



Appeal Decisions

Site visit made on 23 March 2026

by Thomas Shields DipURP, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Land at Limehouse Nursery (also known as 401 Eastwood Road), The Drive, Rayleigh, Essex, SS6 7LJ

Appeal A Ref: APP/B1550/C/25/3372996

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Sandra Poole against an enforcement notice issued by Rochford District Council.
- The notice was issued on 20 August 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of land in the Metropolitan Greenbelt from garden centre to use for the display and sale of vehicles and the stationing of a sales office pod/office (the car sales as occupied-by Vision Wheels Limited operating in the area shown in the approximate location marked 'C' and crosshatched on the attached plan).
- The requirements of the notice are:
 1. Permanently cease the use of the land for the display and sale of vehicles
 2. Permanently cease the use of the stationed sales pod/office.
 3. Remove from the site all vehicles and the sale pod/office associated with this business as described in the alleged breach
 4. Remove from the site all associated signage and artefacts associated with this business use as described in the alleged breach.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/B1550/C/25/3372997

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Sandra Poole against an enforcement notice issued by Rochford District Council.
- The notice was issued on 20 August 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of land in the Metropolitan Greenbelt from garden centre to use for the display and sale of vehicles and the stationing of a sales office pod/office (the car sales as occupied by Aspire Automotive Limited and M&A Motors Specialist Limited operating within the area shown-in the approximate location marked 'B' and crosshatched on the attached Plan).
- The requirements of the notice are:
 1. Permanently cease the use of the land for the display and sale of vehicles
 2. Permanently cease the use of the stationed sales pod/office.
 3. Remove from the site all vehicles and the sale pod/office associated with this business as described in the alleged breach
 4. Remove from the site all associated signage and artefacts associated with this business use as described in the alleged breach.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal C Ref: APP/B1550/C/25/3372998

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Sandra Poole against an enforcement notice issued by Rochford District Council.
 - The notice was issued on 20 August 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of land in the Metropolitan Greenbelt from garden centre to use for the display and sale of vehicles and the stationing of a sales office pod/office (the car sales as occupied by Stewart Automotive Limited operating within the area shown in the approximate location marked 'A' and crosshatched on the attached Plan).
 - The requirements of the notice are:
 1. Permanently cease the use of the land for the display and sale of vehicles
 2. Permanently cease the use of the stationed sales pod/office.
 3. Remove from the site all vehicles and the sale pod/office associated with this business as described in the alleged breach
 4. Remove from the site all associated signage and artefacts associated with this business use as described in the alleged breach.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A

1. It is directed that the notice be corrected and varied by replacing the word “blue” with “red” in Section 2, and replacing “3 months” with “6 months” in Section 6. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. It is directed that the notice be corrected and varied by replacing the word “blue” with “red” in Section 2, and replacing “3 months” with “6 months” in Section 6. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

3. It is directed that the notice be corrected and varied by replacing the word “blue” with “red” in Section 2, and replacing “3 months” with “6 months” in Section 6. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal sites and preliminary matters

4. Appeals A, B and C relate to three separate planning units used for the display and sale of vehicles as set out in the banner headings above. They are located very close together to the southern end of a much larger parcel of land. To the north of the appeal sites the larger parcel is occupied by a residential property (Lime House) and a former garden centre with associated land and buildings in different commercial uses.

5. The alleged breach and requirements of the notices, and the grounds of appeal and the appellant are the same in all three appeals. To avoid duplication I have therefore determined all three appeals together as far as possible.
6. To the north and west of appeal sites A, B and C, a unit of land was subject of two recent appeals.¹ The appeal Decisions in those appeals, as far as they have any relevance, are a material consideration I have taken into account in these appeals.
7. The parties were invited to submit any further comments they might wish to make with regard to the recently revised National Planning Policy Framework (2026). No comments were received. I have taken the revised Framework into account in reaching my Decision.

APPEALS A, B, C

Appeals on ground (e)

8. An appeal on this ground is that copies of the enforcement notices were not served as required by s172 of the Act.
9. The key issue is whether the notices were properly served on the owners and occupiers of the land to which they relate, and on any other persons having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice. It is for the Council to decide who is materially affected, but it runs the risk of a notice being quashed if it exercises its discretion erroneously.
10. There is no dispute that the appellant was properly served in accordance with the Act. The appellant's case is that one of the persons served with copies of the notices had unfortunately passed away.
11. However, these circumstances do not amount to a failure of service. A failure would only occur if a living person who should have been served with a copy of a notice when it was issued, as required by the Act, was not so served. Persons who are deceased at or after the date of issue of a notice, or living persons who are not materially affected by a notice, are not required to be served. Consequently, I find there to be no failure of service.
12. The appeals on ground (e) therefore fail.

Appeals on ground (c)

13. A breach of planning control is defined at s171A(1)(a) of the Act to include the carrying out of development without the required planning permission, and s55 of the Act defines "development" to include the making of *a material change of use*. An appeal on ground (c) is that the matters alleged in a notice do not constitute a breach of planning control.
14. For this ground of appeal the onus of proof falls to the appellant, with the evidence being tested on the balance of probabilities.
15. As set out in PPG² there is no statutory definition of a *material change of use*. Whether a material change of use has taken place is a matter of fact and degree to

¹ APP/B1550/C/25/3372995, APP/B1550/C/25/3375598

² Planning Practice Guidance: Paragraph: 011 Reference ID: 13-011-20140306

be determined on the facts and circumstances in any particular case. Critically, a material change of use incorporates a significant difference in the character of activity from what has taken place previously. Any off-site effects can be material considerations in making such a judgment but are not determinative by themselves.

16. The former use of the land in the appeal sites was for parking connected with the former garden centre falls within Use Class E(a) of the Order.³ The current use for car sales is *sui generis*, hence not within Use Class E(a). Hence, the change of use from the former to the latter is not exempt via section 55(2)(f) of the Act.
17. With regard to the former ancillary use for parking in connection with the garden centre, people would generally park their cars and leave them unattended until return before exit. Outside of opening hours the car parks would be empty. The current use now involves display and sales activity which would involve staff and customers congregating around vehicles displayed for sale, together with the siting of a sales office unit to conduct business. Outside of opening hours the appeal sites would remain full of cars rather than being empty of vehicles. Additional activity normally found for such vehicle sales use is the delivery of vehicles for sale, and cleaning/valeting and other preparation of vehicles.
18. All of this activity combined with the obvious physical presence of the office units on the sites and signage results in a marked functional and visual change to the character of the use of the land from what previously took place and is single primary use of the land on each appeal site. As a matter of fact and degree I conclude on balance that the change in the use of the appeal sites for the display and sales of vehicles has resulted in a material change of use in each case which requires planning permission.
19. Since no planning permission has been granted the material change of use is a breach of planning control.
20. Consequently, the appeals on ground (c) fail.

Appeals on ground (a)/deemed applications for planning permission

Main Issues

21. The main issues are

- (i) whether the development is inappropriate development in the Green Belt;
- (ii) the effect on the character and appearance of the area and on the living conditions of nearby local residents;
- (iii) if inappropriate development, whether other considerations amount to very special circumstances to justify granting planning permission.

Reasons

Issue (i) - Whether inappropriate development in the Green Belt

22. Policy GB1 of the Rochford District Core Strategy (2011) and Policies DM10, DM11 and DM32 of the Rochford District Council Development Management Plan (2014)

³ Town and Country Planning (Use Classes) Order 1987

- relating to Green Belt do not fully reflect latest national policy on Green Belt in the recently published Framework. As such, I place greater weight on the Framework.
23. The Framework sets out that the objective of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential features of Green Belts are their openness and permanence.
 24. Development in the Green Belt is inappropriate unless it falls within one of the categories in Framework Policy GB7. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
 25. An exception to being inappropriate development at Policy GB7:1e is the *redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential), which would not cause substantial harm to the openness of the Green Belt.*
 26. Since the areas of land in the three appeal sites were already hard-surfaced and in use for ancillary parking in connection with the garden centre, they constitute previously developed land as set out in the Framework.
 27. Openness has spatial and visual contexts, both of which should be taken into account. Any effects should also be assessed against the baseline position, being the previously developed condition and use of the three sites.
 28. Compared to the previous use of the appeal sites, as I set out earlier in ground (c), there would be a significantly greater reduction in both visual and spatial openness resulting from the constant presence of vehicles stored on site, together with a sales office, signage, and on site activity relating to vehicle preparation, testing and other customer related activity.
 29. Unlike the more contained and less visible development to the north and northwest of the appeal sites, including the development subject of the recent appeals,⁴ the reduction in openness on these three appeal sites relates to formerly open land when it was not used for parking during garden centre opening hours. While there is some southern boundary vegetation the reduction in openness I have described is significantly more intrusive and visible from outside of the sites. As such, in each case I find the development on all three sites results in substantial harm to the openness of the Green Belt. It does not therefore qualify as an exception within Policy GB7:1e.
 30. Another exception to inappropriate development at Framework Policy GB7:1g relates to circumstances where land, if it meets the definition of 'grey belt' land, also meets the requirements at 1g(i) to (iv). Grey belt is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in policy GB2. In this regard Purpose (a) is to *check the unrestricted sprawl of large built-up areas*; and purpose (b) is to *prevent neighbouring towns merging into one another.*
 31. Having regard to the criteria⁵ for considering contributions that areas make to Green Belt purposes, I find that the relatively open condition of the land across the whole of the southern end of the former garden centre site, albeit hard surfaced

⁴ APP/B1550/C/25/3372995, APP/B1550/C/25/3375598

⁵ Framework Annex E

and formerly used for ancillary parking, was relatively free of existing development. All three sites are also adjacent and near to a large built-up area. As such, the three sites are located within a substantial part of a gap between Rayleigh and Eastwood, and the current developments results in the loss of their visual separation. In light of these factors and having regard to all other evidence before me and from my own observations, I find that the land subject of the three appeals contributes strongly to Green Belt purposes (a) and (b). Consequently, the land subject of the three appeals is not grey belt land. It does not therefore fall to be considered as an exception to inappropriate development in Policy GB7:1g.

32. To conclude on this issue, the development subject of the three appeals is inappropriate development in the Green Belt, which is harmful by definition, and to which I attach substantial weight.

Issue (ii) - Character and appearance and living conditions

33. Other than the former garden centre buildings and other developments to the north, the former open parking areas are surrounded by residential housing to the west on The Drive, by open land and some housing to the south along Eastwood Road, and an undeveloped wooded area to the east. These features, along with the previously open areas within the appeal sites, together form the prevailing character and appearance of the area.
34. The new use of the land in all three sites has introduced much greater activity, signage, and office structures as previously described. It results in harm from a much more overtly visible commercial use which appears out of place and intrusive into the prevailing character and appearance of the area I have described. It thereby conflicts with Framework Policy DP3.
35. While conditions could be imposed to require boundary treatment planting, this would not in my view adequately mitigate the harm I have described.
36. There may be some increased noise from staff and customers, and perhaps from vehicle preparation and deliveries. However, no noise assessment of current use and activities is before me, and no restricted hours of use are proposed. In the absence of such information I cannot be sure that the use of the appeal sites would not result in unacceptable levels of noise and disturbance to nearby local residents. Consequently, in the absence of convincing evidence to the contrary, I find there would likely be harm to local residents from noise and disturbance in conflict with Framework Policy P3.

Issue (iii) – Other considerations

37. I acknowledge the current use of the appeal sites continue to generate employment opportunities in accordance with Core Strategy (CS) Policy ED3, with related secondary benefits such as business rates revenue and support for related supply chain businesses, and generated personal income being spent locally contributing to the economic vitality of the area.

Planning Balance

38. For the reasons set out previously the development on the three appeal sites subject of the appeals constitutes inappropriate development in the Green Belt which is harmful by definition and to which I attach substantial weight. I have also found some harm to the character and appearance of the area and to the living

conditions of nearby residential occupiers which collectively adds a degree of further weight.

39. Although there are economic benefits from the current use of the appeal sites as employment generating sites supported by CS Policy ED3, the current uses are harmful. I see no reason why alternative employment uses could not take place which utilise the appeal sites and without resulting in the harm I have identified. Also, the same benefits flowing from the current uses could be achieved at a different location(s) without resulting in the harm I have identified.
40. As such, these benefits add only little weight in support of allowing the appeals. Moreover, they do not clearly outweigh the totality of harm to the Green Belt and other harm I have identified, and hence do not amount to very special circumstances.
41. For all these reasons, and having regard to Framework Policy GB6 and to the presumption in favour of sustainable development, I find on balance that the benefits of the development are substantially outweighed by its adverse effects. As such, the development subject of the appeals also conflicts with the Council's Development Plan taken as a whole.
42. I conclude therefore that the appeals should not succeed. The enforcement notices are upheld and planning permission is refused on the applications deemed to have been made under section 177(5) of the Act.

Appeals on ground (g)

43. An appeal on ground (g) is that the period for compliance with the requirements of the notices falls short of what should reasonably be allowed. The notices require compliance within 3 months, the appellant seeks 12 months.
44. The breach of planning control and its harmful effects should be remedied as soon as possible. In this regard I see no reason why the physical act of ceasing the use of the site and complying with the remaining notice requirements could not be completed within 3 months. Additionally, there is no leasehold, tenant or other information before me to indicate that any contractual notice periods that may be held by site occupiers exceed 3 months. As such I am not persuaded these considerations justify an extend period of time for compliance. However, I do accept that finding and securing alternative sites from which to operate the businesses may may take longer than 3 months.
45. Overall, I consider a period of 6 months would be more reasonable. The appeal succeeds to this extent and I will vary the notice accordingly.

Thomas Shields

INSPECTOR