Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2026

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2026

Appeal Ref: APP/D3640/C/25/3360572
Land at Little Ellis Farm, Station Road, Chobham, Woking, Surrey GU24 8AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Diane Andrews against an enforcement notice issued by Surrey Heath Borough Council.
- The notice was issued on 14 January 2025.
- The breach of planning control as alleged in the notice is: Without planning permission the unauthorised formation of hardstanding and material change of use of the land from agriculture to mixed use of agriculture and commercial storage (including storage of motor vehicles).
- The requirements of the notice are to: a) Cease the unauthorised commercial storage use of the land. b) Remove all paraphernalia associated with the unauthorised commercial storage use from the land. c) Demolish and remove all unauthorised hardstanding within the land and remove all materials associated from the site. d) Reinstate the land to its former condition by reseeding with an appropriate grass seed mix.
- The periods for compliance with requirements a), b) and c) are 3 months and 6 months for requirement d).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), (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.

Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with variations.

Preliminary Matters

2. Since the notice was issued, the Government has issued a new National Planning Policy Framework (the Framework). The parties have been provided with an opportunity to make submissions on the Framework as relevant to the appeal.

3. The appellant had lodged a ground (c) appeal to contend that a large part of the hardstanding was lawful owing to the passage of time. The Council has responded to the claim of lawfulness. This is however better suited to a ground (d) appeal, in that it is too late to take enforcement action, as opposed a ground (c) appeal, which is concerned with whether development already had planning permission, constitutes permitted development or does not amount to development. Given the thrust of its case, the appellant had provided very little evidence to demonstrate a successful ground (c) case on the balance of probabilities. The appellant has since confirmed that a ground (d) appeal should be pursued. Injustice to the parties would then not arise, based upon a consideration of the evidence already submitted.

The ground (d) appeal

4. For the ground (d) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the enforcement notice was issued it was too late to take enforcement action against a large part of the hardstanding.

5. The appellant has provided a statutory declaration which declares that in 2006 it came to their attention that there was a large amount of hardcore underneath the earth and grass. A plan has been provided to identify the area concerned.

6. Some recent photographs dated between 2022 and 2024 have also been provided, which largely show some loose hardcore material mixed into the ground. I am however unclear as to which parts of the appeal site these photographs precisely relate, and they do not form part of the statutory declaration.

7. The Council has however enforced against the formation of a hardstanding and during my site visit it was evident that this consisted of a largely uniform surface of a gravelled or road planing type of material.

8. Whilst the evidence therefore likely demonstrates that there was some loose hardcore material historically mixed into the ground, as a matter of fact and degree this is materially different to what has been enforced against, which is a hardstanding, and which I have found to be of a largely uniform gravelled or road planing type of material.

9. The Council contend the hardstanding was introduced when the unauthorised commercial storage use commenced and provide a series of aerial photographs that demonstrates a stark difference in the appearance of the site in 2024. Given the appellant's own photographic evidence, there is very little to demonstrate on the balance of probabilities that the hardstanding actually enforced against has historically formed part of the appeal site, had merely been upkept or had been overgrown.

10. As a matter of fact and degree the appellant has therefore not discharged the necessary burden of proof to demonstrate their case on the balance of probabilities.

11. The appeal on ground (d) therefore fails.

The ground (a) appeal

Main Issues

12. The main issues are:

- whether the developments would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework);
- the effect of the developments on the character and appearance of the area;
- the effect on nature conservation interests;
- whether there is an unacceptably harmful flood risk; and,

- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the developments.

Reasons

13. The site forms part of a poultry farm and farm shop and is accessed via a track. The surrounding area is predominantly rural in character. The developments relate to the formation of a hardstanding and mixed use of the site for agriculture and commercial storage.

Whether inappropriate development in the Green Belt

14. The Government's approach to protecting Green Belt land is set out in Section 13 of the Framework. Policy GB2 of the Framework specifies the five purposes which the Green Belt serves, which are to namely: (a) check the unrestricted sprawl of large built-up areas; (b) prevent neighbouring towns merging into one another; (c) assist in safeguarding the countryside from encroachment; (d) preserve the setting and special character of historic towns; and, (e) assist urban regeneration by encouraging the recycling of derelict and other urban land.

15. Policy GB6 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposed development, is clearly outweighed by other considerations. In making this assessment, substantial weight should be given to the harm to the Green Belt which would be caused, including harm to its openness. Development in the Green Belt is inappropriate unless it falls within one of the categories in policy GB7 of the Framework. The Council then does not cite any relevant policies of the adopted Surrey Heath Borough Council Core Strategy and Development Management Policies 2012 (the CS) for Green Belt assessment purposes, and thus I will rely upon the Framework.

16. The appellant contends the site comprises grey belt land as set-out in policy GB7 (1) (g) of the Framework but provides very little assessment as to why. There is very little evidence that the site comprises previously developed land as defined by the Framework and so it is necessary to assess whether the site does not strongly contribute to any of purposes (a), (b), or (d) in policy GB2 of the Framework in order to first qualify.

17. Whilst the site may not strongly contribute to purposes (b) or (d), it appears to me that it strongly contributes to purpose (a). This is because the objective of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The mixed use and hardstanding relate to a reasonably large area of land and has introduced a significant number of vehicles as well as containers and other items into an otherwise largely open and rural area, near to Woking, and which thus results in an incongruous pattern of development. Spatially and visually, this leads me to find that the land makes a strong contribution to purpose (a) in that it otherwise checks the unrestricted sprawl of large built-up areas. Consequently, its development in respect of the mixed use and hardstanding fundamentally undermines the purposes of the remaining Green Belt.

18. Even if I am wrong, there is then very little very evidence to demonstrate an unmet need for the development or that the site is in a sustainable location having particular regard to policy TR3 of the Framework or indeed that the developments fall within any other of the categories in policy GB7 of the Framework.

19. I therefore conclude the mixed use and hardstanding are inappropriate development that are, by definition, harmful and therefore contrary to the Framework's protection of the Green Belt. This is a planning harm to which I attach substantial weight.

Character and appearance

20. Whilst the site is set back from the highway with some screening and there are limited views from the public vantage points, the entirety of the hardstanding requires planning permission, and I do not accept it to be limited or small-scale. Indeed, it provides space for the storage of a significant number of vehicles and other commercial items. It can then, for example, be clearly seen by customers who use the adjoining farm shop.

21. The combination of the spatial extent of the hardstanding and storage of items such as vehicles that this facilitates is then at-odds with the surrounding rural and verdant character of the area. The site itself is largely surrounded by fields. I then have very little evidence that such a use is characteristic of the area or that there are other areas of such expansive hardstanding. The hardstanding and mixed use therefore does not respect or enhance the quality or character of the vicinity.

22. I conclude the development is harmful to the character and appearance of the area in contravention of Policies CP2 and DM9 of the CS. These policies, amongst other things, require development to respect and enhance the quality and character of rural and local environments. This is a planning harm to which I attach considerable weight.

Nature conservation

23. The appellant accepts that the site is within 400m of the Thames Basin Heaths Special Protection Area (the SPA). Policy CP14B of the CS then requires non-residential development within 400m of the SPA to demonstrate that it is not likely to have a significant effect either alone or in combination with other plans or projects. The appellant does not dispute this policy requirement.

24. Whilst no significant excavation works have been undertaken, a new hardstanding has nevertheless been formed, and the site is also now used for commercial storage. The appellant contends that the activities are small-scale with limited vehicle movements to and from the site.

25. Whilst the SPA itself may attract a large number of visitors, there is very little professional evidence to underpin the appellant's wider assertions. There is thus very limited evidence in respect of the actual number of vehicle movements associated with the use or assessment of the development in combination with other plans or projects.

26. In the absence of suitable professional evidence, I cannot be satisfied that the development does not give rise to likely significant adverse effect upon the integrity of the SPA. That being so, it would also not be appropriate to secure

mitigation by means of a planning condition, as I am unclear as to what might need to be mitigated, and what any form of mitigation would entail.

27. I conclude in the absence of suitable professional evidence the development is unacceptably harmful to nature conservation interests in contravention of Policy CP14B of the CS. This policy, amongst other things, states development should only be permitted where the decision maker is satisfied that this will not give rise to likely significant adverse effect upon the integrity of the SPA. This is a planning harm to which I attach considerable weight.

Flood risk

28. The appellant has provided a suitable professional flood risk assessment which demonstrates that the development will not result in an increased risk of flooding on site or to neighbouring areas. This has not been disputed by the Council.

29. On this basis, I conclude the development accords with Policy DM10 of the CS, which requires, amongst other things, for development to reduce risk both to and from the development or at least be risk neutral. The absence of this planning harm attracts neutral weight.

Other considerations

30. Whilst I do not accept there is evidence to demonstrate an unmet need for the development in the context of the Framework, I do accept the mixed use provides a resource for a number of local businesses which contributes to the local economy and provides farm diversification for the appellant. This is because, aside from assertions, there is only very limited marketing evidence to underpin that there is a clear need for the site without suitable alternatives or that it is in a sustainable location. There is also only very limited financial evidence concerning the viability of the wider agricultural holding or that compellingly demonstrates how the loss of the storage use could then lead to the loss of the farm shop and/or have an adverse impact on the care provided to a disabled child and therefore their best interests. There may also be a future case of bird flu, but the planning system cannot be reasonably expected to cater for all future eventualities. I can subsequently only afford these considerations moderate weight, including in the context of policies E2 and E4 of the Framework.

31. The Council has then raised other contended planning harms, but these were not cited as reasons for issuing the notice. I therefore afford such considerations, as well as the absence of other planning harms, only neutral weight.

32. I have little evidence or reason to find that the CS policies would be materially inconsistent with the Framework. As I have then found the developments to constitute inappropriate development in the Green Belt, Policy S5 of the Framework is not engaged and therefore I do not need to consider this further.

Green Belt balance

33. There are not other considerations in favour of the developments that clearly outweigh the presumption against inappropriate development in the Green Belt and the substantial weight that the Framework requires to be attached to such harm. Moreover, there is harm in respect of the character and appearance of the area and nature conservation interests. Accordingly, the very special circumstances necessary to justify the developments do not, therefore, exist.

Conclusion

34. There are not material considerations that indicate the ground (a) appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the ground (a) appeal should fail.

The ground (f) appeal

35. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose alternatives steps.

36. I have already found that the hardstanding actually enforced against is not immune from enforcement action. It is therefore not excessive to require its removal in order to remedy the breach of planning control.

37. The Council has then conceded that the requirement to reseed is excessive as the land may be used for alternative agricultural purposes consistent with its lawful use. I have no reason to disagree and so will vary the notice to delete this requirement.

38. The appeal on ground (f) therefore succeeds to this extent.

The ground (g) appeal

39. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short and that 18 months is required, largely to enable the businesses which occupy the site to find suitable alternatives.

40. Aside from assertions, there is little actual evidence about the availability or otherwise of other suitable sites. The tenancy agreements provided have now largely expired, but even if they have been renewed, they provide little evidence as to why the period for compliance with the requirements of the notice are too short.

41. I am however mindful that there are various businesses at the site and that the period afforded of 3 months would unlikely enable them sufficient time to make alternative arrangements. A period of 9 months would however strike an appropriate balance without unduly perpetuating the breaches of planning control.

42. The appeal on ground (g) therefore succeeds to this extent.

Overall Conclusion

43. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Formal Decision

44. It is directed that the enforcement notice be varied by:

    - deleting requirement *5. d)* and paragraph *6. ii.* in their entirety
    - deleting the words in paragraph *6. i.* and replacing with the words: *'Within nine (9) months of this notice taking effect.'*

45. Subject to these variations the appeal is dismissed and 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.

Paul T Hocking

INSPECTOR