 5.4 exceeds what is necessary to remedy the breach of planning control.
29. To replace the terms in paragraph 5.4 with "Restore the land hatched blue on the Plan to its condition before the development took place" is therefore sufficient for validity purposes. To amend the notice in that way would not lead to any prejudice.
30. Whilst the appellant has referred to the drainage pond, associated works and soft landscaping, these are not included in the notice, and the Council has confirmed that they do not seek to require their removal.
31. I shall therefore correct the requirements as indicated and, to this extent, the ground (f) appeal succeeds.

Conclusion

32. 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

33. It is directed that the enforcement notice is corrected by:

- The deletion of the word “permanently” in sections 5.1, 5.2 and 5.3.
- The deletion of the words “rip up and” in section 5.1.
- The deletion of the wording in section 5.4 in its entirety and the substitution of the following wording instead:

“Restore the land hatched blue on the Plan to its condition before the breach took place.”

34. Subject to these 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