
Appeal Decision

Site visit made on 1 September 2026

by **Peter White** BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2026

Appeal Ref: APP/N0410/X/24/3345670

Link Park Heathrow, Thorney Mill Road, West Drayton UB7 7EZ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development ("LDC").
- The appeal is made by Outback UK Propco I B Ltd against Buckinghamshire Council.
- The application ref PL/23/4001/SA is dated 14 December 2023.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) ("the Act").
- The use for which a certificate of lawful use or development is sought is described as use of the site for industrial outdoor storage.

Summary of decision: The appeal is dismissed.

Preliminary Matters

1. Link Park comprises an area of land which lies partly within Buckinghamshire and partly within the London Borough of Hillingdon. The application before me relates only to those parts within the Buckinghamshire Council administrative area.
2. The boundary between the two administrative areas is an irregular one, which dissects the land parcels described as Plot 2, Plot 4, Plot 5, Plot 6A and Plot 6B. On 19 May 2020 the Council for the London Borough of Hillingdon issued a LDC under Section 191 of the Act for use of the parts of the land in its area for open storage (Reference: 73420/APP/2020/1076).
3. The appeal is made on the basis that Buckinghamshire Council failed to determine the application made within the prescribed time period. The Council has advised that they would have refused the application for the following reason: "The proposed use of the site for industrial storage (B8 use) is considered to amount to a material change of use and therefore planning permission is required."
4. A second application, made on the same basis, was refused by the Council for the same reason on 16 October 2024. That application is not before me.

Main Issue

5. The main issue is whether, had the Council refused to grant a certificate, that refusal would have been well founded.

Reasons

The law in relation to LDCs

6. Section 192 of the Act makes provision for applications to ascertain whether any proposed use of buildings or other land would be lawful if instituted or begun at the time the application was made.

7. Section 191(2) states that uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
8. Neither party has advised that any enforcement notice or breach of condition notice is in force on the Land. The appellant's case is that the proposed use of the Land would not have required planning permission.

Relevant planning history

The 1981 permission

9. On 12 November 1981 conditional outline planning permission was granted for "storage of aggregates involving the reception of rail borne aggregates, and their storage under cover to be used for the production of asphalt and coated roadstone and delivery of 'clean granite' ..." (reference BD/1111/79) ("the 1981 planning permission"). Reserved matters were approved on 16 June 1984 (reference SB/1111/79/JDLP/SD).
10. The application related to all the land subject to this appeal ("the Land") and additional land. Condition 1 excludes part of the land, but the parties have been unable to locate the plan which shows that area and the scanned copy of the decision notice renders a key word describing the limitation illegible. That limitation may have referred to "proposed sand storage and precoated chipping bays".
11. A separate planning permission (reference BD/1112/79) was also granted at the same time for processing activities on an adjacent parcel of land.

The 1998 permission

12. On 29 July 1998 planning permission was granted by the Secretary of State at appeal for the development of a coated roadstone recycling centre (reference 96/08207/CM) ("the 1998 permission"). Condition 3 required the development to be carried out in accordance with four specified drawings, of which the Council has only located two. The plans available show that the site included most of the land before me, plus additional land, but only part of the land now described as Plot 4.
13. Conditions 2 and 11 limited the quantity of materials to be imported for recycling and the times vehicles could unload them. Planning permission 11/01259/CM temporarily varied those conditions to allow for greater quantities and extended hours for unloading.

Evaluation of the period from 1981 to 2014

14. The 1981 planning permission related to a wider area of land but encompassed all the land subject to this appeal. The Council have not disputed the appellant's claim that the planning permission was implemented by Bardon Hill Quarries, which operated an aggregates storage business from the Land until 1997, or that Aggregate Industries then continued to operate an aggregates storage business from the site until it relocated in 2014.
15. I do not accept that the use granted by the 1981 planning permission must be read together with planning permission BD/1112/79 for the adjoining land, which related

to the production of asphalt and coated stone. They were separate permissions and could therefore be used independently or together, as long as the land associated with each permission was used in accordance with the permission granted for it. Neither am I aware of any requirement for a planning application or permission to relate to the planning unit as a whole. I have seen no evidence that the use which occurred on the Land at that time was materially different to that for which planning permission had been granted.

16. The use granted, and which occurred, was one falling within Class B8 of the Use Classes Order 1987 ("the UCO") and there was no condition limiting it to that specific storage use following its implementation. Having been implemented, Article 3(1) of the UCO and Section 55(2)(f) of the Act, provided that any subsequent change of use to another use within the same use class (even if materially different) would not be taken to involve development of the land.
17. The exclusion of certain areas by condition 1 of the 1981 planning permission means that one or more parts of the land did not benefit from the planning permission granted. The absence of the relevant plan showing these areas means I cannot know where those parts of the land were. Later plans show an 'existing sand storage building' on the Land, but I do not know whether that was the same area referred to in condition 1 of the 1981 permission.
18. There is also a degree of difficulty in understanding the scope and extent of the 1998 permission without all of the approved plans. But, on its face, the 1998 permission relates only to the coated roadstone recycling centre on part of the Land.
19. At that time, the Inspector referred to additional plant and machinery on an undeveloped area, which she stated was within the existing industrial complex used for storage type activities and would cover only 0.1ha of the 4.5ha site (IR96 and IR97). I have not seen a plan indicating precisely where the limits of the coated roadstone recycling centre area were, but the area concerned can be generally understood from the description given by the Inspector in IR14 and the plan setting out the location of the equipment.
20. The planning permission granted a coated roadstone recycling centre and conditions 2 and 11 clearly relate to matters of use. Read as a whole, the permission therefore related to both use of the land and the associated works.
21. On implementation of the 1998 permission, the evidence before me suggests the majority of the Land remained in storage use subject to the 1981 permission. Despite the Land being in single ownership or control I have seen no evidence that the use of the Land operated other than in accordance with each respective planning permission, or of any material change of use arising from its use by a single operator.
22. Parts of the Land therefore benefitted from planning permission for storage use but other parts were excluded by condition 1 of the 1981 permission and the coated roadstone recycling centre area subject to the 1998 permission.
23. In addition, the 1998 permission Inspector's report (IR8) refers to a 'car breakers yard' and one of the plans indicates a 'scrap yard' within part of the area now known as Plot 3. A material change of use to a use not within Class B8 therefore

appears to have occurred on that part of the Land, resulting in the loss of the lawful use of that land for the storage of aggregates.

24. The aerial photographs provided by the Council appear to show that the car breakers yard use had ceased by September 1999. They may also show resumed use of that area of the Land for aggregate storage, although that is not clear from the photographs alone. However, in order to gain immunity from enforcement action, and therefore lawfulness, as a minimum, use for a continuous period of 10 years would need to be demonstrated and that has not been evidenced.

The period from 2014 to 2023

25. At my site visit it was apparent that the physical elements of the coated roadstone recycling centre and the sand storage building had been removed, but I have seen no evidence of when these works occurred.
26. The appellants state that Aggregate Industries relocated its operation of an aggregates storage business from the site in 2014. They also state that in June 2024, parcels 2 and 5 were in use for the storage of aggregates and parcels 3, 4, 6A, 6B and 7 were used for the storage of plant and equipment.
27. However, no evidence has been provided of the dates these uses began or whether there were any other uses of the Land between 2014 and the date the application was made on 14 December 2023. As consideration is to be given to lawfulness on the date the application was made, this is a significant omission.
28. The Land is now divided into smaller plots and any subsequent or intervening uses materially different to the previous storage use, not within Class B8, and having occurred without planning permission, may have resulted in the loss of the lawful use of all or any part of the Land. The absence of evidence over this substantial period of time therefore raises significant doubt as to whether any lawful storage use of the Land remained at the time the application was made.

Conclusion

29. The lack of clarity caused by the loss of some of the approved plans relating to the 1981 and 1998 permissions introduces uncertainty in relation to the lawful and actual uses during the period from 1981 to 2014. By the end of that period, at best, most of the Land remained in use for the storage of aggregates, a use within Class B8 of the UCO.
30. However, even if a lawful B8 storage use existed in 2014, the evidence does not establish what occurred thereafter. As a result, on the balance of probabilities, lawfulness at the time the application was made has not been demonstrated.
31. I have been made aware of no enforcement notice in force at the time the application was made. But it has not been demonstrated that use of the Land for industrial outdoor storage would not have involved development, or required planning permission, or that the time for enforcement action has expired. I have also seen no other reason why a LDC should be granted.
32. With the information before me, it has therefore not been demonstrated, on the balance of probabilities, that use of the Land for industrial outdoor storage would be lawful.

Conclusion

33. For the reasons given above I conclude that, had the Council refused to grant a certificate of lawful use or development in respect of use of the site for industrial outdoor storage, that refusal would have been well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Decision

34. The appeal is dismissed.

Peter White

INSPECTOR