



Appeal Decision

Site visit made on 12 May 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 June 2026

Appeal Ref: APP/K0425/C/24/3356208

Land at St Regis Park, Bassetsbury Lane, High Wycombe, Buckinghamshire HP11 1RB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Birchs Park Homes Ltd against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 1 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of hardstanding.
 - The requirements of the notice are: 1. Rip up and remove the hardstanding (as shown in the approximate position marked hatched on the plan attached to the notice); and 2. Seed the land with grass seed (as shown in the approximate position shown hatched on the attached plan). 3. Remove from the land any debris arising from compliance with step 1.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) 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.
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Decision

1. It is directed that the enforcement notice is varied by in paragraph 5 ('what you are required to do') deleting step 2, renumbering step 3 to step 2 and inserting a new step 3 as follows-'Restore the land to its condition before the breach took place'. 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.

Application for costs

2. An application for costs has been made by Birchs Park Homes Ltd against Buckinghamshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant's claim that the enforcement notice is a nullity mainly focuses on the reasons for its issue, set out in paragraph 4. Those reasons explain the Council's objections to the matter stated in the notice as constituting a breach of planning control and cite relevant policies in the Development Plan. The information contained in the reasons was sufficient to enable the appellant to make an appeal on various grounds which included ground (a), giving rise to a deemed planning application for the matter alleged. This hardly suggests that the notice is *'...hopelessly ambiguous and uncertain so that the owner or occupier could not tell in what respect he had developed the land without permission or... could not tell with reasonable certainty what steps he had to take to remedy the alleged breaches.'*¹ Whilst the appellant might well believe that the reasons for issue are incorrect, by itself that does not justify finding that the notice is a nullity. Whether

¹ Upjohn LJ in *Miller Mead v MHLG* [1962] 2 WLR 225

those reasons can be substantiated is more relevant to the ground (a) appeal, as well as the costs application. Accordingly, the notice complies with s173(10) of the Act, Regulation 4 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 and the requirements of s172(b).

4. Furthermore, paragraph 3 of the notice clearly states the matters which appear to the Council to constitute a breach of planning control. The allegation-laying of hardstanding-is specified with sufficient precision to enable the appellant to know 'what those matters are.' The steps required to be taken are sufficiently clear and precise. There is no ambiguity or uncertainty in the allegation or the required steps. The notice '...tells [the appellant] *fairly what he has done wrong and what he must do to remedy it.*'² The relevant paragraph of s171A(1) the breach is considered to fall within is specified. Therefore, the notice complies with the Act at s173(1)-(3). This is unlike in other case law referred to by the appellant, where non-compliance with s173 was identified.³ As a result, for all the above reasons, the notice is not a nullity.
5. My decision takes into account the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeal.

Ground (c) appeal

6. The ground of appeal is that the matter alleged in the notice does not constitute a breach of planning control. The burden of showing that the appeal should succeed on this ground rests firmly on the appellant, the relevant test of the evidence being on the balance of probability.
7. The notice attacks a hardstanding, formed from compacted solid materials, situated in the south-west corner of a residential caravan park. There is a metal shipping container, a portable toilet and three moveable residential sheds similar to those found throughout the caravan park, on part of the hardstanding. Other items present include piles of sand and earth, quantities of bricks and blocks, pallets, wheelbarrows, LPG cylinders and potted plants. Three separate sets of service connections have also been installed.
8. Formation of the hardstanding has involved carrying out operations falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act. At s171A(1), the Act defines a breach of planning control as carrying out development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted.
9. The appellant claimed that the hardstanding is required temporarily in association with ongoing development at the caravan park. Planning permission is granted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(GPDO) at Article 3, Schedule 2, Part 4, Class A for the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. Alternatively, it was claimed that the hardstanding is permitted by the GPDO at Article 3, Schedule 2, Part 5, Class B, being development on a caravan site required by the conditions of a site licence for the time being in force under the Caravan Sites and Control of Development Act 1960.
10. Planning permission was initially granted to develop the caravan park during 2019, under reference 18/06767/FUL. The granting of permission for '*Variation of condition 7 (Crime Prevention) attached to PP 18/06767/FUL (Change of use of land to site 40 residential park homes with associated car parking, landscaping,*

² Ibid.

³ *Oates v SSCLG v Canterbury CC* [2018] EWCA Civ 2229; *Payne v NAW & Caerphilly BC* [2007] JPL 117

recreational areas and boundary fence and gate (all within area outlined in orange on plan 07B707320-001 Rev N), siting of ranger's lodge unit with new access onto Bassetsbury Lane on land adjoining the proposed park home estate (within area outlined in blue on plan 07B707320-001 Rev L))', in February 2021 under reference 20/06423/FUL, created a fresh planning permission. The available evidence points towards the 2021 permission having been implemented; there is little evidence to suggest otherwise. The hardstanding is within the permitted caravan park site. None of the planning conditions attached to the 2021 permission remove permitted development rights under Part 4 or Part 5 of the GPDO.

11. Nevertheless, based on the available evidence, as a matter of fact and degree, I am not persuaded that the hardstanding is genuinely required temporarily in connection with carrying out development on the land or adjoining land. The hardstanding covers a significant area. When I visited, the items described in paragraph 7 were largely positioned around the outer edges of the hardstanding, leaving a substantial portion of the surface area unoccupied. The appellant did not offer a convincing explanation concerning why a hardstanding of this size was reasonably required temporarily in connection with the carrying out of the caravan park development. Also, installation of the additional services connections, similar to those provided in respect of the mobile homes, suggests that in practice, the appellant intended the hardstanding to be more permanent.
12. Nor am I persuaded on the available evidence, again as a matter of fact and degree, that formation of the hardstanding is required by any of the caravan site licence conditions in terms of it being necessary or essential to satisfy those conditions. The appellant did not explain precisely how the hardstanding is required by the licence conditions. In my view, a development which is 'required' in terms of Part 5, Class B would generally meet, but not exceed, the minimum standards set by the licence conditions. The hardstanding is not required in the same sense as for example, provision of a hard surface is required for every mobile home along with a proper path to satisfy licence condition No 10 and a minimum provision of one car parking space per mobile home and additional four visitor parking spaces must be made to satisfy licence condition No 20. Accordingly, the hardstanding is not permitted by Part 4, Class A, or by Part 5, Class B of the GPDO.
13. The appellant went on to argue that the hardstanding forms part of the hard cap included in the works for the remediation of contamination at the caravan park, approved in January 2025 under condition No 11, which required the submission and approval of a remediation verification report.⁴ That report refers to the hard cap as being required in areas of proposed hardstanding in line with the proposed development plans and including roads and vehicle parking areas, footpaths and caravan slabs, with different requirements for areas of soft landscaping. I did not read the report as requiring the provision of a hard cap in the location of the hardstanding.
14. Besides, the appellant's interpretation of condition No 11 conflicts with the details approved pursuant to other conditions attached to the 2021 permission. Condition Nos 8 and 10 required, respectively, submission to and approval by the Council of the landscaping details and an ecological management and enhancement plan (EMP) prior to any development commencing (other than in condition No 8 only, site clearance and road layout). The landscaping details and EMP were approved in December 2021.⁵ The former shows existing native trees, scrub and grassland habitats as being retained on around half of the area now covered by the hardstanding. On the remainder, aside from the ranger's unit, existing trees are shown as retained along with a mix of soft and hard landscape treatments including native hedge planting, a flowering lawn mix and permeable hard surfaces.

⁴ Council Ref: 23/07967/ARDC

⁵ Council Ref: 21/07052/ARDC

15. The thirty-metre wide 'buffer zone' of semi-natural habitats including scrub, rough grassland and woodland, is described in section 3 (ecological mitigation) of the EMP, but its location is not shown in the appendix to that document as was evidently intended. That oversight notwithstanding, from the description '*...along the western boundary of the site, adjacent to the Funges Nature Reserve...*' in section 4 (enhancement) and when the EMP is read fairly as a whole, including in conjunction with the approved landscaping details also incorporated therein, the 'buffer zone' includes the land on which the hardstanding is situated along with land to the north. The management of the retained habitats is set out in the EMP section 5 (management plan). Condition Nos 8 and 10 require the development to be implemented in accordance with the approved details. Accordingly, condition No 11 does not assist the appellant's case.
16. A smaller part of the hardstanding does not comply with the 2021 permission. The hard surfaces shown on the approved layout drawing comprising vehicle parking spaces and the associated manoeuvring area, access track and Chiltern ranger's unit, would only cover around a third of the area of the hardstanding. The mainly solid, largely impervious construction of the hardstanding is markedly at variance with most of the permitted hard surfaces which, according to the hard landscaping details approved pursuant to condition No 8, would largely utilise permeable materials. Moreover, there is no firm evidence that the works comprised in formation of the hardstanding involved other than one continuous operation.
17. Therefore, based on the available evidence and on the balance of probability, the hardstanding is not permitted by the GPDO, nor does part benefit from express planning permission. As the appellant has been unable to show that formation of the hardstanding does not constitute a breach of planning control, the ground (c) appeal fails.

Ground (a) appeal

Main Issue

18. The main issue in this appeal is the effect of the hardstanding on biodiversity.

Reasons

Biodiversity

19. Policy CP10 of the Wycombe Local Plan (LP) promotes conservation and enhancement of the natural environment and green infrastructure. This includes by protecting natural environmental assets of local, national and international importance from harmful development, ensuring there is a net gain in biodiversity in new development and maximising the opportunities to protect, enhance, expand, connect and use existing green infrastructure. LP Policy DM34 requires new development to protect and enhance biodiversity and green infrastructure features and networks on and off-site for the lifetime of the development, including by demonstrating how opportunities to enhance existing and provide new green infrastructure and biodiversity assets will be maximised. Criterion in LP Policy HW13 requires development of the allocated residential site, now the caravan park, to protect and enhance the biodiversity and setting of the adjacent nature conservation area.
20. Policy DM11 of the Council's Delivery and Site Allocations Plan (DSP) seeks to conserve and enhance the green infrastructure network, paying special attention to the conservation and enhancement of biodiversity, recreation and non-motorised access, with new development being required to contribute to the green infrastructure network. In DSP Policy DM13, new development which harms designated sites of nature conservation or protected species is only to be permitted where there is no suitable alternative site and the impact can be mitigated or compensated to achieve an overall gain in biodiversity. DSP Policy DM14 requires

the design of new development to maximise biodiversity by conserving, enhancing or extending existing resources, or creating new areas or features. These LP and DSP policies are consistent with chapter 15 of the Framework, which encourages the protection and enhancement of biodiversity.

21. The hardstanding is adjoined by residential property on three sides. Also, as already noted, about a third of the land covered by the hardstanding benefits from planning permission to form hard surfaces. Nevertheless, the available evidence suggests that forming the hardstanding has involved clearing an extensive area of trees, scrub and grassland which previously formed part of a semi-natural habitat, significantly encroaching into the 'buffer zone' in the EMP. The hardstanding has little inherent value in biodiversity terms. This is entirely at odds with enhancing the nature conservation interest of the locality and the management plan set out in the EMP. There is no firm evidence that formation of the hardstanding has had other than an adverse effect on the nature conservation interest of the locality including, either directly or indirectly, the adjacent local nature reserve.
22. The effect of the hardstanding in terms of nature conservation does not compare favourably with the permitted hard surfaces. The latter would have considerably lower impacts, in terms of both construction and use, covering about a third of the hardstanding area and largely being constructed from permeable materials. For reasons largely similar to those set out in relation to the previous ground of appeal, the approved verification report has limited relevance in terms of the effect of the hardstanding on biodiversity and permitted development rights in the GPDO Parts 4 and 5 do not apply in this instance.
23. Therefore, the hardstanding has significantly and harmfully eroded local biodiversity. This is in conflict with LP Policies CP10 and DM34, along with criterion in LP Policy HW13. Also, it is in conflict with DSP Policies DM11, DM13 and DM14.

Other Matters

24. The main parties did not dispute that formation of the hardstanding has had no effect on the significance of nearby heritage assets and there is no sound reason why I should find otherwise. Also, there is no adverse effect on highway safety, nor increased risk of contamination or flooding. However, these factors do not weigh in favour of granting permission.
25. In view of my findings on the main issue, other matters raised by interested parties do not warrant further consideration.

Conclusion-Ground (a) appeal

26. Formation of the hardstanding has harmed local biodiversity, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Ground (f) appeal

27. The ground of appeal is that the notice requirements are excessive.
28. An enforcement notice can have the purpose of remedying the breach, including by restoring the land to its condition before the breach took place, or it can have the purpose of remedying any injury to amenity caused by the breach. The purpose of the notice is to remedy the breach, as set out in paragraph 5. The steps, which include ripping up the hardstanding and removing the resulting debris, clearly have that purpose in mind.
29. The Act also provides for remedying the breach by making any development comply with the terms, including conditions and limitations, of any planning

permission granted in respect of the land. I am mindful that the enforcement regime is intended to have a remedial function. However, simply reducing the size of the hardstanding to that of the permitted hard surfaces is not an obvious alternative to the notice requirements. Given the largely different construction materials compared to those approved, even as reduced in size the hardstanding would not comply with the terms of the 2021 permission. Therefore, allowing part of the hardstanding to be retained would sustain the breach and the purpose of the notice would not be achieved. Nothing in the notice would prevent the appellant from forming the permitted hard surfaces after removing the hardstanding.

30. No other alternative to total removal of the hardstanding was suggested and to my mind, nothing less would remedy the breach. It follows that steps 1 and 3 are a proportionate remedy as part of the minimum works necessary to restore the land to its condition before the breach took place and in doing so achieve the purpose of the notice. The potential for further development at the caravan park to achieve a net gain for biodiversity is beyond the scope of this appeal.
31. Nevertheless, step 2 which requires the sowing of grass seed would be more onerous than what would be necessary to restore the land to its condition before the breach took place. The available evidence suggests that the land was not wholly covered with grass previously. The notice can only require restoration of the land to its condition prior to the breach; there is no statutory power to require works which would result in an improvement over the previous condition of the land. Accordingly, step 2 is excessive to remedy the breach of planning control.
32. Some of the interested third parties favoured requiring a scheme of replacement planting to be submitted and then implemented following its approval by the Council. However, that would have made the notice uncertain.
33. In the circumstances, I shall exercise the power in s176(1)(b) of the Act to vary the terms of the notice to delete step 2 and substitute it with a requirement to restore the land to its condition before the breach took place. Such a requirement would be sufficiently precise. The appellant is likely to have the best knowledge of what the previous condition of the land was. There would be no injustice, to the appellant or the Council, in varying the notice accordingly.
34. Therefore, the ground (f) appeal succeeds to the limited extent set out above.

Conclusion

35. 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).

Stephen Hawkins

INSPECTOR