



Appeal Decision

Hearing held and site visit made on 16 June 2026

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 July 2026

Appeal Ref: APP/U2750/C/26/3377952

The land situated and known as land comprising field at 434461 456048, Cass Lane, Calcutt, North Yorkshire HG5 8JZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
- The appeal is made by Mr S Hooton against an enforcement notice ("the notice") issued by North Yorkshire Council.
- The notice was issued on 15 January 2026.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a residential dwellinghouse and associated operational development and change of use, including the erection of an unfinished outbuilding (brick pillars), creation of hardstanding, the installation of a package treatment plan[t], the erection of a boundary fence and gate along with associated residential paraphernalia.
- The requirements of the notice are: (1) Cease the use of the dwelling and land for residential use; (2) Demolish and remove the dwelling, unfinished outbuilding (brick pillars), hardstanding, package treatment plant, boundary fencing and gate; (3) Remove from the land all materials, paraphernalia and debris resulting from the residential use of the land, including but not exclusively washing line, plant pots, sheds, chairs and decking; and (4) Remove from the land all materials and debris resulting from the above works and reinstate the land to its former use before the breach occurred i.e. agricultural field – soiled and grassed.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), (g) of the 1990 Act. 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 1990 Act.

Summary of Decision: The appeal is dismissed and the notice is upheld with a correction and variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant is Shane Hooton, an occupier of the dwellinghouse, not his father, also named Shane Hooton but referred to as Heath Hooton to avoid confusion. Heath Hooton and his wife, Tracey Hooton, understood to be the registered owner of the land, do not occupy the dwellinghouse.
2. The appellant confirmed in his final comments that he accepts the notice is valid and was served correctly. It is therefore not necessary for me to consider his initial comments on validity or an appeal on ground (e).¹
3. While the appellant and his family are Romani Gypsies, the matters alleged do not facilitate a nomadic way of life. The appeal on ground (a) must therefore be determined without regard to policies relating to the provision of sites for Gypsies and Travellers.

¹ That copies of the enforcement notice were not served as required by section 172 of the [1990] Act.

The appeal on ground (d)

The erection of the dwellinghouse

4. It is agreed that the works for this were substantially completed before 25 April 2024. The appeal on this ground will therefore turn on whether it can be demonstrated that substantial completion occurred on or before 15 January 2022, 4 years before the date on which the notice was issued. The onus is on the appellant to demonstrate that on the balance of probabilities.
5. The leading case on the meaning of substantial completion² has established that there must be 'a fully detailed building of a certain character' with no outstanding works, even if they affect only the interior.
6. Construction began before the Council received an allegation in April 2021 that the foundations had been laid. The appellant states that the building was substantially completed and first occupied in December 2021.
7. Documentary evidence in support of the appellant's construction timeline is limited. A supplier's email states that building and roofing goods were delivered "on and around" 20 November 2021 but an invoice dated 9 October 2021, some 6 weeks earlier, states that all plastering had been completed by then. Nevertheless, the builder's email states that construction was completed on 21 December 2021. No evidence of an application for building regulations approval, or of a completion certificate being issued, has been produced.
8. The builder, John Anderson, attended the hearing and advised that the goods delivered in November included sand, cement, blocks, damp-proof course, tie wires, insulation, roof tiles, laths and roofing felt. He remembered the delivery clearly because it was close to when he attended a funeral. The materials delivered then, particularly the damp-proof course, confirm that construction was at an early stage, and the appellant told me that the building had no roof at that time. This contradicts the invoice for plastering from the previous month, which I was told had been produced for the purposes of the appeal. Why it includes an obviously incorrect date is not explained.
9. Doorways and window openings are boarded over in a photograph taken by the Council on 29 March 2022, some 3 months after the claimed dates of substantial completion and first occupation. I was told the boards were a temporary security measure put in place if the appellant went away. I was also told that he still does this when he goes away. Similar boarding appears to be in place in a later photograph, taken by the Council on 23 May 2022.
10. Boarding is flush to the walls in the earlier photograph, but I saw that windowsills project forward of the walls. If they had been fitted then, the boarding would either have been mounted higher, allowing the sills to project, or it would not have been flush. A similar concern arises with respect to doors; I saw that door handles also protrude beyond the face of the wall while the boarding over door openings also appears flush in the photograph.
11. The appellant has forwarded advice from Mr Anderson in response. It states that he was instructed not to put the sills on the windows, because they would be scratched when the boards were put up, and that they were installed later.

² *Sage v SSETR & Maidstone BC* [2003] UKHL 22.

This differs from what he told me in the hearing; that when he finished working in December 2021, only rendering was still to be done. Furthermore, his advice is silent on the matter of the door handles.

12. Neither does it fit well with the appellant's statement that he still places boards over doors and windows when he goes away. When I asked if I would be able to see those boards at the site visit, I was told that they are not kept and that new ones are sourced and cut to size each time. That duplication of effort seems unlikely. However, if it were true, it is not clear why the appellant is now content to accept the risk of scratching the windowsills that he had earlier sought to avoid in his instruction to Mr Anderson. Nor does it explain how boarding can be fitted securely over door handles.
13. The evidence presented for the appellant on this issue is ambiguous and not persuasive. Consequently, and despite what I was told, it is improbable that doors and windows had been installed when the Council's photograph was taken on 29 March 2022. The dwellinghouse could not be described as a fully detailed building of a certain character in that condition. It has therefore not been demonstrated, on the balance of probabilities, that the dwellinghouse was substantially completed on or before 15 January 2022.

The creation of hardstanding and the erection of a boundary fence

14. While the appellant's written submissions are silent on when these works were carried out, he told me they were substantially completed on or before 15 January 2022. That is not claimed for the gate and the outbuilding is evidently not substantially complete.
15. No dates were provided for when, on or before 15 January 2022, the hardstanding was laid and the fence was erected. The photograph taken on 29 March 2022 shows that a roughly formed hardstanding including unbroken surplus building materials had been laid by then. However, inspection of a photograph taken by the Council on 19 October 2022 reveals that a top coat was subsequently spread. That means the hardstanding in the earlier photograph was incomplete, so the works to form it that the notice attacks were not substantially completed on or before 15 January 2022.
16. While only parts of the fence can be seen in the 29 March 2022 photograph, they look fully formed. However, that was some 2½ months after 15 January 2022, so it cannot demonstrate what work had been carried out on or before that date.

Conclusion on ground (d)

17. For the reasons given, it has not been demonstrated, on the balance of probabilities, that the erection of the dwellinghouse, the creation of the hardstanding or the erection of the fence had been substantially completed on or before 15 January 2022. The appeal on ground (d) must therefore fail.

The appeal on ground (a)

18. The main issues in this appeal are:

- Whether the erection of the dwellinghouse and the associated operational development amount to inappropriate development within the South and West Yorkshire Green Belt (“the GB”).
- Their effect on the character and appearance of the area.
- If the erection of the dwellinghouse and the associated operational development and change of use constitutes inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and so amounts to the very special circumstances required to justify it (“the GB balance”).

Reasons

Inappropriate development - overview

19. Development in the GB is inappropriate, and so harmful, unless an exception allowed by paragraph 154 or 155 of the National Planning Policy Framework (“the Framework”) applies. The appellant does not claim any exception under paragraph 154 but considers that paragraph 155 provides one.
20. Paragraph 155 allows that the development of a home in the GB should not be regarded as inappropriate if the following 3 criteria³ all apply:
 - a. It utilises grey belt land and does not fundamentally undermine the purposes (taken together) of the remaining GB across the plan area.
 - b. There is a demonstrable unmet need for the type of development.
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
21. The appellant’s case on this ground does not refer to the unfinished outbuilding or the package treatment plant. The following assessment is therefore limited to the erection of the dwellinghouse, the creation of the hardstanding and the erection of the boundary fence.

Inappropriate development – grey belt

22. In this appeal, for the land to constitute grey belt land, it needs to be found that it does not contribute strongly to any of purposes (a), (b) or (d) in paragraph 143 of the Framework. The assessment is to be made based on the site’s contribution because a wider assessment area has not been identified. The Council accepts that the site does not contribute strongly to purpose (d)⁴ so only purposes (a) and (b) require further consideration.
23. Purpose (a) is to check the unrestricted sprawl of large built-up areas. The Planning Practice Guidance (PPG) advises that an area or site that contributes strongly is likely to be free of existing development and lack nearby physical features that could restrict and contain development.
24. My findings in the appeal on ground (d) indicate that the site was probably free of existing development when the construction of the dwellinghouse began. While there is some existing development between the site and the

³ A fourth criterion is only applicable to major development and so is not material to this appeal.

⁴ To preserve the setting and special character of historic towns.

development limits of Knaresborough, there is no evidence that the site included any restricting and containing features and none are apparent within the adjacent remaining open countryside. The site is, however, near to a large built-up area but extends noticeably further into what had been undeveloped and open land.

25. The appellant contends that its development is a natural extension to Calcutt, rounding off built form, closing the vista along Cass Lane, and preventing further westward expansion. While the second and third elements of that claim may be arguable, the first is not. The developed site has the appearance of an extended finger of development into the GB, which the PPG specifically identifies as an incongruous pattern of development and an indicator of land that makes a strong contribution to purpose (a).
26. While the appellant suggests that 'finger' denotes an artificial development and contends that, in contrast, the dwellinghouse is a natural extension to Calcutt, I disagree. The word simply describes the shape of the development and its relationship with the existing built-up area. It is a fitting description for a parcel of land some 25m wide and 60m long that is wholly beyond defined development limits and protrudes into the countryside.
27. For these reasons, I find that the site would have made a strong contribution to purpose (a) before the development was carried out.
28. Appeals have recently been allowed, granting planning permission and deemed planning permission for use of land at The Oaks Stables, Forest Moor Road as a Gypsy and Traveller site.⁵ I viewed the land from Forest Moor Road and saw that it is one of a series of sporadic developed sites along that road and bounded by pre-existing built development to either side. That site is not an extended finger of development into the GB and its contribution to checking unrestricted sprawl is therefore less significant. Those decisions do not, therefore, alter the findings I have already made on the facts relating to the appeal site.
29. Purpose (b) is to prevent neighbouring towns merging into one another. The PPG advises that a site that contributes strongly to this is likely to be free of existing development. As before, that is most likely how the site was before the breach occurred. A strong contribution is also dependent on the site forming a substantial part of the gap between Knaresborough and Harrogate and its development being likely to result in the loss of their visual separation.
30. The site is within a gap of approximately 700 m between the development limits of the two towns. Knaresborough's development limits are drawn around Calcutt, which is itself a projection from the main urban area. However, and despite its intrusion into open countryside, it is questionable whether the site is a substantial part of that gap. Furthermore, the landform rises gently from the site in the direction of Harrogate, such that there is no direct line of sight. The development of the site has therefore not caused a loss of the visual separation between the towns.
31. While the site does not contribute strongly to purposes (b) and (d) of paragraph 143, it contributes strongly to purpose (a) and so does not

⁵ APP/U2750/C/25/3365114 and W/25/3365116, both dated 12 September 2025.

constitute grey belt land, the first limb of criterion a. The wording of the criterion requires that both of its limbs are met, so even if I were to consider the second limb and find it to be met, the development must still fail against the criterion overall.

Inappropriate development - demonstrable unmet need

32. There is a 2.2-year supply of deliverable housing sites within the development plan area, falling short of the requirement for a 5-year supply with buffer made by the Framework. Its paragraph 11d), which makes a presumption in favour of sustainable development, is therefore engaged.
33. The appellant considers the dwellinghouse to also meet a demonstrable unmet need for self-build housing, as defined by section 1(A1) of the Self-build and Custom Housebuilding Act 2015 ("the 2015 Act"). A planning obligation made by the owner of the land and the appellant's wife (identified as "the Occupier") is intended to take effect if the deemed planning application were to succeed. It includes the following covenant:

The first Occupation by the Occupier, following Planning Permission of the Residential Unit, shall live in the Residential Unit for at least 3 years from the date of permission as their sole or main residence.

While that wording could be clearer, it appears to be a commitment by the Occupier to live in the dwellinghouse for at least 3 years from the date of any permission I may grant.

34. Regulation 122(2)(a) of The Community Infrastructure Levy Regulations 2010 provides that an obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms. The Council contends that cannot be so because the development has already been carried out but I am not convinced by that argument. In simple terms, if the obligation ensures the dwellinghouse constitutes self-build housing and so makes it possible to grant permission for what would otherwise be unacceptable, it is necessary.
35. The 2015 Act defines self-build housing as *the building or completion by individuals ... or persons working with or for individuals ... of houses to be occupied as homes by those individuals*.⁶ While the definition does not mention ownership, it would be unusual for a person to invest in building a home for themselves on land they do not own. That is suggested by the following wording in the PPG:

*In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.*⁷

While it is not directly relevant to the facts of this appeal, I also note that The Self-build and Custom Housebuilding Regulations 2016 make a similar assumption. It is indicated in regulation 4(3)(e) that eligibility for entry in a register of persons intending to carry out self-build housing should be limited to those seeking to acquire a plot of land.

⁶ The definition also allows for self-building by associations of individuals, but no such association has been identified.

⁷ Paragraph: 016 Reference ID: 57-016-20210208.

36. The 2015 Act does not define 'final design and layout', but I am told that those matters were decided by the appellant, his wife (the Occupier) and his parents in collaboration. Copies of contracts with Mr Anderson or any other person involved in the project have not been produced and the only invoice presented has the landowner's email address on it. Mr Anderson confirmed that he was instructed and paid by either the appellant or his father.
37. The 2015 Act does not define 'primary input' either, but a common-sense interpretation indicates that it must be greater than other input, which would be secondary at best. I was told the Occupier had primary input, and that is reflected in the wording of the obligation. However, the evidence does not clearly show that the input of other family members who would not occupy the dwellinghouse under the terms of the obligation was secondary. As such, it is not clear that the dwellinghouse constitutes a self-build housebuilding project.
38. I am also told that the building was to be a stable block when work began in early 2021, before the appellant and the Occupier became involved. It seems that intention was short-lived because it was decided around the same time that they would move to Calcutt from Stokesley. Their family was regularly being threatened, and the situation was developing dangerously. While the landowner states, "We had a building in our bottom field" then, the one subject of this appeal was only partially constructed at that time.
39. It is difficult to reconcile the appellant and the Occupier's decision in April 2021 to move to Calcutt, and the reasons for it, with the subsequent slow pace of construction. Most of the fabric could only have been put in place after building and roofing materials were delivered some 7 months later. Evidence that the appellant or the Occupier constructed or commissioned the building is limited or absent, not least as its foundations were already laid when they decided they should leave Stokesley. In this regard, I find the Council's concern that the self-build requirements are for primary input into the design and layout to occur before a dwellinghouse is built to be persuasive.
40. Even if it were demonstrated that the Occupier had primary input to the final design and layout of the dwellinghouse, it is pertinent that it has already been occupied for over 3 years. Accordingly, at most, the obligation would impose a restriction that did not apply at the time of substantial completion. I consider the certainty of occupation at the outset, not at some later time, to be intrinsic to the concept of self-build housing.
41. It has therefore not been demonstrated that a grant of planning permission for the erection of the dwellinghouse would secure a contribution to meeting the need for self-build housing in the plan area in keeping with the 2015 Act.
42. Even if that were incorrect, there are other reasons to question whether the obligation is legally sound and would therefore ensure the delivery of self-build housing. The ownership stated within it is consistent with a copy entry issued by the Land Registry on 13 April 2026. However, a solicitors' letter, written a week before the obligation was made confirms that ownership of the land was then being transferred into the sole name of the Occupier. The submitted obligation is not accompanied by an up-to-date copy entry from the Land Registry, so it is not clear whether it reflects the current ownership of the land.

43. Clause 20 of the obligation contains an acknowledgement and declaration by an unidentified mortgagee. The earliest draft of the obligation did not refer to a mortgagee, so it may be that the clause originates from a template used to draft subsequent versions and perhaps should have been deleted. However, that is conjecture, not fact, and any uncertainty on this point can only add to the findings and concerns already expressed.

Sustainable location

44. Turning to criterion c. of paragraph 155 of the Framework, the Council accepts that the site is appropriately located in terms of access to local services and facilities. Accordingly, the erection of the dwellinghouse and the related development do not conflict with paragraphs 110 and 115 of the Framework.

Inappropriate development – conclusion

45. The site may be viewed as sustainably located and the dwellinghouse makes a small contribution to meeting general housing need. Those aspects must be weighed against any harm caused to the GB. However, for the reasons set out above, a grant of permission would not contribute to meeting a need for self-build housing.
46. Considering the harm to the GB, and on reflection, I am not convinced by the Council's assessment⁸ that the site is not within a protected area or asset of particular importance. Footnote 7 of the Framework confirms that those areas and assets include land designated as GB.
47. As explained, not all 3 criteria of paragraph 155 of the Framework are met. The site is not grey belt land because it contributes strongly to checking the unrestricted sprawl of a large built-up area, or at least it did before the development was carried out. The erection of the dwellinghouse is therefore inappropriate development.

Character and appearance

48. The site lies within the Harrogate – Knaresborough Corridor Landscape Character Area (LCA), identified as Area 54 in the Harrogate District Landscape Character Assessment. This is an undulating and gently sloping area between the two towns, predominantly of small to medium sized fields with hedgerows and trees and sparse woodland cover.
49. There is some overlap between the LCA and the Nidd Gorge Special Landscape Area (SLA), which follows the course of the river and fills much of the gap between the towns. The SLA's southern boundary is marked by the public footpath that runs immediately to the north of the site.
50. Evidence that the design and form are informed by and sympathetic to the distinctive character of the LCA has not been produced. Instead, the appellant contends that it is a natural continuation and termination of development on Cass Lane. While that may be a useful way of judging its effect on townscape, it is not an assessment of its effect on a largely open landscape in which the relative absence of built form is a distinguishing feature. In this context, the development is an incongruous extended finger of development into the GB.

⁸ At paragraph 5.36 of its statement of case.

The absence of any adverse effect on the character of development on Cass Lane and the wider urban area is a neutral factor and does not carry weight.

51. While the development is relatively low-lying and set at the bottom of a shallow valley, it is an incongruous extension of built form, at odds with the prevailing open character and ambience of the LCA.
52. The appellant is willing to carry out landscape planting to soften the appearance of the development. However, this would add to what has been carried out and so would strengthen the perception of an enclosed plot within an otherwise open landscape. Accordingly, and even with planting, the development would not protect, enhance or restore landscape character.

Other matters

53. Compliance with the notice would result in the appellant and his family losing their home. This would interfere with their rights for respect for private and family life and protection of property⁹ incorporated in the Human Rights Act 1998. Those rights are qualified, meaning that they may be interfered with to secure a relevant aim. This requires that the rights of individuals are balanced against the legitimate interests of others and the wider public interest.
54. The appellant's family has settled within the local community, and his children attend a local school. Continuity in education within the area would be in the best interests of the children.
55. There is a poor supply of housing sites and, should the appellant wish to revert to a nomadic lifestyle, of sites for Gypsies and Travellers in the plan area. Accordingly, the appellant's family's human rights and the best interests of his children are important matters. However, the supply of general housing and of sites for Gypsies and Travellers will change with time, as will his children's educational needs. Those transient rights and needs would therefore be outlasted by the permanent harm caused by the development to the wider public interest in preserving the GB and the character of the LCA. Consequently, and despite their importance, these matters do not justify permanent built development.

The GB balance and conclusion on ground (a)

56. As a 5-year deliverable supply of housing sites cannot be demonstrated, the presumption in favour of sustainable development made by paragraph 11d) of the Framework is engaged. The dwellinghouse makes a small contribution of appropriate size to the supply of general housing in the plan area. I attach moderate weight in favour to this. However, for the reasons given, I am not persuaded that self-build housing would be delivered, so the erection of the dwellinghouse cannot contribute to meeting that aspect of housing need.
57. The erection of the dwellinghouse is inappropriate development within the GB and, by definition, harmful to it. That is primarily because the undeveloped site made a strong contribution to checking the unrestricted sprawl of a large built-up area, one of the 5 purposes of GB land. It is also material that the developed site is an incongruous extended finger of development into the GB. This is contrary to the policies of the Framework that seek to protect the GB,

⁹ Under Article 8 of the European Convention on Human Rights and Article 1 of its First Protocol.

which provide a strong reason for refusing permission. Paragraph 11d) i. of the Framework therefore negates the presumption in favour of sustainable development in this instance.

58. If it is necessary to also consider paragraph 11d) ii. of the Framework, it provides other circumstances in which the same presumption may not apply. This is if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of doing so, when assessed against the policies in the Framework taken as a whole.
59. In terms of the development's effect on the openness of the GB, while it is relatively small within the context of the GB overall, it has a more pronounced effect on the locality. As it forms a finger of development extending into the GB, its spatial effect is harmful, although the topography and its single-storey form result in a lesser visual effect. Overall, it has a moderate harmful effect on the openness of the GB and that must be given substantial weight.
60. The incongruous form of development fails to protect, enhance or restore landscape character and it has not been shown to be informed by and sympathetic to the distinctive character of the LCA. Granting permission would therefore not protect or enhance the quality of a valued landscape identified in the development plan. This is contrary to Part 15 of the Framework, and I afford significant weight against the grant of planning permission to this harm.
61. On the other side of the scales, compliance with the notice would interfere with the occupiers' human rights and would not be in the best interest of the children. While I attach significant weight to those two matters, they do not justify permanent built development that will outlast them.
62. For the reasons given, the policies of the Framework that seek to protect the GB provide a strong reason for refusing permission. Furthermore, the identified factors in support of granting planning permission are demonstrably outweighed by the adverse impacts of doing so, not only in terms of harm to the GB but also in respect of landscape character. Accordingly, paragraph 11d) of the Framework provides an exception to the presumption in favour of sustainable development in this instance.
63. With that presumption not in play, and for the reasons set out above, the harm to the GB by reason of inappropriateness, and other harm resulting from the development are not clearly outweighed by other considerations. The very special circumstances necessary to justify inappropriate development within the GB have therefore not been demonstrated. The appeal on ground (a) must therefore fail.

The appeal on ground (f)

64. The appellant considers it is excessive to require the hardstanding and fence to be removed because they would be needed if the land were used for equestrian purposes. However, no evidence has been presented to show that equestrian use of the land is lawful or permitted. It would therefore not be appropriate to vary the requirements of the notice in advance to facilitate it.
65. It is also contended that the removal of the fence is excessive because the same type of fencing could be erected without needing the Council's approval.

Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("Class A") permit the erection of means of enclosure, including fences, in specified circumstances.

66. Class A grants permission for the erection of a means of enclosure not exceeding 1m in height adjacent to a highway used by vehicular traffic. In all other circumstances, it grants permission for means of enclosure that do not exceed 2m in height. Cass Lane is a highway and is used by vehicular traffic, but it ends at the site entrance. The gate is over 1m high and therefore its erection is development requiring planning permission. The fence is also over 1m high, but does not exceed 2m. Neither party has expressed a clear view on whether any part of it also adjoins Cass Lane. I therefore have no reason to disagree with the appellant's assertion that he would have the fallback of erecting the same fence under Class A following compliance with the notice.
67. A fallback does not have to be probable or have a high chance of occurring; it only needs to be more than a merely theoretical prospect. Nevertheless, it is highly unlikely that anybody would commit to the expense of erecting such a fence unless it would facilitate or serve some productive use of the land.
68. The appellant has stated that the fence was originally erected to prevent horses being distracted when people used the adjacent public footpath. That justification could therefore only reasonably apply to the section of fence on the northern boundary of the site. Land in equestrian use is not usually enclosed by solid fencing, and horses appear to have been kept on the land to the immediate west, also adjacent to the public footpath, without such a fence. Furthermore, a future equestrian use of the land would appear to require planning permission. The grant of such permission would provide an opportunity for planning control to be exercised over the means of enclosure of the land in that use.
69. As there is no evidence of any lawful or permitted use of the land, the only use to which it could be put without requiring planning permission is agriculture. It is highly unlikely that solid fencing would be erected to facilitate that use, rather than simpler, cheaper and less intrusive options such as post and wire.
70. For these reasons, it is therefore not excessive for the notice to seek the removal of the hardstanding and fence and the suggested fallback of erecting the same type of fence is merely theoretical.
71. Although it had not formed part of the appellant's case, step 4 of the notice's requirements is excessive insofar as it requires the land to be reinstated to its former use as an agricultural field. This is because the breach of planning control would be resolved by undoing what has been done and because a notice cannot compel any person to make use of land. This may, however, be easily addressed by varying the requirement to seek the land's reinstatement to its former condition.
72. The appeal on ground (f) succeeds to that limited extent and the notice will be varied accordingly.

The appeal on ground (g)

73. As noted in the appeal on ground (a), it is in the best interests of the appellant's children that they continue their education in the local area. Complying with the notice could threaten this and will cause some disruption to family life. However, there may be housing opportunities elsewhere in the locality, despite the poor supply of new housing, or sufficiently close to be able to continue at the same school.
74. The notice allows 6 months for compliance. Noting that finding suitable alternative accommodation might take longer than the physical works required by the notice, this may prove challenging. The Council accepts that 12 months might be a reasonable alternative period. Given the timing of this decision, I feel that would be helpful because it would allow for continuity of education during the forthcoming academic year.
75. The appeal on ground (g) therefore succeeds and the notice will be varied accordingly.

Conclusion

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

Formal decision

77. It is directed that the notice is corrected in section 3 by the deletion of the words "package treatment plan" and the substitution of the words "package treatment plant."
78. It is further directed that the notice is varied:
- In section 5, Step 4 by the deletion of the words "former use" and the substitution of the words "former condition."
 - In section 6 by the deletion of the words "6 months" and the substitution of the words "12 months."
79. Subject to the correction and variations, the appeal is dismissed, the notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Bradley Stovell, Stovell and Millwater Limited
David Stovell, Stovell and Millwater Limited
Shane Hooton (appellant)
Tracey Hooton
Jade Hooton
Heath Hooton
John Anderson

FOR THE LOCAL PLANNING AUTHORITY:

Millie Critchlow
Chris Keddle, Senior Enforcement Officer, North Yorkshire Council
Rachel Robinson, Enforcement Team Manager, North Yorkshire Council
Kelly Dawson, Senior Solicitor, North Yorkshire Council
Eve Green, Trainee Solicitor, North Yorkshire Council

INTERESTED PERSONS

Katherine Davies

Documents submitted at the hearing

1. Drawing HE/21/002/003 Revision A, 4 May 2022.
2. Harrogate District Local Plan Map 11.5 (Knaresborough Main Settlement).
3. Location of the appeal site and Oak Stables, Forest Moor Road.

Documents submitted after the hearing

1. Revised final planning obligation.