
Appeal Decisions

Inquiry held on 14, 15, 16 and 24 July 2026

Site visits made on 14 and 16 July 2026

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date 01 September 2026

Appeal A Ref: APP/W1905/C/26/3378144

Appeal B Ref: APP/W1905/C/26/3378145

**Land adjacent to Darcy's Place, Little Broomfield, Church Lane, Wormley
EN10 7QF**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
- The appeals are made by Mr John Croke (Appeal A) and Mr Ryann Croke (Appeal B) against an enforcement notice (EN) issued by Broxbourne Borough Council.
- The EN was issued on 6 February 2026.
- The breach of planning control as alleged in the notice is: Without planning permission, the increase of ground levels through the importation and processing of inert waste.
- The requirements of the EN are:
 - i. Cease the importation of inert soils and similar material to the land.
 - ii. Cease the processing, separation, screening of imported inert soils and similar material on the land.
 - iii. Remove all plant and machinery associated with the importation and processing, separation, or screening of inert soils and similar material from the land.
 - iv. Return ground levels of the land to those shown in drawing RES/1240 (attached) with the exception of that area shown hatched black on the attached plan.
 - v. Remove all soils, inert waste, or other material arising from compliance with step (iv) from the land.
 - vi. Remove all stockpiles in the immediate vicinity of the Chieftain Power Screener (as shown in the attached photograph).
 - vii. Remove all vehicles, plant, and machinery associated with the compliance with steps (v) and (vi) from the land.
- The periods for compliance with the requirements are:
 - Step (i) - One (1) day from the date the EN takes effect
 - Step (ii) - One (1) day from the date the EN takes effect
 - Step (iii) - One (1) week from the date the EN takes effect
 - Step (iv) - One (1) calendar month from the date the EN takes effect
 - Step (v) - Six (6) weeks from the date the EN takes effect
 - Step (vi) - Six (6) weeks from the date the EN takes effect
 - Step (vii) - Eight (8) weeks from the date the EN takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the 1990 Act.

Summary Decisions: The ground (c) appeals fail, the ground (f) and (g) appeals succeed to an extent and subject to variations the Enforcement Notice is upheld.

Preliminary Matters

1. The Inquiry commenced on 14 July 2026 and was programmed to sit for 4 days with the 4th sitting day being held virtually on 24 July 2026. I undertook an accompanied site visit on the 14 July 2026 and an unaccompanied site visit on 16 July 2026. All the oral evidence given to the Inquiry was given by sworn oath or general affirmation.

2. The written and oral evidence before me refers to the planning merits of the development. However, there is no ground (a) appeal and no deemed planning application. My decision rests on the facts of the case, on relevant planning law and judicial authority. The test of evidence is made on the balance of probability. The appellants' evidence does not need to be corroborated by independent evidence for it to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellants' version of events less than probable, there is no good reason to dismiss the appeal, provided the appellants' evidence alone is sufficiently precise and unambiguous.

The Notice

3. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
4. The alleged breach of planning control is the increase of ground levels through the importation and processing of inert waste. Therefore, there is no dispute that the alleged breach constitutes operational development rather than a material change of use. Given the description of the alleged breach, in my judgement, it is reasonable to consider that the increase in ground levels was created by importing and processing inert waste and depositing that on the land. However, it is not clearly apparent from that description as to whether the processing of inert waste relates solely to inert waste that has been imported and/or inert waste that was already on the site prior to the breach occurring. The reasons given for issuing the EN provide no assistance in interpreting the description as they relate to use of the land.
5. Requirements (i) and (ii) state '*cease the importation of inert soils and similar material to the land*' and '*cease the processing, separation, screening of imported inert soils and similar material on the land*'. Whilst the wording of the requirements should reflect the wording of the alleged breach, my interpretation of the requirements is that the inert soils and similar material cited in both are '*imported*' as they result from importation. No other inert soils and similar material are referred to and as a result it is reasonable to find that the processing cited within the allegation relates only to the processing of imported inert waste. Therefore, to ensure that the requirements reflect that of the allegation and to ensure precision I intend to vary the terms of those requirements by; deleting the wording '*soils and similar material to the land*' and substitute it with the word '*waste*' in requirement (i); and deleting the wording of requirement (ii) and replace it with '*cease the processing of imported inert waste on the land*'.
6. Both parties were given the opportunity to comment on these variations and as they do not materially alter the EN there would be no injustice to either main party from those variations.

Background

7. The appeal site is on the northern side of Church Lane in Wormley. It was historically used for sand and gravel extraction. Planning permission¹ was granted in 1949 (the 1949 permission) for that sand and gravel extraction. In 1967 two ENs

¹ Ref No: E/280-48

were issued with the one EN² relating to *“the use of the premises and land on the north side of Church Lane, Wormley, for the preparation of soil for horticulture”*. An appeal against those ENs was allowed, the ENs were quashed and planning permission was granted for *“the continuation of the use of land comprising part of the gravel pit on the north side of Church Lane, Wormley, for the purpose of the preparation of soil for horticulture, subject to the condition that this use of the land be terminated on or before June 30th 1979”*.

8. In 1979 planning applications³ (the 1979 applications) for the *“continuation of use of gravel pit for the extraction of sand and gravel and continuation of filling and restoration”* and the *“continuation of use of gravel pit for preparation of soil for horticulture, together with landscaping of site”* were refused. In 1980 an EN (the 1980 EN) was issued with regard to:

“(a) the excavation of sand and gravel has been continued beyond the period of thirty years from the date of the first planning permission,

(b) restoration of the land in the manner required by the first planning permission has not been completed within thirty years from the date of that permission,

(c) the footpath has not been restored and reinstated, and

(d) the use of the land for soil preparation has been continued beyond the 30th day of June, 1979.”

9. The subsequent appeals⁴ relating to the 1980 EN and one of the 1979 planning applications were dismissed. John Croke’s father, William Croke, was given a license to manage the filling of the sand and gravel excavation with waste material by the then owner of the site CG Edwards. Mr Edwards was a nurseryman who was running the soil processing for horticulture operation cited in the 1979 applications. In 1983 William Croke purchased the appeal site from Mr Edwards and John Croke inherited the site in 2015 after his father passed away.
10. On part of the current appeal site an EN⁵ relating to the *unauthorised hard surfacing of land* was issued in 2021 (the 2021 EN) and the associated appeal⁶ was dismissed. Another EN⁷ was issued in 2023 (the 2023 EN) relating to *‘Without planning permission the material change of use to a mixed use of the land for open commercial storage, industrial and waste transfer purposes and associated operational development* (as corrected on appeal) on a similar part of the site as the 2021 EN. An application⁸ for a certificate of lawfulness for *existing use as a builder’s yard storage (open and covered)* was refused in 2023 and the subsequent appeals⁹ were dismissed.

The ground (c) appeals

11. To be successful on a ground (c) appeal it is incumbent on the appellants to show, on the balance of probabilities, that the increase of ground levels through the

² Ref No: E/98-68 and APP/1219/C/10161 and 10464

³ Ref No: 7/520-79 & 7/584-79

⁴ Ref No: APP/5059/C/80/441 & APP/5251/C/80/469 & APP/5251/A/80/01164

⁵ Ref No: ENF/21/0001

⁶ Ref No: APP/W1905/C/21/3275809

⁷ Ref No: ENF/23/0059

⁸ Ref No: 07/20/1100/LDC

⁹ Ref No: APP/W1905/X/23/3327096 & APP/W1905/C/23/3328124

importation and processing of inert waste does not constitute a breach of planning control. The appellants' case is that the restoration of the site required by condition 5 of the 1949 permission and requirement 1(c) of the 1980 EN has not been completed and therefore the 1980 EN has not been complied with. They also state that the alleged development is part of the restoration operation required by the 1980 EN and does not therefore require planning permission.

12. Firstly, I shall interpret the detail of condition 5 of the 1949 permission. This will enable an assessment of; the historical documentation relating to the restoration of the sand and gravel site and whether the County Council considered, historically, that condition 5 and the 1980 EN had been complied with. If the condition/1980 EN was not considered to have been complied with, it will then be necessary to decide whether or not the increase of ground levels through the importation and processing of inert waste complies with that condition/1980 EN. If I find that it was considered that the condition/1980 EN was complied with or the alleged development does not comply with them, it will then be necessary to consider whether the alleged development constitutes a breach of planning control.
13. Condition 5 of the 1949 permission states *"The complete refilling of the excavation to the level of the surrounding ground, covering with a surface layer of soil not less than 12 inches deep capable of supporting plant life, and the initial cultivation of the site to the satisfaction of the Local Planning Authority"*. Requirement 1 (c) of the 1980 EN states that *"Within the period of two years beginning with the date on which this Notice takes effect to restore the land in the manner required by the first planning permission."* The first planning permission is defined as the 1949 permission within that EN.
14. In my judgement, condition 5 can be interpreted as comprising three parts. They are:
 - The complete refilling of the excavation to the level of the surrounding ground;
 - covering with a surface layer of soil not less than 12 inches deep capable of supporting plant life; and
 - the initial cultivation of the site to the satisfaction of the Local Planning Authority.

There is no dispute that the complete refilling of the excavation was completed. The dispute relates to the second and third parts of that condition. Within the second part the required layer of soil must be not less than 12 inches deep and capable of supporting plant life. The type of soil is not defined, and neither is the type of plant life. The only specification relating to the initial cultivation of the site is that it must be to the satisfaction of the Local Planning Authority.

15. The Inspector's Report¹⁰, relating to the 1980 EN appeal, states at paragraph 9 that *"Within the site about 2/3 of its total area has been filled to about the height of surrounding land leaving a central pit area at a much lower level.....The filled area is far from level and has not been graded, landscaped or top-soiled. In parts of this area there are many heaps of turf and earth and a few heaps of peat and horse manure: these are the ingredients of the appellants' soil processing work."* At

¹⁰ CD5.3

paragraph 40 the Council's witness, Mr Unthank, was stated as indicating that *"restoration of the pit is still far from complete although the appellants must have been aware of this requirement....parts of the site have been refilled and levelled to the original contours but they have not yet been topsoiled..."* Therefore, it is clearly apparent that in 1980 approximately two-thirds of the excavation had been refilled.

16. A Site Inspection Note¹¹ dated 25 August 1982 states that *"No attempt had apparently been made to identify the overgrown stockpiles, nor had the north-eastern part of the site been levelled, and the material deposited round the base of the tree belt to the south of the site running parallel to the haul road had not been cleared away. Whilst Mr. Croak had continued to fill the main void, he had had no instructions to deal with other parts of the site. Some piles of subsoil had however appeared in the north-western sector of the site, and this would be used as cover material."* It is reasonable to deduce that the Mr Croak cited in this note is William Croke. Moreover, it is clear that the void was still being filled at this point and that piles of subsoil were on part of the site and that they were intended to be used as cover material.
17. Handwritten site inspection notes¹² dated 30 September 1982 and 13 October 1982 indicate that the infilling was progressing well and that suitable cover material was being stockpiled to the north of the site. Handwritten site inspection notes¹³ dated 28 January 1983 and 10 March 1983 indicate that the final layer of waste was being tipped and covered with soil on the western half of the main excavation in January and by March it awaited capping with imported subsoil. A letter¹⁴ dated 14 March 1983 from the County Secretary states that *"I understand that tipping at the site is now virtually completed although there is still some work to be done on the restoration of the site"*.
18. A letter,¹⁵ dated 15 June 1983, from Mr Unthank states that *"whilst infilling with waste material continues, your client should make every effort to obtain sufficient clean soil to comply with the requirements of.....condition 5 of the planning permission"*. Another letter,¹⁶ dated 2 August 1983, from Mr Unthank states that *"The deepest part of the former ballast pit has now been filled and awaits the spreading of subsoil. All that remains to be filled is a low lying area to the north east of the site and two isolated depressions on the site's northern boundary. The latter are areas previously filled which have now settled. To compensate for settlement in the longer term fill material has been used to dome parts of the site. Although this has required a larger volume of material it is anticipated that it will result in a better standard of restoration being achieved. The site operator estimates that at the current rates of intake infilling with waste will be completed in little more than a couple of months. Thereafter the number of lorry movements to the site should substantially reduce as only subsoil and topsoil will be brought into the site. Although adverse weather conditions may delay the replacement of topsoil until the spring of 1984 the site operator anticipates that the site will be covered with subsoil and graded by the end of 1983."* From this later letter it is clear that by August 1983 the County Council considered that most of the

¹¹ CD5.5

¹² CD5.8

¹³ CD5.10 & CD5.11

¹⁴ CD5.12

¹⁵ CD5.13

¹⁶ CD5.6

excavation had been filled, that the spreading of subsoil was due to take place by the end of 1983 and the replacement of topsoil by the spring of 1984.

19. On 20 January 1984 the County Secretary wrote to William Croke and stated “*A recent inspection of your site showed that the level and profile attained by the tipped waste are such that final restoration of the whole site should now be commenced. I am therefore writing to advise you of the views of both the County Planning Officer and the County Environmental Services Officer that from 1st February 1984 the only waste deposited on the site should be clean soil or other soil-forming material in accordance with..... and the conditions of Planning Permission E/280-48 dated 30th June 1949.*” This letter indicates that the excavation had by that date been refilled. Therefore, as stated previously there is no dispute that the first part of condition 5 had been met. It also indicates that the County Council anticipated that additional ‘*clean soil or other soil-forming material*’ was required to comply with the 1980 EN and condition 5 of the 1949 permission.
20. A further letter¹⁷ sent by the County Secretary, dated 24 May 1984, indicates that ‘*the deposit of soil is still taking place on this site*’. In November 1984¹⁸ William Croke’s agent withdrew his waste licence appeal. In my judgement, the withdrawal of that appeal indicates that no further waste, that would have required a waste licence, was to be brought onto the land.
21. An undated site report¹⁹ (the undated report) states that “*by February 1983 it was apparent that the infilling would not be completed on schedule but in view of the steady progress being made, despite the slow start, legal proceedings were deferred because such action would have interrupted the works and caused unnecessary delay. Infilling was completed within the year, however, and imported subsoil was spread shortly after. The site has been covered with soil to a depth in excess of the 12 inches required by the planning conditions and whilst such conditions by today's standards are inadequate, they have technically been complied with. In the absence of aftercare provisions, however, the site operator, who now owns the land, cannot be compelled to properly restore and manage the site. He is being encouraged to clear the site, level stockpiles of soil, stone pick, cultivate and seed the land. An access road and small area of hardstanding will be retained.*” Given the facts stated in the report it must have been drafted after February 1984. Moreover, Mrs Threlfall’s evidence is that the report was found in the file after November 1984 and before March 1986.
22. In April 1986 the County Secretary sent out a letter²⁰ (the April 86 letter) which states “*I have been informed by the County Planning Officer that you have failed to comply with an Enforcement Notice which was upheld on appeal by the Secretary of State.....The initial cultivation has not been completed to the satisfaction of the County Planning Officer and he requires that attention be given to the following :-*
 - 1) *The removal of all stones and other debris in excess of 75mm in diameter from the surface layer of the subsoil.*
 - 2) *The application of weed killer, deep cultivation and further stone picking.*

¹⁷ CD5.15

¹⁸ CD5.16

¹⁹ CD5.30

²⁰ CD5.17

- 3) *The placement of topsoil/topsoil substitute, light cultivation and seeding with grass ley. Application of fertilizer and weed killer as appropriate.*
 - 4) *The removal of the derelict site hut and redundant vehicles, plant and other machinery.*
 - 5) *A general 'tidy up' of the site is required including fly tipped rubbish.*
 - 6) *Replanting of the Hawthorn hedge on the northern boundary."*
23. Follow up letters in May 1986²¹ and January 1987²² requesting that the actions cited in the April letter be carried out were sent by the County Secretary. A site Inspection Note²³ dated 5 August 1987 written by Mr Unthank states *"Whilst I was showing the site from the public footpath, Mr Croke, the site owner arrived. As I had parked my car in the entrance and was blocking access to the site, I rushed across to him apologising, and offered to move my car. Mr Croke reacted rather violently to my apology. Either he was already aggrieved or was annoyed by our presence on site, but he began a colourful tirade of verbal abuse, punctuated with numerous expletives. He accused us of trespassing, and me in particular of harassing him over the past 3 years, In quite emphatic terms he stated that he had no intention whatsoever of complying with the County Council's requirements as had been set out in various letters to him from the County Planning and Estates Officer."*
24. On 3 September 1987 an internal memorandum²⁴ (the 87 memo) sent to Mr Unthank states that *"having considered the history of this site, I am of the opinion that a prosecution for failure to comply with the Enforcement Notice will be inappropriate in this case. The County's position is not as good as it could be for a variety of reasons, including the fact that a considerable length of time has elapsed since works were completed at the site. I believe that if Mr Croke were forced to carry out the works which the County would like done at the site, this may well stir up a hornet's nest with local residents, who I understand are quite happy for operations to have now ceased at the site and would not wish to see new activity and the resulting lorry movements in the locality. I do regret that it has not been possible to persuade Mr Croke to improve the site and generally "tidy" it up but do not propose to take any further action on this file."*
25. On 8 April 1988 Mr Unthank on behalf of the County Planning and Estates Officer sent out a letter (the 88 letter) to a Conservation Society in respect of the appeal site. It states *"In previous discussions and correspondence you will recall I emphasised that the planning conditions relating to this site were compiled before 1950 when Town and Country Planning was in its infancy. Consequently the conditions are spartan, basic and inappropriate by today's standards especially if an arable after use was envisaged. Whilst sharing your Society's view that the site does not measure up to contemporary standards of restoration the Public Footpath has been reinstated, the landform is acceptable and the site is covered by a depth of soil evidently capable of supporting plant growth albeit a poor vegetation. Legally, therefore, the conditions have to all intents been satisfied and as the site owner has sought legal advice he is well aware that in view of the foregoing any further legal action by this Council would almost certainly be in vain.....I note your*

²¹ CD5.18

²² CD5.19

²³ CD5.21

²⁴ CD5.20

concern and it is with regret that I am unable to bring about a wholly satisfactory conclusion, although my officers have made attempts to persuade the land owner to undertake remedial measures beyond that legally required."

26. Mr Unthank appears to have dealt with the appeal site from at least 1980 until 1988 and inspected it on several occasions. Therefore, he would have been able to assess or estimate whether *'a surface layer of soil not less than 12 inches deep capable of supporting plant life'* was covering the site. The undated report states that there was in excess of 12 inches of soil covering the site and the 88 letter states that the site is covered by a depth of soil. Mr Croke's oral evidence stated that no topsoil was imported on the site in the 1980's and that the only topsoil would have been that associated with Mr Edwards's business. Yet, the second part of the condition does not refer to topsoil it only states soil. Therefore, the subsoil or muck described by Mr Croke as covering the waste or fill material can reasonably be treated as complying with that part of the condition. The undated report and the 88 letter indicate that the County Council considered that the soil supported plant life. As such, on the balance of probabilities, it is more likely than not that the County Council considered the second part of the condition had been met by 1988.
27. The third part of the condition relating to the initial cultivation of the site to the satisfaction of the LPA relates to a subjective judgement to be taken by the County Council. In my judgement, the wording of the third part of the condition is not precise, as what constitutes initial cultivation is open to interpretation. I acknowledge that the April 86 letter states that the 1980 EN had not been complied with and the initial cultivation of the site had not been carried out to the satisfaction of the County Planning Officer. However, there is little to indicate whether points 1 through to 6, set out in paragraph 22 of this decision, needed to be completed to meet the initial cultivation part of condition 5.
28. Moreover, given the contents of the undated report, the 87 memo and the 88 letter it is more likely than not that the points 1-6 cited in the April 86 letter were the County Council trying to encourage and persuade Mr Croke to improve the site and generally tidy it up. This is because the points in that letter reflect that cited within the undated report i.e. *'clear the site, level stockpiles of soil, stone pick, cultivate and seed the land'*. In addition, the 87 memo states that *'it has not been possible to persuade Mr Croke to improve the site and generally "tidy" it up'* and the 88 letter states *'although my officers have made attempts to persuade the land owner to undertake remedial measures beyond that legally required'*.
29. There is no indication within the condition or the related decision notice as to what constitutes initial cultivation. The 88 letter highlights that even at that time the County Council considered that the conditions were spartan, basic and inappropriate. It appears that both the County Council and Mr Croke had taken legal advice at some time before the date of the 88 letter. I acknowledge that the phrase *'the conditions have to all intents been satisfied'* does not state categorically that condition 5 has been complied with. However, when read holistically the undated report, the April 86 letter, the 87 memo and the 88 letter, to my mind, demonstrate that the County Council at that time determined that technically the condition had been complied with and there was no further action they could take because of the wording of that condition.
30. Therefore, on the balance of probabilities, it is more likely than not that by 8 April 1988 the County Council considered that condition 5 of the 1949 permission and

requirement 1 (c) of the 1980 EN had been complied with. There is no dispute that inert waste has been imported and processed on the site and that that inert waste has increased the ground levels on part/s of the appeal site. I acknowledge that there is disagreement as to where on the site the imported inert waste has been deposited. Nevertheless, the increase of ground levels constitutes an engineering operation. That increase in ground levels was created by importing and processing inert waste and depositing that on the land. By virtue of sections 55 and 57 of the 1990 Act, engineering operations constitute development and planning permission is required for such development. Planning permission has not been granted and therefore the ground (c) appeals fail.

The ground (f) appeals

31. A ground (f) appeal is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The steps are clearly aimed at remedying the breach.
32. The appellants have stated that they consider the steps in this case exceed what is necessary in four respects; their interaction with the 2021 EN; the unexplained use of the 2024 datum; the treatment of the hatched area and the stockpiles; and the blanket removal of plant and machinery. At the Inquiry variations to the requirements were discussed and based on those discussions a potential list of variations was produced for the parties to comment on, and an amended plan was submitted by the Council.
33. There is no dispute that requirements (iii) and (iv) of the 2021 EN which state :- restore the site to the condition that existed before the breach of planning control described above took place; grade the land with topsoil and sow the bare earth with grass seed, have not been complied with. The 2021 EN covered only part of the current appeal site. There is no dispute that the drawing cited within requirement (iv) of the EN before me relates to a topographical survey carried out in October 2024. As such, requirement (iv), of the EN before me, could fetter the steps required to ensure compliance with the 2021 EN and in that respect it is excessive.
34. Mr Croke's oral evidence is that the only action carried out prior to the topographical survey being drawn up was the removal of vegetation by scraping it back. However, Mr Croke's proof of evidence states that he began by scraping back the surface material across parts of the site. Therefore, there is ambiguity as to whether the ground levels shown on the topographical survey represent the ground levels prior to the alleged breach occurring. The reference to the topographical survey within requirement (iv) could therefore be excessive and in my mind it exceeds what is necessary and I will delete it. I note that the Council considers that without reference to that drawing the step would be too imprecise/vague. However, the appellants should have the best knowledge of what the previous condition of the land was, in respect of the ground levels, prior to the alleged breach occurring. As a result, I consider that without reference to the topographical survey the requirement would not be imprecise.
35. The ground levels of the area hatched on the plan attached to the EN would not need to be altered as they are excluded from requirement (iv). There is no dispute that the stockpiles cited within requirement (vi) would not need to be removed from

the site given the wording of that requirement. The variation of requirement (iv) would ensure that the pre-existing ground levels would be restored, therefore requirement (vi) is excessive. As I have varied requirements (i) and (ii) to refer to 'the importation of inert waste' and 'imported waste', requirement (v) also needs to reflect that of the allegation. The Council has questioned how it would be possible to know what is imported inert waste and what is said to have arisen from the site. However, as stated above, the appellants should have the best knowledge of what waste was imported onto the site.

36. Requirements (iii) and (vii) both refer to the removal of plant and machinery and the Council confirmed at the Inquiry that requirement (iii) only applied to the Chieftain Power Screener. To ensure that there is no ambiguity I intend to amalgamate those requirements into one step relating to all vehicles, plant and machinery associated with the alleged breach of planning control. The appellants consider that planning permission is not required for the screening of soil/material that pre-existed on the site. They therefore consider that vehicles, plant and machinery associated with that screening should be allowed to remain on the site. However, it was agreed at the Inquiry that the lawful use of the appeal site is a nil use. The Council has stated that the screening of soil/material and removal of hardcore/large pieces of concrete/material that has been screened out could constitute an engineering operation and/or a material change of use. In any case, in paragraph 5 of this decision I have found that the processing cited within the allegation relates only to the processing of imported inert waste.

37. Taking into account all of the above I intend to delete the wording of requirements (iii) through to, and including, (vii) and substitute them with the following wording:

(iii) Regrade the ground levels of the part of the land shown cross hatched black, on Plan A attached to this decision, to that which existed immediately prior to the increase of ground levels through the importation and processing of inert waste taking place.

(iv) Within the area hatched in red, on Plan A attached to this decision, restore that area to the condition that existed before the breach of planning control described in the enforcement notice ENF/21/0001, issued on 4 May 2021, took place and grade that area with topsoil and sow the bare earth with grass seed.

(v) Remove all imported inert waste arising from compliance with steps (iii) and (iv) from the land.

(vi) Remove all vehicles, plant and machinery, associated with the increase of ground levels through the importation and processing of inert waste, from the land.

38. The variations would ensure that the requirements would do no more than remedy the breach of planning control. The ground (f) appeals succeed to that extent.

The ground (g) appeals

39. A ground (g) appeal is that any period specified in the EN in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed. There is no dispute that requirements (i) and (ii) have been complied with as a result of the issuing of the stop notice. At the Inquiry Mr Croke stated that the principal physical works as required by the requirements, as varied, of the EN could

be carried out in a period of 3 months. It was also noted that those physical works would need to be carried out during the Autumn/Winter if the ground (c) appeal failed. It is clear that steps (iii), (iv) and (v) of the varied EN would be weather dependant and could be carried out over the same period. To ensure that a reasonable time to undertake those steps is given I intend to delete the times for compliance for steps (iii), (iv), (v) (as varied) and substitute them with 7 months.

40. The physical removal of the Chieftain Power Screener from the site could be undertaken within a day as that is the time taken to bring it onto the site. However, it is a large piece of plant/machinery and, evidence to the Inquiry, was that the preparations for its removal, its storage elsewhere or its sale are relatively complex and could take a relatively long time. I accept that this piece of plant/machinery would not appear to be necessary to enable the appellants to comply with steps (iii), (iv) or (v) of the varied EN. However, as it is part of the plant and machinery cited within step (vi), as varied, it would have to be removed within the compliance period for that step. Other vehicles plant and machinery would be required to comply with those steps therefore the compliance period for step (vi) needs to be later than those steps. That would also ensure there is sufficient time to remove the power screener. I therefore, intend to substitute 8 months as the time to comply with step (vi).

41. The ground (g) appeals succeed to that extent.

Conclusions – Appeal A and Appeal B

42. For the reasons given above, I conclude that the ground (c) appeals fail yet the requirements of the EN are excessive to remedy the breach of planning control and the periods for compliance with the EN fall short of what is reasonable. I shall vary the EN prior to upholding it. The appeals on grounds (f) and (g) succeed to that extent.

Formal Decisions – Appeal A and Appeal B

43. It is directed that the EN is varied by:

- the deletion of the wording '*soils and similar material to the land*' and substitute it with the word '*waste*' in requirement (i); and
- deleting the wording of requirement (ii) and substituting it with '*cease the processing of imported inert waste on the land*'; and
- the deletion of the wording of requirements (iii) through to, and including, (vii) and substitute them with the following wording:
 - (iii) Regrade the ground levels of the part of the land shown cross hatched black, on Plan A attached to this decision, to that which existed immediately prior to the increase of ground levels through the importation and processing of inert waste taking place.
 - (iv) Within the area hatched in red, on Plan A attached to this decision, restore that area to the condition that existed before the breach of planning control described in the enforcement notice ENF/21/0001, issued on 4 May 2021, took place and grade that area with topsoil and sow the bare earth with grass seed.
 - (v) Remove all imported inert waste arising from compliance with steps (iii) and (iv) from the land.

(vi) Remove all vehicles, plant and machinery, associated with the increase of ground levels through the importation and processing of inert waste, from the land.

- the deletion of times for compliance with steps (iii), (iv), (v), (vi) and (vii) and their substitution with: 7 months as the period for compliance with steps (iii), (iv) and (v) and: 8 months as the period for compliance with step (vi).

44. Subject to the variations, the EN is upheld.

D Boffin

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Simon Bell	Counsel instructed by KS Town Planning
Jennifer Thompson	Director of Thompson Planning Ltd
John Croke	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Leanne Buckley-Thomson	Counsel instructed by Broxbourne Borough Council (BBC)
Laura White	Senior Planning Enforcement Officer (BBC)
Sharon Threlfall	Principal Enforcement & Monitoring Officer, Hertfordshire County Council

FOR THE RULE 6 PARTY

Asif Chaudhery	Serenity Welfare
----------------	------------------

DOCUMENTS SUBMITTED DURING THE INQUIRY

Appeal Decisions - APP/D5120/C/20/3255738 & APP/X2600/C/22/3310971

Amended Plan – Plan A



Plan A

This is the plan referred to in these decisions dated:

by D Boffin

Appeal A Ref: APP/W1905/C/26/3378144,

Appeal B Ref: APP/W1905/C/26/3378145

**Land adjacent to Darcy's Place, Little Broomfield, Church Lane, Wormley
EN10 7QF**

Scale: Not to Scale

