



Appeal Decisions

Site visit made on 21 May 2026

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 July 2026

Appeal A Ref: APP/A1910/C/24/3350930

Appeal B Ref: APP/A1910/C/24/3350931

Appeal C Ref: APP/A1910/C/24/3350932

Land adjacent to The Old Brickworks, Spring Garden Lane, Northchurch, Berkhamstead, Hertfordshire HP4 3GY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeals are made by Mr A Kane (Appeal A), Ms Kane (Appeal B) and Mr Bird (Appeal C) against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 22 July 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of 2.1 metre high palisade fencing along the south-western boundary on Two Ponds Lane, and erection of 2.5 metre high palisade fencing and gates (to enclose new vehicular access) adjacent to the south-eastern boundary on the corner of Spring Garden Lane and Two Ponds Lane; engineering works incorporating excavation of, and laying of hardcore on the land, and creation of new hardcore laid area in the eastern part of the land.
 - The requirements of the notice are:
 - Step 1: Completely remove the 2.1 metre high palisade fencing along the entire south western boundary on Two Ponds Lane approximately location marked in green on the attached map;
 - Step 2: Set back the 2.5 metre high palisade fencing/gate enclosure inward by a minimum of half a metre, this fencing/gate is adjacent to the south-eastern boundary on the corner of Spring Garden Lane and Two Ponds Lane, approximate location within the area outlined in purple on the attached map;
 - Step 3: Completely remove the new hardcore laid area in the eastern part of the land, approximate location marked in blue on the attached map (Please note the existing hard surfaced area on the land is marked in Pink on the map – this area does not need to be removed);
 - Step 4: Restore excavated land with topsoil and vegetation.
 - The period for compliance with the requirements is: Six (6) months.
 - The appeals 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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Decision

1. The appeals are 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.

The Appeal on ground (a)

2. The appeal site is a large area of land located in the rural outskirts of the town of Berkhamsted and specifically, an area known as Northchurch. The land adjoins a large industrial area to the north-east. Spring Garden Lane also leads down to a hospice and the grounds around it.

Main Issues

3. The notice refers to the site being within the Chilterns Area of Outstanding Natural Beauty (AONB). The latest version of the National Planning Policy Framework (the Framework) refers to National Landscapes (NL) which are those areas also known as AONBs.
4. The main issues are:-
 - Whether the development would be inappropriate development in the Green Belt including the effect upon openness and the purposes of the Green Belt, having regard to the Framework and relevant development plan policies;
 - The effect of the development on the character and appearance of the area; and
 - Whether other considerations clearly outweigh any harm to the Green Belt and any other harm so as to amount to very special circumstances

Reasons – whether inappropriate development

5. The metal security fence consists of closely spaced vertical metal bars with spiked tops and is a grey steel colour. This runs close to the hard surfaced lane known as Two Ponds Lane as well as around the junction with Spring Garden Lane.
6. The Dacorum Borough Council 2006-2031 Core Strategy, adopted 25 September 2013 (SP), Policy CS5 confirms that national Green Belt policy will generally be applied. The Framework states that development in the Green Belt is inappropriate unless a number of exceptions apply. The fencing does not fall into any of the exceptions and is inherently therefore to be considered as inappropriate development. The engineering operations would not be inappropriate development by reason of the Framework exceptions, only if they preserve the Green Belt openness.
7. The height and bulk of the fencing provides a robust enclosure of the appeal site both on the south-western boundary and around the new access at the junction of the 2 roads. Although the vertical metal bars are spaced to allow some glimpses through, the structure is still largely impenetrable, providing a distinct enclosure of the land. This has a visual and spatial impact. The Council has provided photographs from before the fencing was installed. These show a much lower post and rail timber fence along much of the boundary for the site. Due to the lower height and fewer upright posts, this provided far less enclosure of the site and took up less space. The current fencing has materially eroded the open character of the site by increasing both the perception of enclosure and the visual dominance of built form.
8. Towards the north-eastern corner of the appeal site, there is the old entrance and an area of hardstanding near to the adjoining business premises. A further area of hardstanding has been created by compacted hardcore running along much of the boundary Spring Garden Lane albeit with a belt of mature trees between the site and the lane. I could see at the edge of the area where it meets the wider field, that this has caused a raising of the level of the surface. This has therefore caused a degree of loss of openness given the increase in volume of material above ground taking up space on the site. The laying of the hardcore is used for the storage as well as operation of vehicles and machinery. The machines and vehicles also take up space on the site and have a visual element which causes a further loss of

openness. This also causes an encroachment of built development as well as moveable items into the more rural area close to the settlement.

9. In relation to this main issue, each element of the developments as alleged are inappropriate development in the Green Belt, which have harmful effects upon its openness and which do not safeguard the countryside from encroachment, one of the purposes of the Green Belt. This does not comply with the Framework or therefore CS Policy CS5. The harmful effects of the fencing could not be overcome by painting it dark green or providing landscaping. Along the Two Ponds Lane boundary in particular, there would be very little space between the base of the fences and the carriageway to plant landscaping to any significant degree. Even if that would be effective, it would not alter the harm to openness. The Framework states that substantial weight should be given to any harm to the Green Belt, including harm to its openness.

Character and appearance

10. The appeal site is in a rural location close to the settlement but separated from it. The area generally has a wooded character, interspersed by fields, roads and occasional buildings including some dwellings. This appeared to me to be similar to the wider area within this part of the Chilterns NL. This site adjoins the old brickworks but it is not clear that the site was part of that or any other industrial use. What is clear from the aerial images provided by the Council along with other photographs, is that the site previously had an informal character with some rough grassy areas and other substantial vegetation. Trees have been retained around the new access and along the eastern boundary, along the Spring Garden Lane side of the site. On either side of the unauthorised fencing at the access to the site, there remains simple timber post and rail fencing similar to that which had previously existed elsewhere. There is little remaining landscaping alongside the unauthorised fencing on the south-western boundary.
11. The regular, closely packed vertical prongs of silver metal palisade fencing stand out in contrast with rather than blending-in with the remaining trees at the entrance to the site. The spikes on top give it an aggressive appearance and overall, the fencing is of a hostile, utilitarian design which emphasises the industrial site in an otherwise rural area. The long south western stretch of fencing has altered the character of that road, by introducing a harsh, urbanising visually intrusive feature alongside much of the lane. That has had a substantially harmful effect upon the otherwise attractive rural landscape where it is clearly visible from surrounding roads and other land.
12. Where the metal fence is set-back from the road with a foreground of trees, it has far less visual impact. The notice requires the setting back of the gate and enclosure at the entrance which will reduce the visual impact of that part of the development to a degree. However, along the south-western boundary there is very little available margin between the fence and the lane to enable the establishment of any planting or informal re-growth of vegetation. From the available information I am not satisfied that there is sufficient space to allow for landscaping to reduce the impacts of the fencing or that new landscaping within the site, behind the fence, could suitably reduce the visual harm caused. Painting the fence a dark colour, possibly green may have a minor effect on reducing the impact. The fencing would however still appear as a substantial industrial and

artificial structure. Painting it would not reduce the impacts even if that were combined with landscaping behind.

13. The hardcore that has been laid is not in itself visually prominent. It has a function however which will enable vehicles and plant machinery to be used as well as stored there. This adds to the urbanisation of the site in comparison with its previous condition.
14. In relation to this main issue the development has a harmful effect upon the character and appearance of the area. The development overall does not respect the scenic qualities of the area and does not therefore conserve or enhance the landscape and scenic beauty of the Chilterns NL. This does not comply with CS policies CS24, CS25. Given that this does not conserve the rural character of the area, CS Policy CS1 is also not complied with. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues.

Reasons - other considerations, the balance and very special circumstances

15. The reasons for issuing the notice refer to CS Policy CS27 which relates to the quality of the historic environment. The Council has referred to the area being of archaeological significance. This is something that could potentially have been the subject of a planning condition requiring further information although I don't have evidence to know how significant and sensitive the site is in these regards. Based on what I do have before me however, this is a neutral matter neither weighing in favour nor against the development.
16. The appellant refers to the need for security of the site. They say that the site has been subject to multiple break-ins, frequent fly-tipping, and several cases of squatting. The fence of the developed height was therefore installed to enhance security, deter anti-social behaviour, and reduce opportunities for criminal activity. The site is large with scope for various alternative options to be considered. There could be potential for options that would not have the scale of harmful impacts that the current fencing causes but with similar benefits. There is no indication that other less harmful options were considered. The increased areas of hard surfacing from the compacting of the hardcore also enables better use of the site although it's lawful use is has not been conclusively demonstrated such through a Lawful Development Certificate under the provisions of s191 of the Act. However, even if the current use is lawful, based on the evidence before me and what I saw, I can only give limited weight to the advantages to the business both in terms of security and the additional day to day operational, social and economic benefits.
17. Biodiversity could potentially be improved from the current levels, if there was further planting. Notwithstanding my concerns that landscaping would not achieve its main aim in relation to the first 2 main issues, the benchmark for assessing biodiversity benefits would also have to be from what existed previously, before the site was cleared of vegetation along with the operations that the notice is attempting to address. Based upon what I have before me in this appeal, there is nothing to indicate that there would be net benefits from that benchmark level. I give little weight to the this.
18. The development does not comply with the development plan and causes harm both to the Green Belt as well as the character and appearance of the Chilterns NL

as I have explained in considering the first 2 main issues. These matters both contribute substantial weight against approving the development. The other considerations in support of the development being approved taken individually and together, do not have sufficient weight to clearly outweigh the Green Belt harm and other harm that I have identified. As such, the very special circumstances necessary to justify the development do not exist.

Conclusion on ground (a)

19. For the above reasons, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should fail and consequently, the deemed planning application shall be refused.

The Appeal on ground (g)

20. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The notice currently allows for compliance within 6 months.
21. The first step requires the removal of the fencing which would not seem in itself to be difficult to achieve within 6 months even if a permitted development alternative to provide security as previously existed is needed to replace it. A revised fencing scheme may require planning permission but I have no evidence that this could not be discussed with the Council, proposals submitted and then implemented within the required period. The second step specifies what is required with respects to the fencing and gate at the entrance to the site. It would not require any further consent to comply with that. I have no evidence to demonstrate that there would be any particular difficulties in doing so.
22. Thirdly, the notice requires the removal of the new hardcore that has been laid, reducing it to the area that had previously existed. The activities on site use machinery that I would expect to be very useful in digging up the hardcore and I don't have any information to indicate that it would be difficult to deal with it once it has been dug up.
23. The appellant refers to having to liaise with the various stakeholders with respect to the requirements. I have no details however to indicate that this is of any particular complexity.
24. Based upon the evidence, 6 months strikes a reasonable and proportionate balance between overcoming the harm caused by the alleged breach of planning control and the ability of the appellants to undertake the work.
25. The appeal under ground (g) fails.

Conclusion

26. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Andy Harwood

INSPECTOR