



Appeal Decision

Site visit made on 20 May 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2026

Appeal Ref: APP/N1920/C/24/3347460

Land at Chapel Hall Farm, Land at Chapel Hall Farm, Summerswood Lane, Borehamwood, Hertfordshire WD6 5PH

- 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 D Magwood against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 7 June 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the raising of land levels including installation of hardstanding, vehicular cross over and installation of a gate taller than 1 metre adjacent to a highway used by vehicular traffic.
 - The requirements of the notice are to:
 - Permanently remove the imported inert materials and top soil imported into the site. Return the land levels to those that previously existed prior to 4th October 2022.
 - Permanently remove the pipes installed to the drainage ditch along Summerswood Lane and from within the site into the Clarehall Brook.
 - Permanently remove the hardstanding laid to create an access to the site.
 - Permanently remove the gates and associated support structures on the land, from the land including any ancillary materials.
 - Sow wild meadow or similar wildflower seeds on the land to restore the vegetative cover to the site. Reinstate the hedgerow at the boundary with Summerswood Lane at a minimum height of 1.5m as observed prior to the unauthorised works.
 - Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the land.
 - The period for compliance with the requirements is: six(6) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the Act.

The Enforcement Notice

2. The notice relates to an area of land on the eastern side of Summerswood Lane. This is an extensive site set amongst adjoining agricultural land. The whole site is very varied in having areas with different characteristics. Near to the entrance closest to Summerswood Lane and adjoining the concrete hardstanding, there is a large, level area where I could see some gravel and hardcore material on the surface between tufty, rough grass and weeds. There are some areas of higher scrub, uneven surfaces that have grown over as well as woody glades and groups of trees as well as larger individual trees dotted around. Given the grounds of appeal, I am not dealing with the planning merits of what has been alleged.

3. The notice alleges the raising of land levels but does not define those in any way in terms of the area where this may have happened or what the differences in levels are from what existed before the alleged breach took place. The notice then requires within the first 2 bullet points of section 5, the permanent removal of imported, inert materials and topsoil that had been imported into the site as well as the returning of levels back to what existed prior to 4 October 2022.
4. The Council's photographs from a site visit on 4 October 2022 show material being deposited and spread around although the operations were not complete to the stage that I saw when I visited. It would however be compliant with that requirement to return the land to levels at any point prior to 4 October 2022, for example the previous day on 3 October. From the photographs, it seems unlikely that the levels of material will have changed significantly since the previous day. It seems unlikely that this was what the Council had intended. The Council's officer report mentions various other changes that may have happened in 2022. Photographs are reproduced from May 2022 showing some material that had been deposited at that point. Returning to those levels could also comply with the notice. The requirements can therefore be interpreted in a number of ways.
5. The Council refer in submissions to a topographical survey submitted as part of the planning application although its information is not used to inform the allegation or the requirements of the notice. Whilst it may well be the case that the landowner can be best placed to know what the condition of the land was before the breach took place, this site is not straight forward due to its extent, its attributes as well as its complex history of events prior to the issuing of the. There appear to have been several phases of bringing material onto the site.
6. The removal of pipes installed to the drainage ditch along Summerswood Lane is required although this is not specifically part of the allegation. There is no dispute that a pipe exists under the concrete that has been installed at the entrance as well as within the drainage ditch and down to the brook. A notice should not require something to be removed if it was not part of the alleged unauthorised development. Some of the pipework at least appears to be part of the wider operational development where it has necessitated the crossing of the ditch. The removal of the gates and concrete areas is clearer to understand although as a matter of fact and degree they do not appear to be entirely severable from the wider development.

Nullity, validity and injustice

7. Unless there is precision to what is required, it could undermine any subsequent legal stages if in the Council's own view, satisfactory compliance is not achieved because there could be reasonable doubt about what exactly was being sought. It should not be necessary to look behind the notice to the Council's submissions to understand more about what they are trying to achieve.
8. The allegation on the notice in very broad terms explains what is alleged to have taken place although doesn't provide detail of the extent of the level changes or in which areas of the site they have occurred. The requirements however are more problematic because they are so imprecise and do not provide sufficient detail for anyone to know, from the face of the notice itself, what has to be done and what is needed to comply. Although some of the requirements are more understandable,

the alleged developments are all interconnected and difficult in my view to separate from one another.

9. The imprecise terms mean that the recipient of the notice could not tell with reasonable certainty what steps they have to take to wholly or partly restore the land to its condition before the breach took place or to remedy any injury to amenity caused by the breach, as required by s173(3) & (4) of the Act. The requirements are hopelessly ambiguous. It is not possible for me to use my powers to correct or vary the notice under s176(1)(a) and (b) because it is not clear to me precisely what has been done what the Council is seeking to achieve.
10. Given the uncorrectable ambiguity of what is required, I consider that the notice should therefore be regarded as a nullity.

Andy Harwood

INSPECTOR