



Appeal Decisions

Site visit made on 5 May 2026

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2026

Appeal A Ref: APP/B5480/C/25/3358682

Land adjoining Chalkfields, Tomkyns Lane, Upminster RM14 1TP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Jonathan Sullivan against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 11 December 2024.
- The breach of planning control as alleged in the notice is without planning permission:
- (i) The construction of a building and hard surfacing; and
- (ii) The construction of a boundary treatment to the entrance of the site comprising of a gate, brick pillars, fencing and also hard surfacing leading from the gate to the building.
- The requirements of the notice are to:
 - (i) DEMOLISH the building located as shown in the approximate area marked as X on the attached OS plan and as depicted on the photo in Appendix 1;
AND
 - (ii) Remove all hard surfacing upon which the building stood and reinstate the site to its condition before the development was carried out;
AND
 - (iii) Demolish or reduce to a height of no more than 1 metre at any point the boundary treatment at the entrance of the site (comprising the gate, brick pillars and fencing) as shown in Appendix 2 to this Notice;
AND
 - (iv) Remove any hard surfacing between the gates and the building;
AND
 - (v) Remove all debris, rubbish or other materials accumulated as a result of taking steps (i) to (iv) above.
- The period for compliance with the requirements is: Three months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Appeal B Ref: APP/B5480/W/25/3358622

Chalkfields, Tomkyns Lane, Havering, Upminster RM14 1TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Jonathan Sullivan against the decision of the Council of the London Borough of Havering.
- The application Ref is P0163.23.
- The development proposed is Construction of an agricultural barn (Part Retrospective).

Decision: Appeal A

1. 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.

Decision: Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Within their statement of case, the appellant states that an appeal is lodged under section 173(g), however, the appellant has not ticked that they wish to pursue an appeal under ground (g) on the appeal form, nor have they identified a compliance period they consider would be reasonable. The appellant raises concern with the date the Notice takes effect, which, they state, takes no account of the Christmas and New Year holiday period and, as such, gives insufficient time to prepare a suitable planning application in respect of the boundary treatment. However, that date has long since passed and there is no suggestion that the compliance period is not sufficient. The appellant has lodged an appeal under ground (a) and I shall consider it accordingly.

Appeal A: S174 Appeal

4. An appeal under ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice as constituting the breach of planning control. The enforcement notice alleges without planning permission, the construction of a building and hard surfacing and the construction of a boundary treatment to the entrance of the site comprising of a gate, brick pillars, fencing and hard surfacing leading from the gate to the building. It is clear from the notice that the building being enforced against is partially constructed. My powers under ground (a) are to grant planning permission in respect of the matters stated in the enforcement notice, whether in relation to the whole or any part of those matters. As the building was partially constructed, it follows that I may grant planning permission for the partially constructed building. Further planning permission would be granted to complete the building.

Main Issues

5. The main issues of the appeal are:
- Whether the appeal scheme would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies;
 - The effect of the appeal scheme on the openness and purposes of the Green Belt;
 - The effect of the appeal scheme on biodiversity, including protected species;
 - The effect of the boundary treatment on the character and appearance of the area; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate in the Green Belt

6. The National Planning Policy Framework (2024)(the Framework) sets out 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 advises that development in the Green Belt is inappropriate unless one of a number of exceptions applies, including buildings for agriculture and forestry. Policy G2 of the London Plan 2021 (the LP) sets out that the Green Belt should be protected from inappropriate development and that development proposals should be refused except where very special circumstances exist.

7. The Act sets out that “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly.
8. The main thrust of the appellant’s case is that the appeal building will be used for agriculture, with the barn being used for the storage of agricultural equipment and the mezzanine to be used for the storage of foodstuffs/feed for chickens. Photographs of equipment have been provided in support of the appeal, including a wood chipper, an excavator, a ride on lawn mower (referred to by the appellant as a tractor), a Iseki tractor of limited size (with no cab) and other items. Although it is possible some of these items may be used in agriculture, in my view, the items identified may also be used in landscaping.
9. The appellant advises that they have a DEFRA County Parish Holding (CPH) Number and Single Business Identifier and that the barn, as proposed, includes provision for nesting boxes for 60 free range chickens. The appellant states that they intend to hold two flocks of registered breeds and will be applying for agricultural subsidies and grants to keep sheep and that if the application is successful, an application will be made for an initial holding of 10 Shropshire Sheep.
10. The appellant also points out that there is a woodland area, and states that they are taking advice from the Forestry Commission, the Small Woods Association and the Tree Advice Trust to properly manage the wooded area to encourage biodiversity and maintain sustainable forestry. It is suggested that the barn will house the associated arboreal equipment which cannot be left uncovered without risk of theft and damage by the elements.
11. Although the appellant states that historically the site has been used for grazing and agriculture, I saw no evidence of agricultural use at the appeal site during my visit. Although I saw some of the items identified in the photographs provided by the appellant, the excavator appeared to be being used in construction works rather than for any obvious agricultural activity.
12. During my visit, I saw that the building is partially constructed, with double skinned breeze block, with insulation between, gaps for windows and doors, internal single skinned partitioned breeze block walls and a mezzanine, with access via a ladder. Roof lights and windows have been installed into the roof. A toilet has been installed on the ground floor of the building and a bath tub was located in the room from which access to the mezzanine was obtained, though it was not fixed into place, or connected to any pipework.

13. Although the appellant suggests that the building is intended for agricultural use, agricultural buildings are not, in my experience, usually insulated, nor do they tend to have roof lights. Although gaps have been left which would allow machinery to be placed within the building, the entrances are not flush with the floor of the building, making access to the building by agricultural machinery difficult. Furthermore, internal walls have been constructed, which would significantly limit the manoeuvrability of machinery within the building.
14. In support of their appeal, the appellant has provided me with a series of plans. However, the plans do not reflect the works which have been carried out and, show, amongst other things, a turntable flat trailer in the building. It would simply not be possible to manoeuvre a trailer within the building as shown on the plan, given the internal walls which have been constructed. In my judgment, the building does not appear to have been designed for agricultural or forestry purposes but has a domestic character.
15. I note the appellant's point that a change of use would be subject to a further application, however, that, in my view, does not justify granting permission for a building which is plainly not designed for agriculture or forestry. In my view, it would be unreasonable to impose a condition limiting the use of such a building to agriculture, given that it has not, in my judgement, been designed for such a purpose.
16. It is suggested that the principle of a barn structure in this location has already been agreed by the Council under approval P1819.16 and that the works on that structure were commenced and were completed up to and including the steel superstructure frame, rendering P1819.16 extant. However, it is stated that the steel structure approved under P1819.16 was removed following discussion with local residents and the local councillor.
17. From the evidence, it seems that, even if the steel structure was erected, it has since been deconstructed, with remnants of the barn stored near the western boundary of the site. The location and design of the barn as constructed is significantly different to the approved barn and so the works which have been carried out were not material operations comprised in the approved development. From the evidence, it seems that permission is likely to have lapsed.
18. There is no suggestion that the building would fall to be considered under any of the other exceptions set out under Paragraph 154 of the Framework, or that the land would constitute grey belt land, or that there is a demonstrable unmet need for the type of development proposed. As such, I find that the building and the hardstanding upon which it sits is inappropriate development in the Green Belt.
19. With respect to the boundary treatment, the appellant points out that planning permission was granted under P1607.23 for a similar installation of gates/boundary treatment in a location towards the southern boundary of Chalkfields demise. In addition, it is pointed out that directly adjoining the gates subject to the enforcement notice are a pair of gates, brick pillars, boundary treatment and hard surfaced driveway to the adjacent property, Tompkyns Manor, approved under P0287.21. However, I have no substantive details of the other examples referred to and cannot be sure they are comparable to the appeal scheme before me.
20. The appellant has not explained, with respect to the boundary treatment and hard surfacing, whether any of the exceptions under paragraph 154 would apply and, as

set out above, I have found the building does not fall under exception 154(a). The gates, boundary treatment and hard surface appear physically related to the appeal building, rather than the property to the south, Chalkfields House, which is served by its own entrance.

21. While engineering operations may be considered under paragraph 154(h), this is provided they preserve its openness and do not conflict with the purposes of including land within it. The hard surfacing which has been erected between the gate and the building is a substantial feature which, in my judgement, fails to preserve the openness of the Green Belt.
22. Thus, for the reasons set out above, I find both the boundary treatment and the hard surfacing are inappropriate development in the Green Belt.

Openness

23. The Framework advises that the essential characteristics of Green Belts are their openness and their permanence. The gates, pillars and fencing are all visible from the public domain and, although there is mature vegetation between the gates and the building, when the gates are open, the building and hardstanding would be visible from outside the site.
24. It is suggested that the 'repositioning' of the building results in the structure being located in an area which has a ground level approximately 1m lower than the previously location approved under P1607.23, reducing any potential visual impact in terms of height, scale, bulk, massing and that it also results in the barn being further screened by the existing hedgerow and vegetation within the application site.
25. However, as set out above, the barn the appellant has previously secured planning permission for appears to have been demolished. The works, including the appeal building, hard surfacing and boundary treatment are located within a part of the site which appears to have been largely free of built development. The works, in my view, have resulted in modest harm to the Green Belt.

Biodiversity and protected species

26. It is stated that the previous approval, P1819.16, had no requirement for a biodiversity survey and report. However, that decision predated both the Havering Local Plan, which was adopted in November 2021 and the London Plan, which was adopted in March 2021. Policy G6 of the LP sets out that development proposals should aim to secure net biodiversity gain, while policy 27 of the Havering Local Plan (HLP) supports proposals which support natural habitats and opportunities for enhancing biodiversity and policy 30 sets out that the Council will enhance the borough's natural environment and seek to increase the quantity and quality of biodiversity by, ensuring developers demonstrate that the impact of proposals on protected species have been fully assessed and that appropriate mitigation and compensation measures are identified where necessary, amongst other things.
27. In support of the appeals, the appellant has provided a Preliminary Ecological Appraisal – Field Study and a Preliminary Ecological Appraisal (the PEA), dated March 2025. These studies show that the site is located within the Impact Risk Zone (IRZ) for several SSSIs in the wider landscape, with a number of Sites of Importance for Nature Conservation (SINCs) in close proximity to the site, including

Tylers Common, a section of which is immediately adjacent to the appeal site boundary. The PEA makes a number of recommendations, such as the provision of a Construction and Environmental Management Plan, that any further works are undertaken outside the bird nesting season, or a pre-commencement check carried out, that Reasonable Avoidance Measures (RAMs) are carried out with respect to badger, hedgehog and common amphibians and suggests appropriate luminaire specifications.

28. While it may be possible to address some of these matters by condition, the PEA also recommends that given the combination of site-specific features, suitable surrounding habitats and the unknown scale of the potential impacts from the works, risks of impacts to hazel dormouse cannot be ruled out and their presence within the site boundary is considered possible. It was therefore recommended that further surveys in relation to hazel dormouse are undertaken.
29. With respect to Great Crested Newts (GCNs), the PEA concludes that this species could feasibly exist within proximity to the application site and that the site itself provides suitable habitat for this species. The assessment recommends that an Environmental DNA (eDNA) survey should be undertaken at all five of the ponds within 250m of the site, to reasonably ascertain the presence or absence of GCNs at these ponds. Further reptile surveys are also recommended.
30. However, as explained in Circular 06/05 Biodiversity and Geological Conservation, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. In this case, it is not clear the extent to which protected species may be affected by the proposed development, or whether mitigation and/or compensation measures are necessary.
31. No exceptional circumstances have been put forward as to why ecological surveys should be secured by condition rather than carried out prior to the grant of planning permission. Furthermore, the works are likely to have resulted in the loss of terrestrial habitat for GCNs and other species and so are likely to have resulted in a loss of biodiversity, contrary to policy G6 of the LP and policies 27 and 30 of the HLP, the requirements of which are set out above.

Character and appearance

32. The appeal site is located along a section of Tomkyns Lane which has a generally rural character, with mature hedgerows either side of the carriageway and sporadic farmsteads. With respect to the boundary treatment which has been erected, the gate, brick pillars and fencing appear prominent features when viewed from Tomkyns Lane. By virtue of their substantial height and use of unsympathetic materials, they appear an incongruous feature which harms the rural character of this part of Tomkyns Lane.
33. While I saw that gates and pillars have been erected adjacent to the appeal site, I have no substantive details of these gates and do not know the circumstances around their erection. Furthermore, when viewed together, the inconsistency in terms of their design emphasises the incongruity of the appeal boundary treatment.
34. Although the requirements of the notice would allow the appellant to reduce the boundary treatment in height to no more than 1m in height, such a boundary treatment would have a less harmful effect on the character and appearance of the

area by virtue of its more limited height. The boundary treatment which has been erected harms the rural character of this part of Tomkyns Lane, contrary to the Framework, which seeks well designed places and states that development that is not well designed should be refused.

35. The Council refers to its Residential Extensions and Alterations Supplementary Planning Document (2011) in its enforcement notice. However, there is no suggestion that the works carried out are in association with the residential use of Chalkfields and so I do not consider the SPD to be of relevance in this case.

Other considerations

36. The appellant suggests that the barn is to provide an essential facility to achieve their aim of a self-sufficient lifestyle. However, as set out above, it has not been shown that the building has been designed for agriculture or forestry and while the appellant raises concern regarding the storage of agricultural equipment, the building as constructed is open to the elements. As such, there is little benefit in terms of security offered by the building.
37. Although the building is located in a part of the site which is at a lower level than the barn approved under P1819.16, as set out above, that permission is likely to have lapsed. Furthermore, the design of that building was significantly different.

Planning Balance and Conclusion

38. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
39. The building, hard surfacing and boundary treatment are inappropriate development in the terms set out in the Framework and have led to modest harm to the openness of the Green Belt. I have also found that there is harm to protected species and biodiversity and that the boundary treatment harms the character and appearance of the area.
40. I find that the other considerations in this case do not clearly outweigh the harms that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist, and the building, hardstanding and boundary treatment conflicts with the Framework and with policies G2 and G6 of the London Plan and policies 27 and 30 of the HLP and the development plan taken as a whole.

Appeal B: S78 Appeal

41. Although the application form states that the work has been started, the works which have been carried out on site are significantly different to the plans submitted in support of the planning application. The plans show a building which measures around 15.6m by 9m and 6.5m in height, with a food store and hay loft at first floor level and timber doors to the southern, northern and eastern elevations. Two lambing pens and two sets of nesting boxes are shown, as well as a tractor, trailer, mower, quad bike and portable conveyor.

42. The building is materially different to the building which has been constructed in terms of overall footprint, layout and design. For the avoidance of doubt, I shall consider the appeal on the basis of the proposed plans and not the building as constructed, which I have considered under the ground (a) appeal above.

Main Issues

43. The main issues of the appeal are:

- Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and relevant development plan policies; and
- The effect of the proposal on biodiversity, including protected species.

Reasons

Whether inappropriate in the Green Belt

44. As set out above, the applicant is stated to hold a CHP Number. The appellant proposes to use the barn to house chickens, with provision for 60 free range chickens and the keeping of sheep, with two lambing pens shown on the drawings. It is suggested that an application will be made for an initial holding of 10 Shropshire Sheep. The applicant also states that they intend to manage the wooded area and use the firewood to heat a family home and the barn is proposed to house the associated arboreal equipment.
45. The CHP Number includes an area of the land which appeared neatly mown, which was more characteristic of garden land than pasture. A substantial wooded area is located within the appellant's landholding, which is stated to be part of a 12 acre demise. Although the overall size of the landholding is limited, I see no reason why it would not be possible for the appellant to graze sheep within it, or chickens for that matter.
46. While I have found that the building as constructed has not been designed for the purposes of agriculture, the barn which is proposed does not have the same design features and has doors which are flush with the ground, meaning that agricultural equipment and vehicles are likely to be able to use it without impediment. I note that stairs are not shown to the food store or hay loft, and it is not clear how the hay loft would be used to safely store hay. Nonetheless, it may be possible to use machinery to lift items to be stored above.
47. While I note the Council's concerns regarding the availability of grazing land, the appellant's landholding is, in my view, of sufficient size to enable a modest number of sheep to graze. Furthermore, the appellant states that supplementary feed will be given. Given the design and layout of the building and the use proposed by the appellant, I consider it would be reasonable to limit the use of the barn to agriculture by condition.
48. Since the building would be for the purposes of agriculture and forestry, the building would not be inappropriate development in the Green Belt and so there is no need to consider the effect on the openness of the Green Belt, nor is there any conflict with policy G2 of the LP in this regard.

Biodiversity and protected species

49. I have set out my findings with respect to biodiversity and protected species under Appeal A above. Although Appeal B concerns the proposed building, the evidence that has been provided relates to the same site and so the same conclusions would apply. No exceptional circumstances have been put forward as to why ecological surveys should be secured by condition rather than carried out prior to the grant of planning permission. Furthermore, the works are likely to have resulted in the loss of terrestrial habitat for GCNs and other species and so are likely to have resulted in a loss of biodiversity, contrary to policy G6 of the LP and policies 27 and 30 of the HLP, the requirements of which are set out above.
50. I recognise that the building would enable the appellant to achieve their aim of a self-sufficient lifestyle through the keeping of sheep, chickens and equipment necessary for the maintenance of agricultural land and woodland. Moreover, despite concerns raised, it would be possible to ensure that the building is used for agriculture and forestry and for no other purpose through the imposition of conditions. However, as set out above, it has not been demonstrated that there would not be harm to protected species, or that the development would not result in a harmful loss of biodiversity. As such, the proposal is contrary to policy G6 of the LP and policies 27 and 30 of the HLP.

Other Matters

51. I note the appellant raises concerns regarding the application process and suggests that minimal contact was made to the agent or applicant to discuss the application. However, it seems unlikely the appellant would have addressed the Council's concerns. The appellant refuted the Council's request for an ecological survey and, as set out above, despite exercising their right of appeal, has failed to demonstrate that harm to protected species would not occur.

Conclusion

52. For the reasons set out above, I find it has not been demonstrated that the appeal scheme would not harm protected species or the biodiversity of the site. It is not possible to address these harms through the imposition of conditions and so I find the appeal scheme conflicts with the development plan as a whole and that the appeal should fail.

M Savage

INSPECTOR