



Appeal Decisions

Site visit made on 27 May 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2026

Appeal A Ref: APP/R0335/C/25/3365628

Nestings, Jigs Lane North, Warfield, Bracknell RG42 3DH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Robin Benke against an enforcement notice issued by Bracknell Forest Borough Council.
 - The notice was issued on 11 April 2025.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from agriculture to storage.
 - The requirements of the notice are: 1) Cease the use of the land shaded blue on the plan attached to the notice for the purpose of storage; and 2) Remove from the land shaded blue all metal containers and any other forms of storage.
 - The period for compliance with the requirements is three months.
 - 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.
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Appeal B Ref: APP/R0335/C/25/3365633

Nestings, Jigs Lane North, Warfield, Berkshire, RG42 3DH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Robin Benke against an enforcement notice issued by Bracknell Forest Borough Council.
 - The notice was issued on 11 April 2025.
 - The breach of planning control as alleged in the notice is (1) Without planning permission, the material change of use of the land from agriculture to storage; and (2) Without planning permission the formation of hardstanding.
 - The requirements of the notice are: 1) Cease the use of the land shaded green on the plan attached to the notice for the siting of metal containers, motorhomes, caravans and all forms of vehicles not associated with the agricultural use of the land; (2) Remove from the land shaded green all metal containers, motorhomes, caravans and all forms of motor vehicles; and (3) Remove from the land shaded green all concrete and brick rubble and all materials used to form [the] area of hardstanding associated with the unauthorised use. The removal of any hardstanding within 15m of any protected trees will require an arboricultural method statement to be approved by the Local Planning Authority and works to be undertaken in accordance with this statement. 4) Restore the land shaded green to its original condition before the breach took place by levelling the ground and re-seeding it with grass.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) 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.
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Decisions

1. Appeal A-The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land from agriculture to storage at

Nestings, Jigs Lane North, Warfield, Berkshire, RG42 3DH, as shown shaded blue on the plan attached to the notice and subject to the following condition:

- 1) The storage use hereby permitted shall not exceed the height above ground level of two standard-size metal shipping containers, laid lengthways with one on top of the other, or 5.2 metres, whichever is the lower.
2. Appeal B-The enforcement notice is quashed.

Appeal A

Ground (a) appeal

Background & Main Issue

3. The appeal site is a roughly L-shaped strip of land, previously in open use, which wraps around the northern and part of the western edges of an established commercial yard. Rows of metal shipping containers have been stationed on the site to provide additional capacity for the appellant's storage business, based at the adjacent yard. The enforcement notice attacks the use of the site for storage purposes.
4. The site, the adjacent yard and land to the north and east form part of a substantial area of land allocated for a large mixed-use urban extension, including 2,200 dwellings, employment uses, a neighbourhood centre, primary schools, a community hub, open space, natural greenspace and associated infrastructure, in Policy SA 9 (Land at Warfield) of the Council's Site Allocations Local Plan (SALP).
5. Therefore, the main issue in this ground of appeal is the effect of the storage use on delivery of the comprehensive mixed-use development on the allocated land, having regard to the Development Plan and the National Planning Policy Framework (the Framework).

Reasons

6. Along with other adjacent land, the site and the established yard form part of Area 3 in the implementation and sequence plan for development of the allocated land, in the Warfield Supplementary Planning Document (SPD). The SPD sets out guidance for development of the allocated land. Area 3 is the final sequence of the development, the stated reason for this being to give landowners time to coordinate a comprehensive development. It is envisaged that Area 3 would accommodate 454 dwellings. As set out in the Framework, a Government objective is to significantly boost the supply of homes.
7. Nevertheless, as far as I have been made aware, no masterplan has been finalised in respect of Area 3 to date. Nor has any planning application yet been made to develop Area 3. The timescale for bringing Area 3 forward for development is thus singularly lacking in certainty at present. Set in that context, the Council has not provided a clear and convincing explanation concerning how the storage use prevents the development of Area 3 from being delivered to accord with SALP Policy SA 9 and the SPD. In particular, it is unclear how the storage use is purported to undermine the masterplan-led approach, the achievement of high quality design, or the delivery of housing, infrastructure and integrated pedestrian and cycle connections.

8. The site is of limited size in comparison with that of the established yard, also being of comparatively modest proportions in relation to the overall area within the yard used by the appellant's storage business. In my estimation, use of the site for storage is likely to have involved an increase of perhaps around a third over the scale of the storage activity taking place in the yard. In practice, the relatively limited proportions and lack of a separate vehicular access make it highly unlikely that the site could continue to function in storage use by itself, in the event of the yard being developed as part of Area 3. Also, as no permanent buildings are involved, the changes made associated with the storage use could potentially be reversed with little difficulty in the event the site is brought forward for development as part of Area 3. This is in marked contrast with the established yard, which includes a range of permanent structures.
9. Taking account of all the above factors, in the particular circumstances applying in relation to this site I am not persuaded that granting permission for the storage use would make any significant difference in terms of the appellant, or a future landowner, coordinating with other parties to bring the site forward as part of the comprehensive development of Area 3. Nor in my view is it likely to prejudice the delivery of the target number of homes on Area 3 in some other fashion.
10. In any event, there is a modest economic benefit associated with the storage use. The Framework stresses the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development and advises that significant weight should be attached to such matters. Also, Policy LP 19 of the Bracknell Forest Local Plan (BFLP) supports employment development generally, including storage uses.
11. Therefore, the use of the site for storage does not prejudice the comprehensive mixed-use development of the allocated land and there is no conflict with the objectives of SALP Policy SA9, or with BFLP Policy LP 4, which requires the provision between 2020/21 and 2036/37 of sufficient land to accommodate at least 10,438 homes to meet the Borough's local housing need. There is also no conflict with BFLP Policy LP 28, criterion in which supports new development where the comprehensive development of a wider area is not prejudiced. Nor is the use inconsistent with the SPD or the Framework.

Conditions

12. I shall impose a planning condition to restrict the height of the storage to no greater than that of two standard-size shipping containers placed one on top of the other. This is necessary to safeguard the character and appearance of the area.
13. However, I shall not impose the other suggested conditions. Planning permission generally runs with the land and it is seldom appropriate to provide otherwise. The identity of the operator of the storage use has little bearing on the site being brought forward as part of the comprehensive development of Area 3. Therefore, restricting the benefit of the use to the appellant would not meet the tests of necessity, relevance and reasonableness for conditions, set out in the Framework. Similarly, granting a temporary permission would not meet the Framework tests for conditions, as it would deprive the appellant of a permanent permission for development which accords with the Development Plan.

Conclusion-Ground(a) appeal

14. The storage use does not prejudice the comprehensive mixed-use development of the allocated land and there is no conflict with the Development Plan. 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 appeal should succeed on ground (a).

Appeal B

The enforcement notice

15. The appeal site is a roughly L-shaped parcel of land, formerly in open use, located immediately to the north and west of the land in Appeal A. The site is mostly covered by a hardstanding formed from loose, compacted materials. A row of Oak and Ash trees the subject of a Tree Preservation Order (TPO) are situated adjacent to the northern site boundary. Stored caravans, motorhomes and other vehicles, as well as some metal shipping containers, are present at the site. The notice attacks the material change of use of the site from agriculture to storage and the formation of a hardstanding.
16. Steps 1 and 2 require the storage use to cease and the caravans, motorhomes, other vehicles and containers to be removed from the site. The first part of step 3 requires the removal from the site of all concrete and brick rubble and all materials used to form the hardstanding. To that extent, the notice requirements are entirely clear. However, the final part of step 3 states that removal of any hardstanding within 15m of any protected trees requires an arboricultural method statement to be approved by the Council and works to be undertaken in accordance with this approved statement. This part of the step does not provide sufficient certainty, as the appellant cannot tell from within the notice what they are required to do. Therefore, whilst steps 1 and 2 and the first part of step 3 comply with s173(3) of the Act, the final part of step 3 does not.
17. I have considered whether to exercise the powers in s176(1) of the Act to correct any defect, error or misdescription in the notice or to vary its terms, by deleting the final part of step 3. However, that would mean there cannot be a reasonable assurance that the TPO trees are protected during the remedial works. By itself, s210 of the Act (penalties for non-compliance with a TPO) would not necessarily prevent damage to the protected trees from occurring during those works. Deleting the final part could also potentially mean that in practice, step 3 could not be complied with in full; for example, in the event it was established that the remedial works are unable to be undertaken without damaging the TPO trees. I highly doubt that the Council would find either outcome satisfactory.
18. Alternatively, step 3 could be varied to substitute the final part with a detailed specification of how the TPO trees are to be safeguarded during the remedial works. Nevertheless, such a requirement would make the notice more onerous. This would place the appellant in a worse position than if they had not made an appeal in the first place and simply complied with the notice. Besides, there is nothing before me which would indicate what safeguarding the protected trees would involve.
19. Accordingly, I find that the enforcement notice is incapable of correction without causing injustice, either to the appellant or the Council. It is open to the Council to

serve a fresh enforcement notice, in the event it is deemed expedient to do so, which amongst other things sets out in detail how the TPO trees would be safeguarded during the remedial works.

Conclusions

20. Appeal A-For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the use as described in the notice. The enforcement notice will be quashed. In these circumstances the appeal on ground (g) does not fall to be considered.
21. Appeal B-For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances, the appeal on the grounds set out in section 174(2)(a),(d),(f) and (g) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Stephen Hawkins

INSPECTOR