Planning Inspectorate

Appeal Decision

Site visit made on 15 September 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2026

Appeal Ref: APP/G2245/C/24/3342795
Oakview Stud Farm, Lombard Street, Horton Kirby DA4 9DF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr W Cook against an enforcement notice issued by Sevenoaks District Council.
- The notice was issued on 19 March 2024.
- The breach of planning control as alleged in the notice is the erection of buildings labelled E and M and W on the plan attached to the notice.
- The requirements of the notice are: a) Permanently remove the building labelled E and the container underneath the building on the attached plan. b) Permanently remove the building labelled M on the attached plan. c) Permanently remove the building labelled W on the attached plan. d) Permanently remove all materials from the demolition of the buildings from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (g) and (e) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Application for costs

1. An application for an award of costs was made by Mr W Cook against Sevenoaks District Council. That forms the subject of a separate decision.

The appeal on ground (e)

2. The appellant raised arguments relevant to an appeal on ground (e) after I sought clarification from the parties on the date the notice was issued. For an appeal on ground (e) to succeed it needs to be shown that copies of the notice were not served as required by section 172 of the Act.

3. Section 172(3)(a) of the Act states that the service of an enforcement notice shall take place not more than 28 days after its date of issue. The notice is undated, but the Council has confirmed that it was issued on 19 March 2024 and served on 22 March 2024. It is not essential for the notice to state the date of issue or service to demonstrate compliance with section 172. There is no evidence that the notice was not served as required by section 172 of the Act.

4. As there is no requirement in legislation for the date of issue to be recorded in the notice, it is not null or invalid. However, in the interests of providing clarity, I shall vary the notice using my powers under section 176(1) of the Act to insert the date of issue without causing injustice to any parties.

5. The appeal on ground (e) fails.

Ground (a) and the deemed application for planning permission

Main issues

6. The main issues are:

- Whether any of the buildings are inappropriate development in the Green Belt;
- The effect of the buildings on the openness of the Green Belt;
- The effect of the buildings on the character and appearance of the area; and
- The effect of the buildings on the living conditions of nearby residents, with particular regard to noise and odour.

Whether inappropriate development

7. The site is located within the Green Belt. The National Planning Policy Framework (the Framework) sets out that development in the Green Belt is inappropriate unless it falls within one of the categories in policy GB7. One such category is the redevelopment of previously developed land (PDL), which does not cause substantial harm to the openness of the Green Belt. Annex B to the Framework provides the relevant definition of PDL, which includes land which has been lawfully developed and excludes land that was last occupied by agricultural buildings, amongst other things. In this context, if non-agricultural development at the site has become lawful through the passage of time[1], I see no reason not to treat that as lawfully developed.

8. The land forming the subject of the notice is edged in red on an aerial photograph attached to the notice. It comprises an area which includes numerous structures occupied by various businesses carrying out a range of activities, described as Oakview Stud Farm and Oakview Trading Estate. Alongside the numerous structures, I saw a great many vehicles and items such as vehicle tyres and parts associated with those businesses also being stored across the site. It would be fair to describe the site as a compact, intensely active and densely developed industrial estate.

9. The Council has referred to unlawful buildings and uses taking place and has claimed that the parts of the site occupied by Buildings E, W and M were last lawfully used for agricultural purposes. I have also been provided with copies of enforcement notices relating to the site dated 7 April 2011, 15 April 2016, and 25 April 2019, and a copy of an Injunction Order dated 12 July 2018 prohibiting use or works in breach of planning control within the southern end of the site. Those documents do not establish that the existing use of the site, or the majority of the buildings upon it, is unlawful. They relate to particular areas, operations or structures and affect only a limited proportion of the site.

10. Aerial photographs dating back to June 2019 show little difference between the whole site then and now, although Buildings E, W and M are absent in the earliest photograph. Moreover, the Council has referred to an MOT garage at the site as being lawful and has not disputed the appellant's claim that as Oakview Trading

[1] Under the provisions of sections 171B and 191 of the Act.

Estate the site has been a commercial feature of the area for over 30 years, employing 50 people. I saw many vehicle garages and other industrial/trading units in operation during my site visit consistent with this. Furthermore, I have been referred to the Council's Local Plan Regulation 19 publication (2026), where the site (including the land occupied by Buildings E, W and M) has been identified as a potential site for up to 42 dwellings with its existing use described as PDL.

11. The Council's suggestion that the last lawful use of the land occupied by Buildings E, W and M was for agricultural purposes is therefore very difficult to reconcile with the evidence presented. On the evidence, as a matter of fact and degree, I find that the site (including the areas covered by Buildings E, W and M) comprises PDL.

12. Therefore, with regard to policy GB7(1)(e) of the Framework, Buildings E, W and M do not comprise inappropriate development in the Green Belt if they do not cause substantial harm to the openness of the Green Belt.

Openness

13. Openness is an essential characteristic of the Green Belt, which has spatial and visual aspects.

14. Building E is located close to the entrance to the site in a prominent position. It is seen from the road alongside and against the backdrop of buildings of similar size and construction, as well as larger brick-built structures, numerous storage containers, advertisement displays, and extensive stacks of vehicle tyres.

15. Building W is a large structure located along the eastern edge of the site, backing onto open countryside, with various building parts stored at low heights to the south, within the site. Its presence can therefore be appreciated in views from the fields to the east, but again, this is against the backdrop of the other buildings, items and activities within the site.

16. Building M is a very modest makeshift structure in a more exposed part of the site, to the south. It is surrounded by various vehicles and items associated with the use of the site. Because of its limited height, small size and position away from the site boundaries, it is barely perceptible from outside the southern part of the site.

17. Spatially, Buildings E, W, and M all have an effect on the openness of the Green Belt individually and cumulatively, as they help consolidate the spread of built development within the site. The level of that effect varies from very low in the case of Building M to low in the case of Buildings E and W. The backdrop of the rest of the site cannot be ignored, and they have an overall low-level effect on the openness of the Green Belt spatially and visually.

18. Buildings E, W, and M do not cause substantial harm to the openness of the Green Belt, and as such they do not comprise inappropriate development in the Green Belt on account of complying with policy GB7(1)(e) of the Framework.

Character and appearance

19. The character of the site is heavily influenced by its use. As set out above, although the Council has stated that some of the uses within the site are unlawful, others are lawful. In this context the Council accepts that the site has the appearance of an 'ad hoc' industrial area outside the edge of the village.

20. While the character of the surrounding area is framed by its rural setting, Buildings E, W, and M are seen and experienced as part of a compact and intensely busy industrial estate with little sense of order, centred around a core of existing buildings and a dwelling. In this setting, despite their makeshift construction out of timber, scaffolding poles and corrugated metal roofing, none of the buildings appear out of place.

21. Buildings E and W can be seen in some views from outside of the site on account of their height and positioning close to the boundaries of the site and the open entrance in respect of Building E, but they are not notable features in the wider landscape on account of the other buildings present. They are similar in size, scale and appearance to other buildings tightly arranged within the site. Although they increase the density of built development within the site, they have no tangible effect on the character or appearance of the site, considering all the other items and activities present.

22. Overall, Buildings E, W and M are consistent with the varied utilitarian structures already present among the vehicles, vehicle parts, storage containers and commercial/industrial activities at the site. As such, although the buildings do not comprise high-quality design, they do not make the area less tranquil or rural in character and do not cause harm to the character and appearance of the area.

23. The development does not conflict with Policies EN1 and EN5 of the Council's Allocations and Development Management Plan (2015) (ADMP) or Policies SP1 and LO8 of the Council's Core Strategy (2011). These require, amongst other things, development to respond to its surroundings and conserve the character of the landscape.

Living conditions

24. There is a dwelling located within the site and it is stated that mobile homes are occupied on land immediately to the south of the site. Other residential properties are located further to the north and south.

25. Each of the buildings the subject of the notice is of makeshift construction and used for commercial/industrial purposes, including as a tyre fitting yard (Building E) and as part of a mechanic's garage (Building W). They do not restrict noise or odour emissions. However, there is little evidence to demonstrate that, if the buildings were removed, the activities undertaken within them would not continue in the open.

26. Considering the range of activities taking place across the site, at least some of which are lawful, nearby residential properties are regularly subject to noise and odour associated with various commercial/industrial processes. Moreover, there is very little evidence that the buildings facilitate, or increase the likelihood of, unacceptable noise or odour emissions. Even if the notice was complied with, on the evidence before me, there would be very little change to the noise and odour experienced by occupants of nearby residential properties, or their living conditions.

27. I therefore find that Buildings E, W and M do not cause unacceptable harm to the living conditions of neighbouring residents. As such, there is no conflict with Policy EN2 of the ADMP, which requires development to safeguard the amenities of existing and future occupants of nearby properties.

Other matters

28. Policy DM8 of the Framework sets out that in cases where planning permission is sought for unauthorised development, if it is concluded based on evidence that the unauthorised development was intentional, that fact should be given substantial weight in considering whether to grant planning permission. Although I have been provided with copies of enforcement notices and an injunction relating to other matters at the site, there is very little to show, on the balance of probabilities, that the erection of Buildings E, W, or M in breach of planning control was intentional, in the context of Policy DM8. I do not therefore assign substantial weight against granting planning permission for the buildings on this basis.

29. I have been referred to Grade II listed buildings at Reynolds Place, on the opposite side of Lombard Street and to the southwest. Much of that side of Lombard Street is lined by thick trees and the listed buildings are set back from the road. Views of the listed buildings are limited from Lombard Street, and they are already experienced as being within the locality of the trading estate. The erection of Buildings E, W and M has not had any effect on the settings of those listed buildings. Therefore, with regard to the statutory duty at section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the development preserves the settings of those listed buildings.

Conditions

30. There is no need to attach a condition requiring the development to begin within a specific timescale, as it has already been carried out. The Council has also suggested that development which may otherwise be authorised by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) should be restricted.

31. Policy DM6 of the Framework states that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. I have not been provided with clear justification for such a condition, which would not be reasonable or necessary to make the development acceptable. I shall not therefore attach any conditions restricting permitted development rights.

32. The appellant has suggested that conditions could be attached requiring the approval of details relating to boundary treatment, biodiversity and landscaping. However, such details are not necessary to make any of the buildings acceptable, having regard to their locations within the site, close to and surrounded by similar development.

33. I therefore find that no conditions are necessary to make the development acceptable.

Conclusion on ground (a) and the deemed application for planning permission

34. The development is not inappropriate development in the Green Belt and does not cause unacceptable harm to the character and appearance of the area or the living conditions of any neighbouring residents. It is not in conflict with the development plan as a whole and there are no other considerations, including the Framework, which indicate that planning permission should not be granted for the development.

35. The appeal on ground (a) therefore succeeds and planning permission will be granted on the deemed application.

Overall Conclusion

36. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

Formal Decision

37. It is directed that the enforcement notice is varied by the insertion of the text '19 March 2024' immediately after the text 'Date:' and immediately before the signature of the Deputy Chief Executive on page 2 of the enforcement notice. Subject to the variation, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of buildings labelled E and M and W on the plan attached to the notice at Oakview Stud Farm, Lombard Street, Horton Kirby DA4 9DF, as shown on the plan attached to the notice.

L Douglas

INSPECTOR