



Appeal Decisions

Inquiry held on 23 June 2026

Site visit made on 24 June 2026

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2026

Appeal A Ref: APP/G5180/X/25/3376671

Land at Waldens Farm, Crockenhill Road, Orpington, Bromley BR8 8EP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Jamie Buckley of JB Trading Limited against the decision of the Council of the London Borough of Bromley.
- The application ref 25/00447/ELUD, dated 2 February 2025, was refused by notice dated 2 September 2025.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which a certificate of lawful use or development was sought is described in the application as 'B2 (General Industrial) & B8 (Storage & Distribution)'.

Summary Decision: The appeal is allowed in part, but is otherwise dismissed.

Appeal B Ref: APP/G5180/C/26/3378023

Land at "Fishery", Waldens Farm, Crockenhill Road, Swanley BR8 8EP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Jamie Buckley against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 13 February 2026.
- The breach of planning control as alleged in the notice is, without planning permission, the Operational Development carried out on the Land shown in the approximate area hatched in blue on the Plan¹ comprising:
 - (i) the siting of metal storage containers; and
 - (ii) the installation of an associated enclosure within the perimeter marked A-B-C-D on the attached plan.
- The requirements of the notice are to:
 - (a) Remove from the Land all containers, and
 - (b) Remove from the Land the boundary enclosures described in paragraph 3(ii) above, and
 - (c) Restore the Land to how it was prior to when the breach of planning control took place.
- The period for compliance with the requirements 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) (d) and (f) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed that the enforcement notice is quashed.

Application for costs

1. An application for costs was made by Mr Buckley against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

¹ Reference here and elsewhere in the header to a plan is to the plan attached to the enforcement notice.

APPEAL A

The matter for which the LDC is sought

2. Paragraph 010 of the Planning Policy Guidance on Lawful development certificates (PPG) advises that 'precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it'. It goes on to say that 'it is important to note that a certificate for existing use must include a description of the use, operations or other matter for which it is granted', and that 'in all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision'.
3. The description in the header above of the matter for which the LDC was sought is taken from the LDC application form. The decision notice states the matter differently, as:

'Removal of moveable storage building, retention of 20 mobile/moveable storage containers, moveable office building and continued use under Use Class B8 (Storage and Distribution) with associated vehicle parking, servicing and delivery space'
4. In view of the difference between the two, I clarified the description of the matter for which the LDC is sought at the case management conference (CMC) held prior to the start of the inquiry. This clarified that the LDC is sought for three distinct matters, namely:
 - i. The removal from the land of a storage building;
 - ii. The placing on the land of 20 storage containers and an office building; and
 - iii. The use of the land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space.
5. In addition to the above, at the CMC I also discussed with the parties the area of the appeal site for which the LDC is sought. Whilst the appeal site extends to the entirety of the land outlined in red on the 'Location Plan' on drawing number 14001 02 Revision B, the appellant confirmed at the CMC that the LDC is only sought for the southern part of the appeal site. The appellant confirmed that the area identified hatched and outlined in blue on the plan attached to the enforcement notice, which is the subject of Appeal B, is the land for which the LDC is sought. I will refer to this hereafter as the blue hatched land.
6. In light of the above, I will determine Appeal A on the basis of the description confirmed at the CMC, set out above, for the blue hatched land.

Main issue and main considerations

7. The main issue on Appeal A is whether the Council's decision to refuse to grant a LDC is well founded. The test of the evidence is the balance of probability and the burden of proof is on the appellant.
8. The main considerations for each of the matters for which the LDC is sought were discussed and agreed at the CMC. These are as follows:

- Matter i - The removal from the land of a storage building:
 - whether or not the removal of the storage building comprises the demolition of a building (i.e. whether or not it comprises a building operation) for the purposes of section 55(1A)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act) and is, therefore development falling within the definition at section 55(1) for which planning permission is required by reason of section 57.
- Matter ii - The placing on the land of 20 storage containers and an office building:
 - Whether or not the storage containers are operations or an operation for the purposes of section 55(1) of the 1990 Act and, if so, what type of operation(s) they are;
 - Whether or not the storage containers are a building or are buildings; and
 - If not, whether the placing of 20 storage containers and an office building on the land comprises some other form of development falling within the definition of section 55(1).
- Matter iii - The use of the land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space.
 - whether, at the time the LDC application was made, the use of the blue hatched area was materially different to the lawful use of the site.

Reasons

Matter i - The removal from the land of a storage building

9. The parties have agreed a statement of common ground (SOCG). In this the parties include in the list of matters not agreed 'whether the removal of the former storage building (portacabin) from the land constituted a 'building operation' for the purposes of section 55(1A)(a) TCPA 1990 requiring planning permission'.
10. Section 55(1) of the 1990 Act informs that "development" means, amongst other matters, the carrying out of building, engineering, mining or other operations in, on, over or under land. The storage building is described as a 'building', and so the reference in section 55(1) to building operations is most relevant. Indeed, there is no suggestion that the storage building was any other form of operation for the purposes of section 55(1). In view of this, section 55(1A)(a) informs that, for the purposes of the act "building operations" includes the demolition of buildings. Section 57(1) informs that planning permission is required for the carrying out of any development of land.
11. There is no suggestion that express planning permission has been sought or granted for the removal of the building. Class B (demolition of buildings) of Part 11, Schedule 2 Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order) permits any building operation consisting of the demolition of a building. However, there is no suggestion that the conditions of the permission granted by Class B have been

met, in particular the requirement for the developer to obtain the prior approval of the local planning authority.

12. In view of the above, in order for me to conclude that the removal of the storage building was lawful, I must find that it was not a building operation for the purposes of section 55(1) of the 1990 Act.
13. The appellant says that the storage building was a large portacabin. Although described as a 'storage building', the indication is that it was used as an office for the site. This is not disputed by the Council. Its location is identified on drawing entitled 'site plan as existing' and numbered 14001/05 Rev A with a faint dotted line.
14. I drew to the parties' attention the caselaw *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385 and *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102. These identify three primary factors as decisive of what is a building. These are: (1) that it is of a size that it would normally be constructed, as opposed to being brought ready-made onto the site; (2) there would be physical attachment to the ground; and (3) it would cause a physical change of some permanence. None of the factors are necessarily decisive.
15. The unit is that shown in the photographs at appendix 9 of the Council's proof of evidence. I can see that this is typical of that described by the appellant as a prefabricated structure, which are units usually brought onto land in one piece.
16. Nevertheless, the footprint of the unit shown on the site plan indicates that it is larger than any of the storage containers I observed on site, and that it was around twice the size of the 'new mobile office' also shown on the plan, and which I observed on site. The photographs of the unit indicate that it was a substantial structure occupying a large part of the site.
17. At the inquiry the appellant said that the storage building stood on legs on a concrete pad. In the appendix 9 photographs I can see what appear to be concrete steps leading up to the entrance door. Whilst there is no indication that the legs were attached to the land, at the inquiry the appellant said that the unit had an electricity and water supply, and that its w.c. was connected to the waste water cesspit. All of this indicate a degree of physical attachment to the land.
18. As for the permanence of the unit, I note above the concrete pad upon which the appellant says the building was placed and the steps up to the entrance door visible in the appendix 9 photographs. These indicate a degree of permanence in terms of the intended duration of the unit on site and its character. The appellant says that it was brought onto the site in 1988 and removed in 2022. There is no suggestion that the unit was moved about the site during that time. Whilst the unit had the appearance of a temporary structure, it was on the site for a substantial period of some 44 years. This adds to the permanent character of the unit.
19. Having regard to the particular circumstances of this case, I conclude as a matter of fact and degree that the unit was a building for the purposes of section 55(1) of the 1990 Act. Its removal from the land in 2022 would, therefore, have amounted to the demolition of a building, which is a building operation by reason of section 55(1A) and, therefore, development of land by reason of section 55(1).

20. The removal of the storage building would have required the benefit of planning permission. As the necessary permission has not been granted for this development, its removal would have constituted a breach of planning control. The evidence indicates that a period of 4 years has not passed between the removal of the storage building and the date the LDC application was made². Accordingly, the development comprising the removal of the storage building would not have been lawful on the date of the LDC application.

Matter ii - and an office building

Office building:

21. Dealing first with the office building, its location on site is consistent with that indicated on the site plan (drawing numbered 14001/05 Rev A). The unit is around half the size of the former storage building and compares in size to the storage containers I observed on site. It is, however, large enough to accommodate an office, with office furniture, and a w.c. separate to the office. Like the former storage building, it has the appearance of a prefabricated unit, although the appellant does not say that it was brought onto the site as one. Neither is there an indication that the unit has been moved since it was first brought to the site.
22. Whilst the appellant says that the land was not prepared before the arrival of the unit, at the site visit I noted that it was located at the edge of the site, where the land is not even. Under the unit I observed the legs supporting it, as well as a degree of ground preparation undertaken (including the laying of blocks or planks) that ensure that the unit is level. I also noted the concrete steps up to the main entrance to the unit.
23. As with the former storage building, the unit has a water and electricity supply, as well as a connection to waste water. This indicates a degree of physical attachment to the land.
24. The unit is visible in the December 2012 photographs in the Council's Appendix 9, indicating that it has been on site for more than 3 years at least. Like the former storage building, the unit also has the character of a permanent feature of the site. That it possesses features common in a building adds to the degree of physical change it has caused to the site. Furthermore, the unit provides the office for one of the established businesses operating from the site, and there is no indication of any intention to move the unit any time soon.
25. All of the above considered, I find that, on balance, the office building is a building operation for the purposes of section 55 (1) of the 1990 Act as a matter of fact and degree. It is, therefore, development for which planning permission is required. There is no suggestion that the necessary permission has been granted for it.
26. It might well be the case that the building was substantially completed more than 4 years prior to the date the LDC application was made. The evidence before me is not, however, sufficient to demonstrate this. For this reason, I cannot conclude that the office building was lawful on the date the LDC application was made, on the balance of probabilities.

² Having regard to section 171B(1) of the 1990 Act and section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

Storage containers:

27. Turning to the storage containers, whilst at the time of my visit there were only 7 containers on the blue hatched land, it was agreed that at the time the LDC application was made 20 containers were on the site and that they were located in the layout shown on the site plan (drawing numbered 14001/05 Rev A). The Council suggest that each of the storage containers are separate operations for the purposes of section 55(1) of the 1990 Act. Indeed, this is in short what is alleged in the enforcement notice that is the subject of Appeal B. Whether or not this is correct, as a matter of fact and degree, is entirely relevant to the ground (b) appeal on Appeal B.
28. Although not small structures, the appellant said at the inquiry that the units were brought onto the site in one piece using a crane. They also said that the land had not been prepared in any way for the units; that they were placed on the existing hard surface. This was apparent for all of the containers I observed on my site visit and is not disputed by the Council.
29. When asked, the appellant confirmed that the units did not have any electricity or water supply. I did not observe any other means of physical attachment to the ground of any of the containers I observed. Nevertheless, I acknowledge that there would have been a degree of affixed to the land by reason of their own weight.
30. In terms of the degree of permanence of the units, the appellant suggests that 5 of the units are historic and have been on the site since around 1994/95. They suggest that the units in the south west corner of the site were those. These would be in the location of those labelled 11 to 15 on the site plan. In the March and May 2022 aerial images³ I can see the shape of 5 units consistent with the location of units 11 to 15 on the site plan. The same shape is not, however, visible in the same location in the earlier aerial photographs dated April 2020 and March 2021. I can see the shape of one or two items in these earlier aerial photographs that might also be storage containers, but these are not in the same location as the 5 present in the south west corner of the site in 2022.
31. In the earlier photographs from April 2017 and June 2015, in the south west corner of the site, I can see the shape of items consistent with at least 2 of the smaller storage containers. I can only conclude from this that these containers were either moved elsewhere in the site or moved off the site by April 2020.
32. In view of the above, I am not persuaded that the 5 storage containers referred to by the appellant were on site in the location suggested prior to 2022, on the balance of probabilities. If any of the 5 containers referred to by the appellant were on the appeal site prior to 2022, they were in an alternative location to the existing 11 to 15. If so, this demonstrates that these units had a limited degree of permanence.
33. Whilst other containers were brought onto the site in 2022, resulting in 20 containers on site when the LDC application was made, 13 of the 20 containers have since been removed from the land. The appellant says that they did so in March 2026. As such, although some of the containers have been on site for a number of years, the evidence indicates that some have been moved about the

³ Exhibit A of the appellant's proof of evidence.

site, some have been removed and/or replaced, and that some have only been on site for a fairly short duration.

34. Notwithstanding the above, the Council appears to suggest that, in order to determine whether the containers are operations (for example, building operations) for the purposes of section 55(1) of the 1990 Act, account should be taken of how they are used. The design of the units and their purpose might be relevant to whether the units themselves cause a physical change of some permanence to the land, which is one of the three factors set out in *Skerritts*. Indeed, the design of the new office building and its use as an office for one of the longstanding businesses on the site is an indication of the degree of permanence of this unit.
35. The Council refer to vehicle parking, servicing and delivery space associated with the containers. It also refers to signage advertising storage within the containers. Whilst such matters would be entirely relevant to whether the use of the storage containers has brought about a material change to the use of the land, I am not persuaded that this is a decisive matter in determining whether the units are operations for the purposes of section 55(1). Although the meaning of development in section 55(1) includes a material change of use of buildings or land, that is a form of development separate to development comprising an operation.
36. Notwithstanding this, the evidence indicates that, at the time the LDC application was made, the purpose of the units was to store and keep safe items, which I would say is the purpose for which these units were designed. Of the units I saw on site, they did not appear to have been adapted in any way. There is no suggestion that the units were stacked and not, therefore, connected by an external staircase or platform to facilitate their use. Such features might indicate a degree of permanence. Although the site plan indicates that the containers were positioned in blocks, there is no suggestion that the units were physically attached to each other. This is consistent with what I saw on site, where each unit I observed was accessed separately. The units I saw retain a functional and transient appearance. Whilst the presence of 20 containers may have caused a degree physical change to the site at the time, I am not persuaded that this would have caused a physical change of some permanence.
37. For the above reasons, I conclude as a matter of fact and degree that the 20 storage containers present on the land at the time the LDC application was made were not building operations for the purposes of section 55 (1) of the 1990 Act.
38. In concluding as I have, I have had regard to the appeal decisions that have been drawn to my attention⁴. I can agree with the Council, that these demonstrate that, despite the relative uniformity in the design of storage containers in general, whether they amount to building operations is 'fact-sensitive'. Having regard to the three factors set out in *Skerritts*, there are differences between the circumstances in *Waverly* and those before me. In particular, the conditions on the *Waverly* site meant that there were 'limited locations within the site where the container could be sited without preparation of the land'; that 'the sloping site equally also would make the process of moving the shipping container around on the site more difficult'; that the 'Water-logged land also would mean that the container would be likely to embed into the land, further complicating any process of moving it'; and that 'Given the nature of the appeal site, it is also possible that the weight of the container

⁴ In particular, appeal decisions APP/V0728/W/23/3314720 and APP/R3650/X/24/3351094.

would cause it to sink into the ground, increasing the degree of affixation'. These ground conditions do not compare to those on the appeal site subject of the appeal before me. Indeed, the evidence before me indicates that the containers are likely to have been moved about the site, and on and off the site, with relative ease, as in the Redcar case referred to. The decision referred to by the Council does not change my conclusion above, having regard to the particular circumstances of the case before me.

39. Whilst I have concluded that the storage containers are not operations, it does not automatically follow that the placing of 20 containers on the land was lawful on the relevant date. I turn now to the final main consideration on Appeal A and consider how the containers were used. In doing so I will consider whether the purpose for which the containers were placed on the land would have been lawful on the relevant date.

Matter iii - The use of the land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space.

Historic use:

40. I consider first the historic use of the wider appeal site (i.e. all of the land outlined in red on the site plan submitted with the LDC application) and specifically the activities that have historically taken place on the blue hatched land. When I refer to the historic use, I mean the use of the land up until the apparent change in activities on the land brought about by the addition of storage containers (increasing to 20 in total).
41. At the CMC and in my CMC notes I drew to the parties' attention the case of *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, which assists in determining the planning unit and the use of it. In *Burdle*, it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes; the concept of physical and functional separation is key. This case established three broad categories of distinction:
- a) A single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary to the primary use.
 - b) A single planning unit where the unit of occupation is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another.
 - c) The unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. Each such area ought to be considered as a separate planning unit.
42. At the inquiry I heard evidence with regard to the relationship between the two fish wholesale businesses who operate from the site and their proprietors, the appellant and Mr Micheal Buckley. Whilst the land is owned by Mr Michael Buckley, for the purposes of *Burdle* I would say that the site is jointly occupied by both the appellant's wholesale business (JB Trading Limited) and that of his uncle, Mr Micheal Buckley (Waldens Fisheries).

43. As for the activities that have taken place on the site, I note that some of the historic evidence refers only to fish storage and distribution, not to the processing of fish. This includes what I understand to be a valuation report prepared in 1999. Nevertheless, I set out in my post CMC note what was agreed, which is that, historically, the wider appeal site has been used for fish processing as well as for the wholesale of fish by the two fish wholesale businesses mentioned above. At the inquiry I heard evidence regarding what comprises the fish processing and wholesale businesses operating from the site. This includes the receipt of fish on site; the processing and packaging of the fish; and its distribution to local restaurants and businesses elsewhere. It is apparent that there is a greater degree of processing and preparation of the fish for sale by JB Trading Limited than by Waldens Fisheries.
44. In my post CMC note I also set out what appeared to be the agreed position, that fish processing took place (and continues to take place) on the northern part of the appeal site (outside of the blue hatched land) and that the blue hatched land has been historically used for storage in association with the activity taking place on the northern part of the appeal site.
45. The appellant indicated that the historic activity that has taken place on the blue hatched land was in connection with the fish processing activity on the northern part. This included storage, the parking of vehicles, loading and unloading, and the former storage (office) building. The Council's closing submissions indicate its general agreement to this, stating that the historical use of the blue hatched land was as 'a general operational area associated with the wider business', accommodating 'parking, general operational activities and a former building or portacabin structure which provided office facilities in connection with the fish business'. It also says that 'any storage activity formed part of that broader pattern of use'.
46. There was no indication that any of the activity on the blue hatched land was associated with anything other than the fish wholesale businesses. Furthermore, whilst I acknowledge that storage was an activity on the appeal site, the evidence indicates that this only took place as a direct result of the fish processing and wholesale activities. Whilst it is apparent that fish processing occurred only within the building on the northern part of the site, the evidence does not indicate that the other associated activities taking place elsewhere on the site were functionally or physically separate from fish processing in the building.
47. Having regard to *Burdle*, the evidence indicates that, as a matter of fact and degree, the wider appeal site was, historically, a single planning unit where the primary use was for fish processing and the wholesale sale of fish, and any other activities that took place on the land would have either been part and parcel of this use or ancillary to it.
48. In addition to the above, there is nothing before me to suggest that this use of the wider appeal site was not lawful prior to the more recent activity on the site.
49. Early in the appellant's proof of evidence they state that the wider appeal site is a single planning unit and in doing so says that 'the blue hatched land has been historically used for storage in association with the activity on the northern part of the site, which confirms the single planning unit'. This is consistent with my findings above. However, they later goes on to say that the lawful use of the blue

hatched area is for storage and distribution falling within use class B8 of Part 2, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended (the 1987 Order). If this is intended to characterise the historic use of the appeal site prior to the more recent activity, which I will come to below, I cannot agree with this position.

50. I can agree that the distribution of fish products would be part and parcel of the historic lawful use of the appeal site. I can also agree that, historically, any storage that took place on the appeal site was only associated with the primary use of the appeal site for the processing and wholesale of fish. However, the evidence indicates that this storage activity would have been ancillary to fish processing and wholesale, and not primary use of the appeal site. Furthermore, the parties agree that the historic use includes the processing of fish, which is neither a storage nor distribution activity.
51. Having regard to the above, I cannot describe the historic lawful use of the appeal site (or any part of it) as a use falling within Class B8 of the 1987 Order. The historic lawful use may well have fallen within another use class of the 1987, or it might have been a mixed sui generis use falling outside of any use class specified in the Order. Either way, I conclude that the historic lawful use was not, as a matter of fact and degree, a storage and distribution use falling within Class B8.

Recent change of activities:

52. Prior to the time the LDC application was made, circumstances changed on site. There appears to have been a movement about the wider appeal site of some of the activities associated with fish processing and wholesale. The office serving one of the businesses changed location within the site, albeit this remained within the blue hatched land. Also, some of the storage associated with the fish wholesale businesses, that formerly took place within the building on the northern part of the site, relocated to the blue hatched land. This included the relocation of the diesel tank, fish packaging materials and pallets.
53. The reorganisation of the site resulted in the use of some additional storage containers to keep the items formerly kept within the building. Indeed, at the site visit I was shown the 7 storage containers located along the western boundary of the appeal site. The appellant said that these were (and still are) used to keep such items as the diesel tank, pallets, cardboard packaging and refrigeration parts, all of which the appellant confirmed is associated only with the fish wholesale businesses.
54. The appellant confirmed that the 7 containers I observed were on site at the time the LDC application was made and there is nothing to suggest that, at this time, these were not being used in the same way as at present. At the time the LDC application was made there were an additional 3 containers along this western boundary. The appellant said that all 10 were being used by him in association with his fish wholesale business. At the inquiry the Council confirmed that it did not dispute this; that it has no evidence to contradict this.
55. There is no indication that what was stored in the 10 containers were items in addition to what had already been stored elsewhere on the site. Whilst this storage activity would have been more obvious with the presence of the 10 storage containers that facilitated it, it still remained associated with the fish wholesale businesses.

56. In view of the above, it is more likely than not that, at the time the LDC application was made, the storage taking place in the 10 containers along the western boundary of the site was consistent with the ancillary storage identified as part of the historic lawful use of the wider appeal site.
57. Turning to the remaining containers, the appellant says that the 10 containers located along the eastern boundary of the appeal site were positioned and rented out by Mr Micheal Buckley for use by local tradespeople for storage. Whilst the appellant indicates that these containers were moved off the site following the issue of the enforcement notice on 13 February 2026 (subject of Appeal B), there is no suggestion that at the time the LDC application was made the 10 containers along the eastern boundary were used for any purpose other than that set out above.
58. Whilst these 10 containers were used for storage, there is no suggestion that any of the items stored in them was associated with either of the fish wholesale businesses that continued to operate from the site. As such, the storage use facilitated by these 10 containers was neither part and parcel of the fish processing and wholesale use, nor ancillary to it. The evidence points to this being a wholly separate storage use.
59. At the inquiry the appellant said that those renting the containers could access the site with their vehicles, that they could drive up and park next to the containers that they rent. The indication was that each container was rented separately. The storage use would, therefore, have resulted in additional vehicle movements to and from the site and additional activity, separate to, and in addition to, that associated with the fish wholesale businesses.
60. All of the above indicates that the storage activity taking place on the eastern part of the blue hatched land would have been materially different to any other activity that had previously taken place on the appeal site.
61. Bringing all of the above together, I have concluded that the appeal site was historically a single planning unit within which storage was ancillary to the primary use for fish processing and wholesale. With regard to the activities taking place on the western part of the blue hatched land, I am not persuaded that the reorganisation of the activities associated with the fish processing and wholesale use, including the relocation of existing on-site storage to the 10 containers along the western boundary, would have resulted in a change to the definable character of the existing use of the appeal site, as a matter of fact and degree. The activity upon this part of the site remained functionally connected to the activities taking place on the wider appeal site, outside of the blue hatched area. The land also remained open to the northern part of the appeal site, which continued to be used for fish processing and wholesale.
62. Accordingly, I find it more likely than not that this part of the appeal site remained part of the same planning unit as the northern part of the appeal site, as a matter of fact and degree. Also, that the activities that took place on this western part of the blue hatched land, including storage, remained ancillary to the fish processing and wholesale use.
63. I cannot, however, conclude the same with regard to the eastern portion of the blue hatched land and the storage use taking place on it. At the time the LDC application was made, this part of the appeal site, and the 10 containers sited on it, were used for purposes entirely separate to the fish processing and wholesale use

taking place on the remainder of the appeal site. This demonstrates a distinct lack of any functional connection between the two uses. Furthermore, I acknowledge that activity associated with the new storage use would have included land in front of the containers, where the appellant says those renting would pull up and park their vehicles. However, the evidence indicates that the new, separate storage use would have been contained within the block of 10 containers along the eastern boundary, indicating a degree of physical separation of this storage use from the use taking place on the remainder of the site.

64. All of this indicates that the new storage activity resulted in a change in the definable character of the use of the site, as a matter of fact and degree. This also indicates that, at the time the LDC application was made, the appeal site comprised two physically separate areas that were occupied for different and unrelated purposes. The new storage use brought about a material change of use of the eastern part of the blue hatched land, such that the former single planning unit occupying the wider appeal site had been divided into two.
65. This conclusion does not mean that there has been a new planning chapter for the entirety of the appeal site. Save for the land occupied by the new storage use, there is nothing to indicate that the use of the remainder of the appeal site changed in any material way, following the introduction of the new storage use. Despite a reorganisation of activities ancillary to the fish processing and wholesale use, I cannot conclude, as a matter of fact and degree, that there has been a total change in the physical nature of the appeal site outside of the land occupied by the new storage use. Accordingly, a material change of use of only part of the appeal site has occurred, on the balance of probabilities. This eastern part of the blue hatched land is, therefore, the only part of the appeal site that is the subject of a new planning chapter.
66. I turn now to what this means for the lawfulness of the use of the blue hatched land for the purposes claimed (i.e. a use falling within Class B8 of Part 2, Schedule 1 of the 1987 Order). I have concluded that, despite the reorganisation of existing activities on the site and the introduction of additional storage containers to the site, the historic use of the western portion of the blue hatched land continued and had not been the subject of a material change of use when the LDC application was made. However, I have also concluded that this historic use was not for the purpose of a use falling within Class B8. The appellant has, therefore, failed to demonstrate that, on the balance of probabilities, the use of this western portion of the blue hatched land for purposes falling within Class B8 was lawful on the date the LDC application was made.
67. As for the eastern portion of the blue hatched land, whilst its use for the purposes of storage falls within Class B8, there is no suggestion that this use had the benefit of express permission, or that it was otherwise permitted. Furthermore, the appellant's evidence points to this use commencing in 2022, when the 10 containers along the western boundary were first rented out. The evidence does not, therefore, demonstrate that this use had continued substantially uninterrupted for a period of 10 years or more by the time the LDC application had been made. For these reasons, I conclude that the use of the entirety of the blue hatched land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space, was not lawful at the time the LDC application was made.

68. I now come back to the matter of the 20 storage containers. I have already concluded that these were not operations for the purposes of section 55(1) of the 1990 Act. I have also concluded that the use of the western portion of the blue hatched land, which was facilitated by the 10 containers located upon it, had not resulted in a material change of use of this part of the appeal site. As such, I can conclude that the placing of these 10 storage containers on the western portion of the blue hatched land was not development and was, therefore, lawful on the date the LDC application was made, on the balance of probabilities. Accordingly, Appeal A should succeed to that extent and I am able to issue a LDC for this particular matter.
69. To be clear, this conclusion is only reached, having regard to how the containers were used on the relevant date (i.e. for storage ancillary to the fish processing and wholesale use of the appeal site, excluding the eastern portion of the blue hatched land). This will be specified in the certificate. If the containers were used in the future for any purpose that is materially different to this use, this certificate would not apply.
70. With regard to the other 10 storage containers, whilst these were not operations, they were part and parcel of a material change of use of the eastern portion of the blue hatched land. As I have concluded that, on the balance of probabilities, this use was not lawful on the date the LDC application was made, I can only conclude the same with regard to the placing of 10 storage containers along the eastern boundary of the blue hatched land.

Conclusion

71. For the reasons given above I conclude, on the evidence now available, that:
- (a) the Council's refusal to grant a certificate of lawful use or development in respect of the placing of 10 storage containers in the approximate location marked 11 to 20 on the plan entitled 'site plan as existing', drawing numbered 14001/05 Rev A, is not well-founded and the appeal should succeed for that part only; and
 - (b) the Council's refusal to grant a certificate of lawful use or development in respect of the removal from the land of a storage building; the placing on the land of 10 storage containers (in the approximate location marked 1 to 10 on drawing numbered 14001/05 Rev A) and an office building; and the use of the land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space is well-founded and the appeal for that should fail.
72. Accordingly, I will exercise the powers transferred to me under section 195(2) and 195(3) of the 1990 Act.

Formal Decision

73. The appeal is dismissed in so far as it relates to the removal from the land of a storage building; the placing on the land of 10 storage containers (in the approximate location marked 1 to 10 on drawing numbered 14001/05 Rev A) and an office building; and the use of the land for purposes falling within Class B8 (Storage and Distribution) of the 1987 Order, with associated vehicle parking, servicing and delivery space.

74. The appeal is allowed in so far as it relates to the placing of 10 storage containers in the approximate location marked 11 to 20 on the plan entitled 'site plan as existing', drawing numbered 14001/05 Rev A, and attached to this decision is a certificate of lawful use or development describing the matter which is found to be lawful.

APPEAL B

Procedural Matter

75. Prior to the opening of the inquiry, the Council indicated that it had an interest in part of the land to which the notice relates, but that it had not served on itself a copy of the notice. The Council suggested no prejudice would be caused by this, not least because the Council were, of course, aware of the issue of the notice. The appellant did not disagree with the Council on this.
76. Having regard to the above, and as there is no appeal made on ground (e), I am satisfied that neither the Council nor the appellant has been substantially prejudiced, and that I am able to continue to determine the appeal.

The Notice

77. At the CMC I advised the parties of my duty to put the notice in order, if necessary, before considering the grounds of appeal on Appeal B. I drew the parties' attention to the powers of correction and variation, set out in section 176(1)(a) and (b) of the 1990 Act.
78. The breach of planning control alleged in the notice is operational development comprising (i) the siting of metal storage containers; and (ii) the installation of an associated enclosure. At the inquiry I advised of my concern with regard to the precision of the notice insofar as it relates to matter (i) in the allegation. The parties confirmed at the CMC their agreement that, at the time the notice was issued, there were 20 storage containers sited on the land. This was confirmed at the inquiry. Also at the inquiry, the Council confirmed its position, that each of the storage containers referred to in the notice are separate operations for the purposes of section 55(1) of the 1990 Act. For this reason, I am concerned that the notice lacks precision with regard to the amount of operational development that is alleged to have occurred.
79. This lack of precision can be put right by correcting the notice to specify the number of storage containers that are agreed to have been on site at the time the notice was issued. Neither party suggested that any injustice would be caused with such a correction and I have no reason to conclude otherwise.
80. As for the second allegation, whilst there was some discussion at the inquiry with regard to the location of the enclosure alleged to have been erected, I was unable to clarify the extent of this enclosure. Nevertheless, the need to correct any defect in the notice with regard to this matter has been superseded by the agreed position, that any enclosure in the location identified in the enforcement notice was immune from enforcement action on the date the notice was issued, by reason of section 171B(1) of the 1990 Act⁵.

⁵ Having regard to section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

Ground (b)

81. The appeal on ground (b) is that the matters alleged in the enforcement notice, as I intend to correct it, which appears to the Council to constitute the breach of planning control, have not occurred. The appellant's ground (b) appeal relates only to the allegation of operational development comprising the siting of (20) metal storage containers.
82. The main considerations under the ground (b) appeal are set out in the post CMC and were agreed by the parties. These are:
- i. Whether or not the storage containers are operations or an operation for the purposes of section 55(1) of the 1990 Act and, if so, what type of operation(s) they are;
 - ii. Whether or not the storage containers are a building or are buildings. The relevant caselaw has been mentioned above; and
 - iii. If not an operation/operations, whether or not some other breach of planning control has occurred; if so, what that breach of planning control might be; whether the notice should allege an alternative breach of planning control and whether the notice can be corrected without causing injustice to any party.
83. These are broadly the same as those identified for the second matter for which the LDC on Appeal A was sought.
84. Whilst there is a period of some 12 months between the date the LDC application was made and the date the enforcement notice was issued, there is no suggestion that there had been a change to the circumstances or material considerations relevant to these main considerations. For this reason, I can rely wholly on my earlier findings on these first two main considerations on Appeal A. This allows me to conclude that, as a matter of fact and degree, the 20 storage containers present on the land at the time the enforcement notice was issued were not building operations for the purposes of section 55(1) of the 1990 Act. This means that the matter that appears to the Council to constitute a breach of planning control consisting of operational development carried out on the land comprising the siting of (20) metal storage containers has not occurred. The ground (b) appeal should, therefore, succeed to that extent.
85. In considering the third main consideration identified above (i.e. whether or not some other breach of planning control has occurred on the land), I am mindful of my conclusions on Appeal A, that there has been a material change of use of the eastern portion of the blue hatched land that was not lawful at the time the LDC application was made, and that the 10 storage containers on this part of the appeal site were part and parcel of this material change of use. The appellant's evidence indicates that this was a use of this part of the appeal site up until, and at the time the enforcement notice was issued (he says that containers including the 10 on the eastern part of the blue hatched land were removed after the notice was issued). In view of this, the evidence indicates that some other breach of planning control has occurred on the land to which the notice relates.
86. Accordingly, I have considered whether I could correct the notice to allege a material change of use of this eastern portion of the blue hatched land. However, I cannot be satisfied that injustice would not be caused were I to do so. Such a

correction would result in a fundamental change to what is alleged in the enforcement notice. Furthermore, the material considerations relevant to whether or not a matter is operational development are entirely different to those relevant to whether or not a material change of use has occurred. I cannot, therefore, be satisfied that the parties would not have approached their appeal in quite the same way, had the notice alleged a material change of use.

87. For the reasons given above, I can only conclude that the allegation of operational development comprising the siting of (20) metal storage containers is not correct and that I am unable to correct this defect in the notice. The only solution would be to remove this allegation, 3(i), and its corresponding requirements from the notice, leaving only the allegation of the installation of an enclosure, 3(ii). As such, I intend to do this, after I have corrected this allegation in the terms set out earlier in this decision.
88. As the ground (c) appeal relates only to allegation 3(i), this does not fall to be considered. Neither do the relevant elements of the appellant's ground (f) appeal.

Ground (d)

89. An appeal on ground (d) is that, at the date on which the notice was issued, no enforcement action could be taken in respect of the breach of planning control that may be constituted by the matters stated in the notice.
90. The appellant's ground (d) appeal relates only to the allegation of operational development comprising the installation of an enclosure. As I have mentioned above, whilst there is a lack of precision in the evidence regarding the exact extent of the enclosure alleged to have been erected on the site, the agreed position is that any enclosure erected in the location specified in the notice is immune from enforcement action by reason of section 171B(1) of the 1990 Act. I have been given no reason to find otherwise.
91. Consequently, I conclude that, on the balance of probabilities, on the date the enforcement notice was issued no enforcement action could be taken in respect of the breach of planning control consisting of operational development comprising the installation of an enclosure. The ground (d) appeal should, therefore, succeed.

Conclusion

92. For the reasons given above, I conclude that the appeal should succeed on grounds (b) and (d). The enforcement notice will be corrected and quashed.
93. In these circumstances, the appeal on grounds (c) and (f) do not fall to be considered.

Formal Decision

94. It is directed that the enforcement notice is corrected by the insertion in part 3(i) of the number "20" after the words "the siting of". Subject to this correction, the appeal is allowed and the enforcement notice is quashed.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jamie Buckley	Appellant
Mr Michael Buckely	Witness

FOR THE LOCAL PLANNING AUTHORITY:

Dr Bowes	Counsel
Mr David Board	The Council of the London Borough of Bromley

INTERESTED PERSONS:

Councillor Slater	Local Councillor
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INQUIRY DOCUMENTS

ID1 Plans showing the extent of the Council's ownership.



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 2 February 2025 the matter described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, labelled 'Plan 1', was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It has been demonstrated, on the balance of probabilities, that the placing on the land of 10 storage containers in the approximate location marked 11 to 20 on the attached 'Plan 2' (also entitled 'site plan as existing'; drawing numbered 14001/05 Rev A), was not development as the containers were not operations for the purposes of section 55(1) of The Town and Country Planning Act 1990 as amended and their use did not result in a material change of use of the land.

Signed

J Moss

Inspector

Date: 7 August 2026

Reference: APP/G5180/X/25/3376671

First Schedule

The placing of 10 storage containers in the approximate location marked 11 to 20 on the attached 'Plan 2' (also entitled 'site plan as existing'; drawing numbered 14001/05 Rev A) used only for the purposes of storage ancillary to the use for fish processing and wholesale on the land.

Second Schedule

Land at Waldens Farm, Crockenhill Road, Orpington, Bromley BR8 8EP

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the matter described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plans

These are the plans referred to in the Lawful Development Certificate dated: 7 August 2026

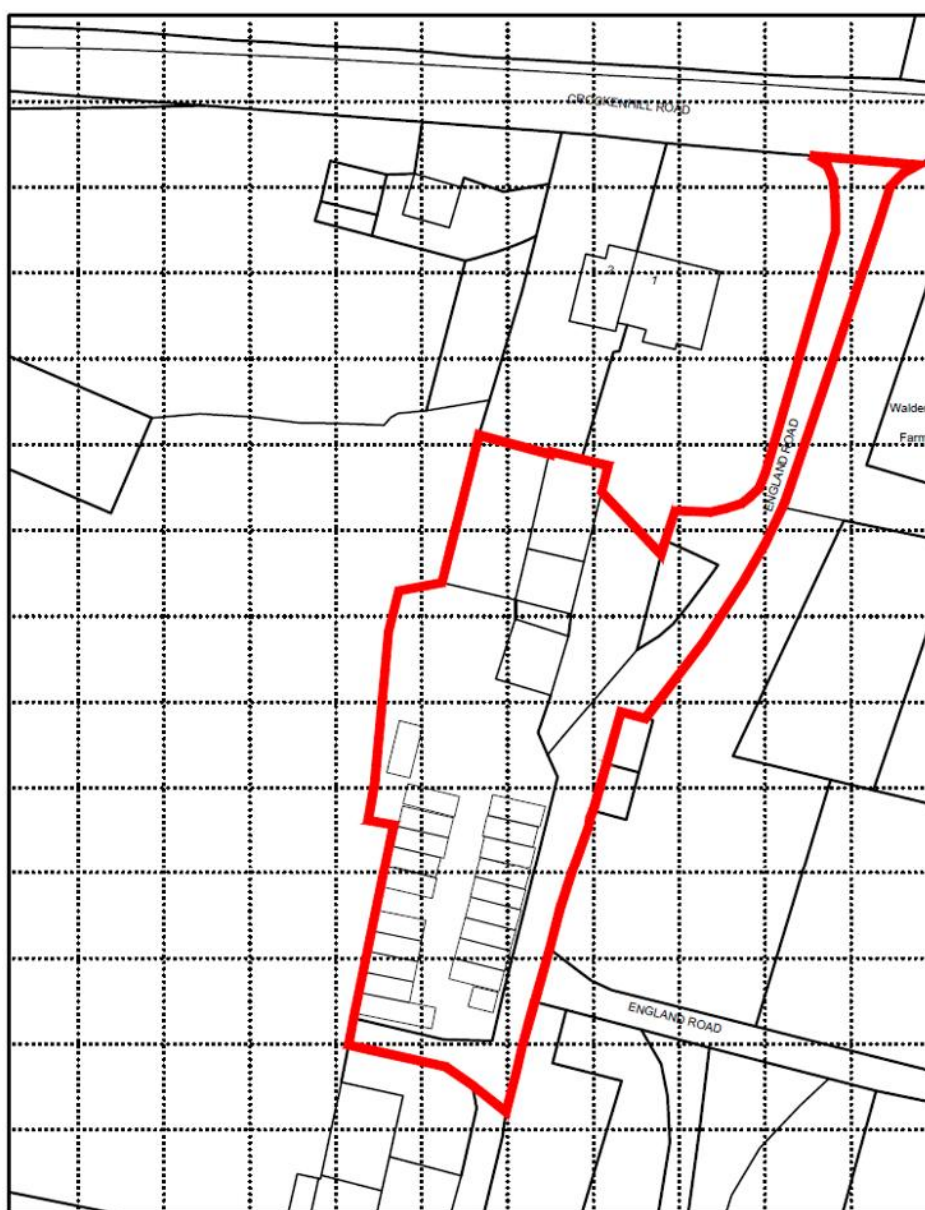
by J Moss BSc (Hons) DipTP MRTPI

Land at: Waldens Farm, Crockenhill Road, Orpington, Bromley BR8 8EP

Reference: APP/G5180/X/25/3376671

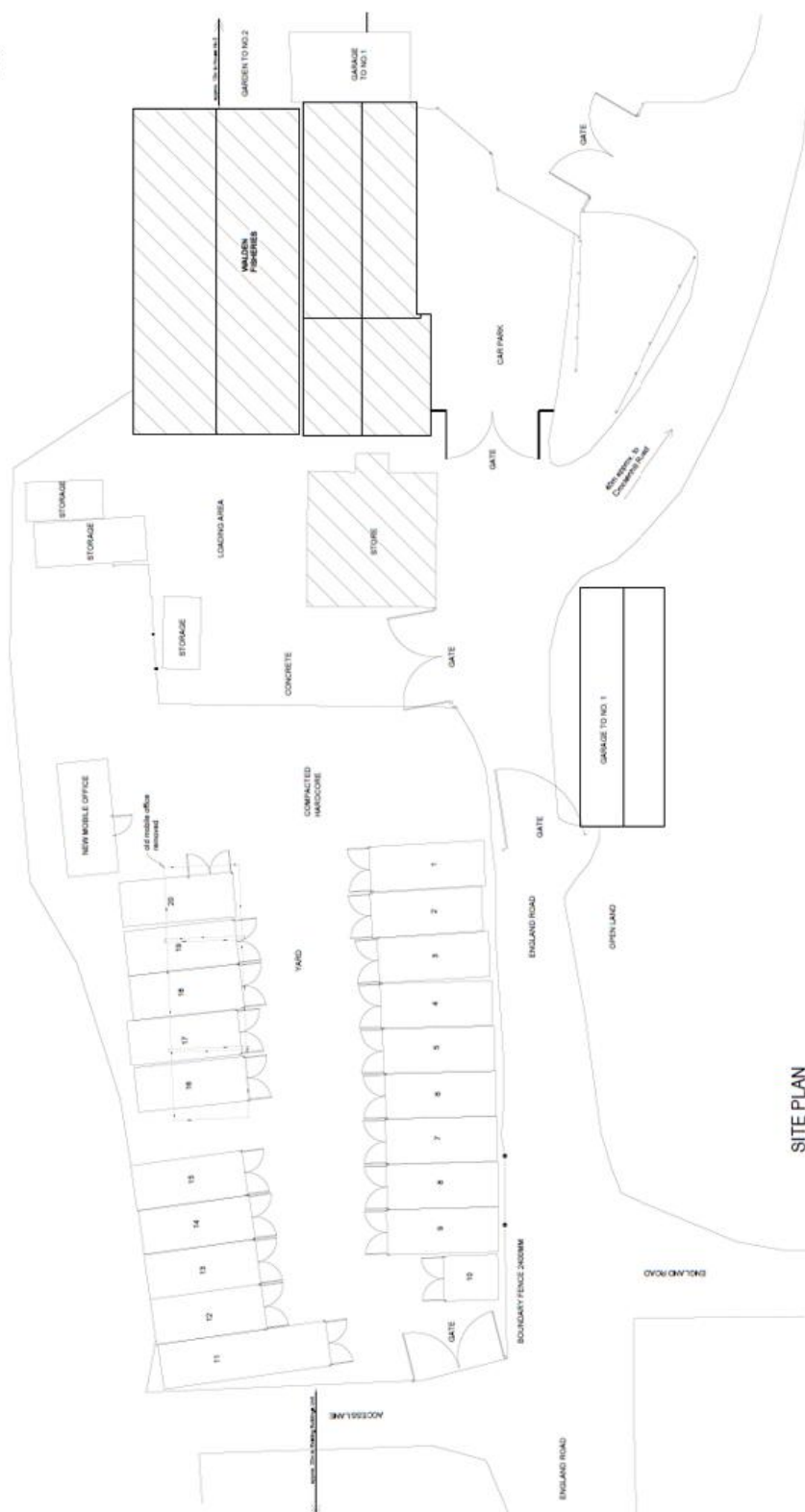
Scale: Not to scale

Plan 1



LOCATION PLAN

The intensity of the average of the three γ rays is shown in Figure 1. The intensity of the γ rays is not constant, but it is about 10% higher than the intensity of the γ rays in the other two experiments.



SITE PLAN

[illegible]