



Appeal Decision

Site visit made on 8 June 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 24 June 2026

Appeal Ref: APP/J1915/C/24/3345459

Land on south-east side of Danebridge Road, Much Haddam, Hertfordshire.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Liam McCarthy (Ashbrook Investments Ltd) against an enforcement notice issued by East Herts District Council on 30 April 2024.
- The breach of planning control as alleged in the notice is:
Without planning permission, the unauthorised engineering works to alter land levels incorporating the formation of a hard standing, the formation of bunds and the widening of a means of access.
Without planning permission, the material change of use of the land for the storage of building and construction materials, plant equipment, HGVs, caravans, site cabins and shipping containers.
- The requirements in section 5 of the notice are to:
5.1 Break up and remove from the land all materials forming the hardstanding including all surfacing and sub base material. 5.2 Remove all earth bunds from the land.
5.3 Restore land levels to the same levels as those before the breaches took place.
5.4 Permanently cease the use of the land for the storage of all building and construction materials, plant equipment, HGVs, caravans, site cabins and shipping containers. 5.5 Break up and remove from the land all materials forming the enlarged section of the access including all surfacing and sub base materials. 5.6 Re plant native hedgerow and trees within the area of the enlarged section of the access at a planting density consistent with that of the existing hedgerow. 5.7 Restore the land to its condition before the breaches took place.
- The compliance periods of the notice are 3 months (requirements 5.1, 5.2, 5.4, 5.5) and 10 months (requirements 5.3, 5.6 and 5.7).
- The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (c) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. It is directed that the enforcement notice be corrected by:
 - Deleting "and the widening of a means of access" in section 3;
 - Deleting requirements 5.5 and 5.6 entirely, and renumbering requirement 5.7 as 5.5, in section 5;
 - Deleting "and 5.5" from the first sentence in section 6; and
 - Replacing "5.6 and 5.7" with "5.5" in the second sentence of section 6.
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld. 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 issued notice, in part, alleges “the widening of a means of access”. The red line of the appeal site does not actually include the aforesaid access. The Council appears to agree as it has suggested amendments to the notice to reflect that fact, by removing the access allegation and the associated requirements from the notice. As the corrected notice would allege less and require less of the appellant, in these particular circumstances I am making the suggested corrections satisfied that no injustice would be caused¹.

Grounds (b) and (c)

4. For success on ground (b), I must be satisfied on the balance of probabilities that matters stated in the notice said to constitute a breach of planning control have not in fact occurred. To succeed on ground (c), the appellant must demonstrate to the same standard of proof that matters stated in the notice (if they occurred) do not constitute a breach of planning control. The burden of proof on these legal grounds sits with the appellant.
5. The appellant is not pursuing either of these grounds as regards the unauthorised engineering works upon the appeal site. It is not in dispute, therefore, that these have occurred in fact and constitute a breach of planning control. The case put forward, rather, is confined to the alleged use of the land and whether or not that use comprises a material change of use amounting to development requiring planning permission under the Act.
6. It is said by the appellant that the use remains as agricultural and it is intended for sheep farming. Further, it is asserted that the equipment and building materials currently in situ on the land are there ready to undertake works in preparation for the arrival of the sheep and to carry out associated operational development, which includes the erection of a proposed agricultural building to house the sheep. Notwithstanding that narrative, the appellant does not dispute the storage of building and construction materials, plant equipment, HGVs, caravans, site cabins and shipping containers. Further, the site can be seen with abundant quantities of these items in the photographs taken by the Council and by a local residents group. I saw similarly on my site visit. Accordingly, I find as matter of fact that the land has been used for storage as set out in the notice. Ground (b) therefore fails. As to ground (c), and given the nature and extent of such storage, I find as a matter of fact and degree (on the balance of probabilities and taking all the evidence into account) that the character of the use is as a storage facility for a builder (a ‘builder’s yard’). That is materially different from the agricultural use of the land which had occurred previously, and is development. I find it most improbable that such large amounts of construction-related items are related to preparations for planned agricultural activities on the site. Indeed, I have received insufficient details of the size and extent of the sheep farming operation to be undertaken on the land. Moreover, very little substantive information and evidence has been submitted by the appellant of the proposed operational development towards which it is asserted the stored items will be put, including of the proposed agricultural buildings in which to house the sheep and to store feed and agricultural equipment. Ground (c) therefore also does not succeed.

¹ The appellant makes an injustice argument on the basis that an enforcement notice must specify the precise boundaries of the land. However, the notice does that through the enforcement plan attached to it. The amendments make no change to that plan or to the boundaries of the land subject to the enforcement action.

Ground (a) and the deemed planning application (DPA)

Preliminary Matters

7. Planning permission is only sought for the unauthorised engineering works upon the appeal site (namely, works to alter land levels incorporating the formation of a hardstanding and the formation of bunds).
8. The appellant suggests that a 'fallback' position is available by reason of the general planning permission afforded to agricultural development by Article 3(1), Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, such permitted development is on the basis of operations which are reasonably necessary for the purposes of agriculture. I have not been provided with details of a particular 'fallback' proposal, with accompanying evidence, demonstrating that it would be reasonably necessary for an agricultural purpose on the land. For instance, I have not seen any submissions making the case that bunds would be a reasonably necessary feature of any 'fallback' proposal. Nor is it clear how the altering of land levels and formation of hardstanding would be reasonably necessary for agricultural purposes under any 'fallback' proposal. The appellant suggests that an amount of hardstanding is reasonably necessary upon which to erect buildings to accommodate sheep (and to store feed and agricultural equipment), and to allow agricultural vehicles to manoeuvre, but I have not been provided with the details of any such buildings or indeed of the extent of the agricultural operations to be implemented (including animal numbers). As such, I cannot make a reasoned comparison between the engineering works that have been undertaken (and which are now subject to the DPA) and a 'fallback' position - which in essence is not a proposal at all, but largely an insubstantial reference to Part 6 of the GPDO. I therefore do not give this 'fallback' matter any weight.
9. The appellant's appeal submissions have not engaged with the reasons for issuing the notice (section 4 of the notice) which now form the main issues in the determination of the DPA.

Main Issues

10. The main planning issues in the appeal (which no longer concern the site access due to the corrected notice) are the effects of the unauthorised engineering works upon:
 - the character and appearance of the rural area;
 - the likelihood of flooding; and
 - biodiversity.

Reasons

Character and appearance

11. The appeal site is designated within the Rural Area Beyond the Green Belt under the East Herts District Plan 2018 (DP). Prior to the appeal development, it could reasonably be described as comprising agricultural fields together with 2 outbuildings including a stable block. Although there are some residential properties not too far away, the prevailing character of the local area is decidedly rural.

12. Engineering works have taken place on part of the appeal site to alter the natural ground levels and create a level surface. Surfacing and subbase material has been imported onto the land and compacted to create a hardstanding. Bunds have also been formed around the hardstanding. While I accept the appellant's point that the hardstanding only covers a minor part of the wider appeal site, its extent is significant. Notwithstanding that views are largely obscured from public vantage points, the expanse of hardstanding (accentuated by the artificial nature of the adjacent bunding) creates a hard and harsh urbanising effect within this rural location and significantly harms its character. As such, the appeal development is in conflict with Policy GBR2 of the DP which seeks to maintain the Rural Area Beyond the Green Belt as a valued countryside resource.

Flooding

13. The land is partly located with flood zones 2 and 3 and therefore, under the National Planning Policy Framework, the DPA should be accompanied by a flood risk assessment. The re-contouring of the land along with the importation of surfacing materials may increase the likelihood of flooding. No flood risk assessment has been submitted and no sequential test has been carried out to steer the development towards a more appropriate location. As such, the development is contrary to DP Policy WAT1.

Biodiversity

14. The development has resulted in the loss of a portion of the pre-existing fields to hardstanding. Policy NE3 of the DP requires that proposals must demonstrate how the development improves the biodiversity value of the site and surrounding environment. There has been no such demonstration, and therefore there is conflict with this policy.

Conclusion

15. The appeal development does not accord with the development plan as a whole, and there are no other considerations which outweigh that finding. Ground (a) does not succeed, and I shall not grant planning permission (there being no conditions I could impose which would make the development acceptable).

Andrew Walker

INSPECTOR