



Appeal Decisions

Inquiry held on 10 and 11 October 2023

Site visit made on 11 October 2023

by **Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal A Ref: APP/B5480/C/22/3301798

Land known as Park Farm, Eastern Avenue East, Romford RM3 7NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Sebba Rafeeq against an enforcement notice issued by London Borough of Havering.
- The notice, numbered ENF/648/20, was issued on 27 May 2022 (Enforcement Notice A).
- The breach of planning control as alleged in the notice is:
"Without planning permission:
 - i. Within the last 10 years, the unauthorised material change of uses of 'Plots A and B' by increasing the site extent (shown hatched in black on the attached plan outside plots Blue (Plot A) and Pink (Plot B)) from use as undeveloped land to use as a scaffolding yards including storage and maintenance of scaffolding equipment and administration offices for the business and vehicle parking area.
 - ii. Within the last 4 years, unauthorised operational development of parts of Plots A, and B (shown hatched in black on the attached plan outside plots Blue (Plot A) and Pink (Plot B)) in the form of the erection of sheds and fencing using metal corrugated sheets and palisade fencing exceeding 2m high, racking erected using scaffolding poles, the siting of metal containers and portable buildings.
 - iii. Within the last 4 years, unauthorised operational development in form of hard surfacing and formation of approximately 700mm high bund in Plot C (shown hatched on the attached plan) and access road (shown in grey on the attached plan) constructed using concrete."
- The requirements of the notice are:
"PLOTS A AND B
 - i. Cease the use of the land shown in the areas of Plots A and B shown hatched in black outside plots Blue and Pink from use as a scaffolding contractors yard; AND
 - ii. Remove all sheds, buildings erected using scaffolding poles, metal palisade fencing including corrugated sheets from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - iii. Remove all racks erected using scaffolding poles to store scaffolding materials from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - iv. Remove metal containers used as offices and for storage of scaffolding materials, building materials and equipment in association with the scaffolding business from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - v. Remove the enclosures made from corrugated sheets and metals palisade fencing and hard surfacing within the enclosure from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - vi. Remove from the site all scaffolding poles, boards and scaffolding equipment including machinery from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - vii. Remove from the site all metals containers from Plots A and B shown hatched in black outside plots Blue and Pink; AND
 - viii. Remove from the site all building materials and debris associated with carrying out the above steps.

PLOT C

- i. Cease using the newly hard surfaced area shown hatched in black at Plot C as parking area; AND
 - ii. Remove from the land all hardstanding; AND
 - iii. Remove from the land access road shown in grey constructed using concrete in the car parking area; AND
 - iv. Remove approximately 700mm high bund used to enclose the parking area; AND
 - v. Remove from the site all building materials and debris associated with carrying out the above steps."
- The period for compliance with the requirements is: Three months.
 - The appeal was made on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (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: Appeal A succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Appeal B Ref: APP/B5480/C/22/3301800

Land known as Park Farm, Eastern Avenue East, Romford RM3 7NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Sebba Rafeeq against an enforcement notice issued by London Borough of Havering.
- The notice, numbered ENF/648/20 was issued on 27 May 2022 (Enforcement Notice B).
- The breach of planning control as alleged in the notice is
"Without planning permission:
 - i. Within the last 4 years, unauthorised operational development of formation of bunds approximately 2m high on the northern, western and southern sides of site. (Shown in yellow on the attached plan).
 - ii. Within the last 4 years, unauthorised operational development of boundary fence between 1.8 – 2m high and gates using bricks and timber frames (Lattice fencing) on the eastern and southern sides of the site. (Shown in red on the attached plan).
 - iii. Within the last 4 years, unauthorised operational development of access road constructed concrete on the east of Plot D running north to south between Park Farm and Meadow Farm (Shown grey on the attached plan).
 - iv. Within the last 4 years, unauthorised operational development increasing land levels by importation of building materials and rubble to undeveloped land to south of the bungalow in Plot D identified on the attached site plan.
 - v. Within the last 4 years, the erection of street lamps marked X in Plot D identified on the attached plan in the undeveloped land within the site."
- The requirements of the notice are:

"BUNDS

- i. Remove from the land bunds shown in yellow on the attached site plan from the northern, western and southern sides of the site; AND
- ii. Remove from the site all building materials and debris associated with carrying out the above steps.

BOUNDARY FENCE

- i. Remove boundary fences and gates made from timber and bricks shown in red on the attached plan from the eastern and southern sides of the site; AND
- ii. Remove from the land all building materials and debris associated with carrying out the above steps.

LAND LEVELS AND STREET LAMPS

- i. Reduce the land levels in Plot D shown on the attached plan to before the development took place.
- ii. Remove all street lamps marked X erected in Plot D on the attached plan.
- iii. Remove from the site all building materials, street lamps and debris associated with carrying out the above steps.

ACCESS ROAD BETWEEN PARK FARM AND MEADOW FARM

- i. Remove the access road made using concrete shown in grey from running north to south the east of Plot D shown on the attached site plan; AND
 - ii. Remove from the site all building materials and debris associated with carrying out the above step."
- The period for compliance with the requirements is: Three months.
 - The appeal was made on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (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: Appeal B succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Preliminary Matters

1. In the period leading up to the inquiry the appellant and the Council narrowed considerably the areas of dispute, which resulted in an agreed statement of common ground dated 9 October 2023 (the SCG). The inquiry primarily centred on proposed corrections to the wording of the enforcement notices and the outstanding planning issues related to the ground (a) appeals.

Park Farm

2. Park Farm is located within the Metropolitan Green Belt in the area of open land between the built-up areas of Collier Row to the west, Romford to the south and Harold Hill to the east. The A12 Eastern Avenue adjoins the southern boundary. Residential development and the associated open space known as Keats Park lie to the north and north west. A golf course and driving range is located to the west, strengthening the leisure and recreational use in the surrounding area. Meadow Farm, to the east of Park Farm, is in commercial and residential use and shares the same access road from the A12.

Grounds of Appeal

3. Appeal A was made on all grounds except ground (e). During the inquiry the appellant withdrew the ground (c) appeal and maintained ground (d) only in so far as it related to a slither of land, now identified as parcel B1. The matters arising from the appeal on ground (b) essentially were dealt with through the proposed corrections to the notice. The cases on grounds (f) and (g) were updated to take account of the common ground.
4. Appeal B was made on all grounds including ground (e). Similar to Appeal A, areas of dispute were reduced by the time the inquiry opened. At the inquiry the appellant confirmed the ground (e) appeal was withdrawn and the ground (c) case in relation to the access road was no longer pursued. However, there remains for consideration an outstanding ground (e) matter connected to the adjacent property Meadow Farm.

Enforcement Notices

The Land

5. The two enforcement notices affect the same defined area of Land at Park Farm. The Land is located to the north of and is accessed from Eastern Avenue East. The access road is hard surfaced in concrete. Fencing and gates have been erected along the eastern side, with a short return along the Eastern Avenue boundary. At the top of the road a brick wall and security gate are at

the entrance into Park Farm. Lighting columns and CCTV cameras are present at intervals along the road, just behind the fence.

6. The northern part of the Land comprises a lawful bungalow and associated residential outbuildings and garden, as well as two scaffolding yards identified by the enforcement notice as Plot A to the west and Plot B to the east. The undisputed extent of the lawful yards was confirmed through the SCG. A service road, now with a concrete hard surface, runs immediately to the south of these premises and vehicle parking takes place on the adjacent land. A low bund has been formed at the back of the hard surfaced parking area.
7. The remaining Land is undeveloped and is covered with grass and low vegetation. A public footpath crosses the land, linking Keats Park with Eastern Avenue. A bund was formed around the northern, western and southern boundaries and it is now partially covered with rough vegetation.

Enforcement Notice A

8. The matters being enforced against are material changes in the use of land and the carrying out of operational development. Corrections are proposed to the enforcement notice to better describe the alleged breaches of planning control with reference to an amended plan and to ensure the requirements are consistent with the corrected allegations¹.
9. Plot A. The parties agree the area covered by the lawful scaffolding yard on Plot A is larger than shown on the original plan. The alleged unauthorised material change of use is confined to an area now described as area A1, a westwards extension of the lawful yard. The associated unauthorised works are identified as the erection of racking using scaffolding poles and corrugated roofing and the siting of a metal container in area A1. Action also is being taken against the erection of racking using scaffolding poles and corrugated roofing and palisade fencing exceeding 2 metres (m) in height in area A2, in the south eastern corner of Plot A.
10. Plot B. The Council has accepted the alleged unlawful extension is incorrectly defined on the plan attached to the notice. The unauthorised development now concerns an extension southward of the lawful area onto a slither of land B1 and the siting of a metal container on B1². The appellant did not raise any objection to redefining the area of land but continues to dispute these matters constitute unauthorised development through the ground (d) appeal.
11. Plot C and Access Road. I intend to correct the wording of the heading in response to the amended plan. The proposed corrected description of the matter is the laying of crushed hardcore hard surfacing and part-concrete hard surfacing and formation of approximately 700mm high bund in Plot C (shown as C1, C2 and C3 on the attached plan) and the resurfacing in concrete the access road marked G and hard surfacing constructed in concrete on areas G1 and G2.³
12. Minor corrections are proposed to the Reasons for Issuing the Notice. The proposed corrections to the Requirements more specifically relate the steps to

¹ Inquiry Documents 2 and 6

² CS proof at para 4.2.2 and Annex CBS 4 which shows the original hatched area and the expansion area. B1 was part of the concrete access road coloured grey on the original plan.

³ The description regarding G, G1 and G2 was a verbal amendment to the description in Inquiry Document 2

the corrected descriptions. In summary the corrected notice would require the use of A1 and B1 as a scaffolding yard to cease and the removal of all unauthorised operational developments. A further verbal correction was proposed by the Council regarding restoration of areas G, G1 and G2 to their condition before the unauthorised works took place. The appellant did not object to this revision. I note that in respect of Plot C the use of the newly hard surfaced area in C1, C2 and C3 as a parking area would be required to cease, even though the alleged breach makes no mention of a material change of use of land to vehicle parking.

Enforcement Notice B

13. The matters being enforced against consist of the carrying out of various forms of operational development. The proposed corrections remove unnecessary wording from paragraphs 3(i) and 3(ii) of the notice. The appellant accepted as a matter of fact that bunds were formed in the identified locations and that fencing and gates were erected on the eastern and southern sides of the site.
14. The description of the works and location of the access road were corrected and were subject to further oral corrections by the Council and the appellant to address the term 'newly constructed'. The evidence confirms that a road has existed for many years connecting the premises at Park Farm and Meadow Farm to the A12. The evidence also shows that works were carried out around 2021 that resulted in the road having a concrete surface. The Council believe the road also was slightly widened and a drainage system installed. The appellant maintained the works comprised the construction of a concrete hard surface. For the purposes of the corrected description of the alleged breach, I have slightly changed the proposed wording.
15. The original plan defined an area D where the notice alleges land levels were increased by the importation of building materials and rubble. The Council accepted land levels were not increased and that this matter should be deleted from the notice. The Council also accepted the notice incorrectly describes the number and position of street lamps and that in fact some were CCTV columns. The appellant accepted this matter could be corrected without injustice. Following the accompanied site visit the plan was corrected further to mark the approximate position of the reduced number of street lamps and CCTV columns. On these two matters the appeal on ground (b) succeeds.
16. Minor corrections are proposed to the Reasons for Issuing the Notice, primarily to delete references to an increase in land levels and to add a reference to CCTV columns. The requirements regarding the bund and the boundary fence are not subject to any corrections. The requirement in relation to land levels is deleted. The requirement regarding the street lamps is corrected to include the CCTV columns. In terms of the access road, the proposed correction to step (i) more specifically identifies the works to be removed and requires restoration of the road to its condition before development took place.

Corrected Plan for Enforcement Notices A and B

17. The corrections incorporated into the plan respond to the proposed corrections to the text by relabelling and redefining the various parcels of land and deleting reference to Plot D. The plan is no longer accompanied by text to identify and describe the alleged breaches and instead reliance may be placed on the wording of the notices.

18. As a result of the site visit, the plan also corrects the definition of the red line of the fencing at the northern end of the main north south access road, the intention being to exclude the brick wall and security gate at the site entrance.

Conclusion

19. A lot of corrections are required to the enforcement notices to address various errors, defects and misdescriptions. Mindful that the appellant did not argue the notices were invalid, I am satisfied the proposed corrections can be made without causing injustice to either the appellant or the local planning authority.

REASONS: ENFORCEMENT NOTICE A

Appeal on ground (d)

20. The appellant confirmed at the inquiry the ground (d) case was no longer being pursued in relation to the area A1 on the amended plan. The main issue remaining on this ground is whether a material change of use of land identified as B1 to use as an extension to a scaffolding yard took place on or before 27 May 2012 and continued without substantial interruption for a period of 10 years thereafter. The onus is on the appellant to prove the case on the balance of probability.
21. Area B1 is a narrow strip of land very close to the main entrance to Park Farm. Currently a green container, with scaffold poles extending above, is sited at the eastern end of B1 next to the security gate. The remainder of the area is covered in hard core and used for parking and circulation as part of the larger lawful yard. The unit(s) of occupation, the physical features and boundary definitions and the apparent function of the activities associated with the scaffolding businesses lead me to conclude parcel B1 is now part of a larger planning unit centred on Plot B in use as a scaffolding yard.
22. The evidence on the use of the land comprising areas B and B1 over the relevant time period consists primarily of witness statements by the operators of the scaffolding businesses, aerial photographs (including Google earth images) and Ordnance Survey maps. No-one with first-hand knowledge attended the inquiry. Gaining a precise picture is affected by the scale of the plans and the small area of B1.
23. The witness statements by the operators, supported by information on vehicle operating licenses⁴, demonstrates on the balance of probability that the use of the area shown as Plot B on the amended notice plan as a scaffolding yard is lawful. They are less clear about area B1.
24. The evidence of SM, an owner of one of the scaffolding companies, has particular relevance to parcel B1. In June 2022 SM stated he had operated his business from Park Farm for over 12 years and that his tenancy related to the area outside the pink area shown on the original notice plan. His statement dated 18 September 2023 gives a date of 2001⁵ when he moved to Park Farm and he identified with reference to a plan the area he has occupied continuously since. The area indicated on plan appears to possibly include but not extend to quite the full length of B1. However, the westernmost part of B1

⁴ Submitted with the grounds of appeal

⁵ A date of 2011 would be more consistent with the earlier statutory declaration.

arguably is included in the yard area said by DS to have been part of his yard since 2001.

25. The appellant's aerial photographs go back to 1999⁶. At that time there appears to have been a line of vegetation immediately north of the then access road, in the general location of B1. A structure was sited immediately to the north, with tree canopies visible on its northern side. Immediately to the west the Plot B yard appeared to merge into the road. The images dated 2008 and 2013 are not very clear and they were directed at showing the alleged unlawful area on the original notice plan. However, a similar picture exists as in 1999, and an arrow points to a shed/container to the right of the yard entrance area.
26. The appellant has produced clearer images for 2010 and 2013⁷. The 2010 image shows structures along the eastern boundary of Plot B and the hard surfaced yard area merging into the access road. On the 2013 image the vegetation near the gate is apparent together with a structure sited immediately to the north.
27. The series of aerial photographs from 2010 to 2020 produced by the Council⁸, together with the earlier photographs dated 2002 and 2007⁹, show a similar layout, with vegetation separating the yard and structure in the south east corner from the access road near the entrance to Park Farm. On the aerial images for 2021 the vegetation no longer existed and a structure (probably the existing container) was sited immediately on the edge of the access road. In effect the yard has expanded slightly southwards.
28. The Ordnance Survey base map¹⁰ has a dotted area wrapping around the south east corner of the yard in the approximate location of the vegetation shown on the aerial images. This notation distinguishes the land immediately north of the access road. The plan attached to the LDC dated 4 April 2022 shows a similar layout, where the land parcel adjacent to the internal site road is shaded green. The green shading continues along the eastern boundary to Plot B consistent with the trees and vegetation shown on the aerial images.
29. The Council produced a set of comparison aerial photos with overlays of the pink and shaded areas of Plot B on the original notice plan. This evidence strongly indicates that the yard has expanded slightly southwards onto the land B1 during 2021, when the other works were taking place at Park Farm.

Conclusions

30. The appellant's evidence is not sufficiently precise and unambiguous to show that area B1 was physically and functionally part of the lawful scaffolding yard on Plot B and there is no positive evidence to indicate otherwise.
31. On the balance of probability the material change of use of land parcel B1 to use as an extension to the scaffolding yard did not take place on or before 27 May 2012 and the use has not become lawful through the passage of time. In this respect the appeal on ground (d) does not succeed.

⁶ Appellant's grounds of appeal

⁷ Appendices to DWD proof of evidence (PF10)

⁸ CBS 5

⁹ CBS 5, ST1, ST2 and ST12

¹⁰ Land Registry plan for Title number BGL158117, Annex to appellant's statement of case dated 8 August 2023 (PF47)

Appeal on ground (a), the deemed planning application

32. The development covered by the deemed planning application is derived directly from the description of the breach of planning control, as corrected. Planning permission may be granted in relation to the whole or any part of the matters or in relation to the whole or any part of the land (section 177(1)(a) of the 1990 Act).
33. The appellant is seeking planning permission retrospectively, subject to conditions, for the following developments¹¹:
- The material change of use of area A1 to use as a scaffolding yard;
 - The erection of racking using scaffolding poles and corrugated roofing and the siting of a metal container in area A1;
 - The erection of racking using scaffolding poles and corrugated roofing in area A2;
 - The material change of use of area B1 to use as a scaffolding yard;
 - The siting of a metal container on area B1 for use as storage in association with the scaffolding yard;
 - The resurfacing in concrete the access road marked G and hard surfacing constructed in concrete on areas G1 and G2;
 - The laying of crushed hardcore hard surfacing and part-concrete hard surfacing on the area C2;
 - The formation of a bund approximately 700mm high along the southern edge of areas C1, C2 and C3.
34. The Council does not object to planning permission being granted in so far as it relates to areas B1 (use and container), area C2, areas G and G2 and the bund¹².
35. Notwithstanding the respective positions of the parties, all elements of the development(s) included in the deemed planning application are for determination.

Main issue and planning policy

36. The main issue is whether the development is inappropriate in the Green Belt and, if so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. The cumulative effects for the Park Farm site, positive and negative, will be a consideration. Where the development is not inappropriate very special circumstances do not have to be demonstrated in the overall planning balance.
37. The development plan consists of the London Plan 2021 and the Havering Local Plan 2016-2031 adopted in November 2021 (the HLP). Policy G2 of the London Plan protects London's Green Belt from inappropriate development.

¹¹ Inquiry Document 7 paragraph 4. I have not used the word 'retention' because a permission would authorise the acts of development not their retention.

¹² Inquiry Document 7 paragraph 2

Development proposals that would harm the Green Belt should be refused except where very special circumstances exist. The Council accepts that three HLP policies cited in the reasons for issuing the notice are not relevant to the developments - Policy 18 Open Space, sports and recreation, Policy 29 Green infrastructure and Policy 31 Rivers and river corridors. The appellant refers to Policy 19 on business growth and Policy 20 Loss of locally significant industrial sites (LSISs) and non-designated land. However, Park Farm is not a LSIS and not all the development parcels at issue in the notice have a lawful use as employment land.

38. The National Planning Policy Framework 2023 confirms the great importance of Green Belts and includes the policy tests in respect of inappropriate development in the Green Belt. The meaning of the concept of 'openness' has been considered in various judgements, including by the Supreme Court¹³.
39. When considering if 'the development' is inappropriate and the effect on the Green Belt, the appellant and the Council adopted different approaches in the evidence that pre-dated the SCG. The appellant considered each element of the alleged breach, whereas the Council looked at the development as a whole, relying on the principle in the *Kemnal Manor* judgement¹⁴. The approach that I will follow takes into account the different planning units identified within the wider Park Farm site and the corrected descriptions of the unauthorised uses and works.

Areas A1 and A2

40. Plot A, the lawful scaffolding yard, lies to the west of the bungalow and its garden. Photographic evidence shows in 2014 the yard was roughly square in shape and distinct from the larger undeveloped area of land extending to the west and south. In 2018 there were structures towards the back and along the eastern boundary and the commercial site was contained by planting along the western and northern boundaries. Access into the yard was directly off the access track that continued along the yard frontage. At that time the track continued westwards into the undeveloped area, where some open storage or deposit of materials appeared to have taken place but there is no evidence this activity was connected to the scaffolding yard.
41. The aerial photographs for 2021 showed the yard had expanded to the west to occupy the land identified as A1. The land was cleared of vegetation to form a hard surfaced yard. A metal container is sited at the back of A1 and racking has been erected along the western boundary for storage. The current occupier of the extended site moved his scaffolding business to Park Farm in 2021. Observations on the site visit indicated area A1 now functions as part of a single planning unit with Plot A.
42. The material change of use of land that was previously undeveloped, without structures and business activity, has resulted in a loss of openness. The purposes of the Green Belt in this location are to check the unrestricted sprawl of the built-up area, to prevent the neighbouring town of Collier Row and Harold Hill merging into one another and to a lesser degree to assist in safeguarding the countryside from encroachment. The development conflicts

¹³ *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC3; *Turner v Secretary of State for Communities and Local Government and others* [2016] EWCA Civ 466

¹⁴ *Kemnal Manor Memorial Gardens Ltd v First Secretary of State* [2005] EWCA Civ 835

- with these purposes. Development of the yard in this location also would not assist in urban regeneration. Inappropriate development has taken place that causes harm to the Green Belt by definition, even though the level of actual harm is moderated by the size of parcel A1.
43. The container and the structures of racking on A1 are buildings, having regard to their size, permanence and physical attachment. They do not fall within any of the stated exceptions relating to the construction of new buildings set out in paragraph 149 of the Framework and inappropriate development has taken place.
 44. The expanded site and the structures are easily visible from Keats Park and the public footpath. They increase the overall scale of commercial premises close to the residential area, leading to a creep of urban development westwards and detracting from the character and appearance of the locality.
 45. Other considerations are the economic benefits and potential mitigation. The scaffolding business occupying Plot A and A1 employs approximately 10 people. From observations on the site visit the extra space provided by A1 appears to help in the functioning of the yard in terms of circulation and additional storage space. The container probably provides office, amenity and storage space to assist the operation of the business. The development is well located to serve the local area and wider afield.
 46. The HLP through Policy 19 encourages business growth and the development of a prosperous economy in the Borough through a number of policy initiatives. The 'business friendly' approach extends to supporting sustainable growth and business expansion in the rural area but subject to meeting the Framework's Green Belt policy requirements. The evidence submitted to support the expansion of a 'sui generis' scaffolding use is limited in terms of accommodation/land requirements, suitability of available industrial land elsewhere to meet those requirements or the particular benefits of the Park Farm location and premises to the existing or similar firm. The economic benefits have moderate weight.
 47. The appellant emphasised that allowing the expansion onto area A1 in conjunction with a landscape scheme would provide a well defined boundary to the commercial area and a clear edge to support the three critical Green Belt purposes in this area. The development when considered with the additional developments for which planning permission is sought would enable the site to better perform a Green Belt function as well as ensuring no inhibitions to current businesses. However, the aerial images show that previously there was a firm and well defined boundary to the lawful yard that contained the commercial use and scale of development at Park Farm. The A1 site is very important to fulfilling the Green Belt function and this consideration prevails over the potential for achieving landscaping along the western boundary of the A1 plot as part of an approved scheme.
 48. The illustrative landscape scheme indicated tree planting along the northern boundary on the Keats Park open space but this land is not under the control of the appellant. No reliance may be placed on this proposed additional planting to soften the views of the scaffolding yard. The appellant proposed planning conditions that would limit the height of any structure to a maximum of 4 metres (m) and restrict open storage to a maximum height of 2m on area A1. The visual harm would be mitigated to some small extent but a harmful loss of

openness and the fundamental conflicts with the purposes of Green Belt would remain.

Conclusions

49. The harm to the Green Belt caused by the inappropriate development has substantial weight. The harm to local character and appearance adds a moderate amount of weight.
50. On the positive side of the balance the economic and employment benefits have moderate weight. Mitigation through landscaping and proposed height controls have a small amount of weight. The identified harms are not clearly outweighed by other considerations and very special circumstances do not exist to justify the development. Policy G2 of the London Plan directs refusal of planning permission and there is conflict with policy to protect the Green Belt set out in the Framework.

Area A2

51. On the eastern side of Plot A, on the lawful yard, a structure now exists that projects forward of the front wall to the adjacent bungalow. The access road to the yard has moved south onto G1 and now has a concrete surface.
52. The extension or alteration of a building is not inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building¹⁵. The appellant's evidence is that the scaffolding structure sited along the eastern boundary of the lawful area has an overall height of 3.7m and a length of about 9.4m. The extension is 4m. In view of its size and scale the appellant claims that the racking is a proportionate extension.
53. The starting point is to ascertain the size of the original building. The meaning of 'original building' is a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally¹⁶. Based on the sequence of aerial photographs, the probability is no buildings existed on Plot A in 2007. In 2010 a building appeared to have been constructed in the north eastern corner of the plot. In 2013 and 2014 no extension had been carried out, although it appeared either a container or external storage was adjacent. In 2018 additional structure(s) of racking or external storage look to have been present along the eastern boundary but it is unclear whether the earlier structure was extended. After the concrete surface was applied to the main access track the structure on area A2 possibly was separated by a gap from the extended original building on the eastern boundary¹⁷. However, photos taken on site in August 2021 suggest the structure on A2 continued the earlier structure along the eastern boundary.
54. The form of construction of the racking structures looked to be such that elements could be put up and taken down fairly easily. Filling in the gap would not involve a great deal of work. The available evidence indicates the structure erected on A2 around 2021 was a new building, which would amount to inappropriate development. Even if the structure was an extension, it would be

¹⁵ Paragraph 149(c) of the Framework

¹⁶ Glossary to the Framework

¹⁷ ST11 last photograph

- a disproportionate addition. In view of its size and siting little harm is caused to the Green Belt in addition to that caused by inappropriateness.
55. The structure has no architectural merit but it is functional and flexible, making use of materials available. The structure is sited away from the more publicly visible northern boundary and does not look out of place on a lawful scaffolding yard. It appeared to provide economical covered storage that would assist in the layout and operation of the yard. To refuse permission for this structure would be excessive bearing in mind the lack of success in the extension onto Plot A1 and the 'business friendly' approach in the HLP. The harm by reason of inappropriateness is clearly outweighed by other considerations.
56. The proposed correction to the wording of the breach places the erection of the palisade fencing in area A2, whereas the original description was not so specific. The appellant's planning evidence on unauthorised operational development refers to palisade fencing in respect of Plot A and Plot B¹⁸ but does not assess the fencing further. The Council's planning evidence also does not assess the palisade fencing, whether in relation to Plot A or Plot B.
57. The close-up images of the scaffolding yard and the structure on A2¹⁹ do not confirm palisade fencing on A2. In photos dated February 2022 palisade fencing or gates is visible to the west, on the frontage of the lawful yard. To avoid injustice to either the Council or the appellant I intend to correct the notice by deleting the palisade fencing from the alleged breach and requirements.
58. The aerial photograph dated August 2018²⁰ shows that the internal access road ran along the boundary to the bungalow and continued without deviation along the frontage to the yard. The southern edge of the road was marked by vegetation, forming part of the wider area of undeveloped land. The road was hard surfaced, probably with hard core, gravel or similar material and it appeared to continue across the undeveloped area, becoming more of a track. By comparison, the earlier images dated June 2010, July 2013 and August 2014 show that the road became part of and stopped within the yard.
59. As part of the works in 2021 the concrete surface to the internal road was extended to the south of the new building on A2 to provide access into the yard. This encroachment onto the previously vegetated area is identified as area G1 on the amended notice plan. Whilst the reason for the extension of the concrete road relates to the development on A2, the probability is that the works formed part of the operational development described as the third element of the breach encompassing the internal access road (G, G1 and G2), the hard surfaced areas C1, C2 and C3 and the formation of a low bund.

Use of area B1 and siting of metal container

60. Consideration of the ground (d) appeal has established on the balance of probability this strip of land was not within the lawful scaffolding yard. The land was largely covered in vegetation and was at the access into the Park Farm site. The land is sufficiently wide to site a metal container and also to contribute to the circulation space to the front of the yard. Incorporation into the scaffolding yard resulted in a material change in the use of the land.

¹⁸ DWD Proof (PF8) paragraphs 6.17 and 6.36

¹⁹ CBS7, CBS11 and CBS13, and photos LBH2 to LBH12 in the Council's written representations (PF40)

²⁰ ST2

However, in view of the relatively small size of the land parcel and its position both on the Park Farm site and in relation to the neighbouring development at Meadow Farm, I consider the change of use is not inappropriate development. No other harm results, whilst it serves a useful operational function. The development is acceptable.

61. The appellant produced a photograph of a container and submitted that overgrown shrubs hide the view of the container in satellite images. When the site was purchased the shrubs and ivy were removed. The container was described as clearly historic with markings visible from shrub removal. The photo shows the container was used for storing planks of timber. On this evidence the appellant considers the existing container is not inappropriate development because it replaces a building, is in the same use and is not materially larger than the one it replaced.
62. I agree that if the new container is a replacement building it satisfies the relevant test in the Framework on use and size. However, the container is on land that was not part of the lawful scaffolding yard. The probability is the container is an addition, not a replacement building and as such it is inappropriate development. There are positive factors in that the container is used for the storage of materials in association with the scaffolding yard. It makes good and effective use of the available space and provides enclosed and secure storage space. The structure is functional and relatively low in height and does not look out of place on the yard. In the circumstances, the harm to the Green Belt is clearly outweighed by other considerations.
63. Having taking account of the cumulative impact I conclude very special circumstances exist in relation to the building. The developments comply with Policy G2 of the London Plan and national policy in the Framework to protect the Green Belt. Planning permission should be granted for the material change of use and the siting of a metal container on area B1.

Internal access road, hard surfaced areas and low bund

64. The aerial images for 1999, June 2010, July 2013 and August 2018 show a consistent picture. There was a hard surfaced internal road from the main site entrance to the lawful yard on Plot A. On the south side of the road, opposite the bungalow, was a hard surfaced area used for vehicle parking and possibly open storage. Areas of vegetation existed on the land adjacent to the parking area. No fencing or physical feature separated these areas from the larger area of undeveloped land.
65. Aerial images taken in 2021²¹ indicate that the clearance of vegetation, the marking out of areas, excavation and formation of a low bund and the subsequent hard surfacing of the access road and parking areas took place around the same time as a single development operation. This is also reflected in the description of the breach in paragraph 3(iii) of the notice.
66. The builders who were employed to clear foliage from the C1, C2 and C3 areas affirmed there were two mounds either side of the central parking area and that beneath the surface were large amounts of decaying waste. Clearance of the land exposed hard standing similar to the surface on the central area. The

²¹ ST3 and ST4

appellant identified the open storage of rubbish as a fallback but the available evidence does not support this conclusion.

67. The engineering operation is not inappropriate development provided it has preserved openness and does not conflict with the purposes of including land within the Green Belt. Comparing the position before and after the work the visible extent of hard surfacing has increased significantly on this part of the Park Farm site.
68. Even if there was hard surfacing present beneath the vegetation, for the last 20 years or more the probability is that areas C1 and C3 formed part of the larger undeveloped area. The lawful Park Farm premises to the north provide a backdrop. The recent engineering operation was confined to surface treatment of the road and adjoining land and has not resulted in any increase in structures. Whilst the hard surfacing is used for vehicle parking, the breach of planning control only describes the operational development, not the use. However, the developed area has expanded beyond the built-up envelope of Park Farm and conflicts with the purpose to check unrestricted sprawl. The work on each individual parcel would satisfy the test but inappropriate development has taken place when considered as a whole. Users of the public footpath would be aware of the expansion of the business area. There would be a small amount of additional harm through loss of visual amenity close to the residential area.
69. Positive considerations to weigh in the balance in favour of the operational development include the benefit to the local businesses present at Park Farm and the presence of hard surfacing and access over a long term period of time. Nevertheless, they are insufficient to clearly outweigh the identified harm.
70. However, there is a strong case to support part of the development, namely the concrete surface to the access road (areas G1, G and G2), the hard surfacing of area C2 and the low bund. The work amounts to a very minor expansion of the developed envelope. This would not cause Green Belt or other harm but would assist the operation and function of the businesses. An acceptable balance would be reached between the servicing and parking needs of the lawful on-site uses and protecting amenity in this location. The bund, which was formed to restrict access, is very low in height, causes no visual harm and is a neutral feature within the local context. To grant planning permission with suitable planning conditions for these areas would largely coincide with the position established through the statement of common ground²². No conflict arises with HLP Policy 24 on car parking provision and Policy 27 on landscaping and Policy 19 provides support.

Conclusion on ground (a)

71. The bungalow and business premises at Park Farm are long established. The scaffolding yards are functional and their appearance reflects the nature of the materials, equipment and operational requirements. The low rental space described by the appellant meets a particular need within the borough. The works that took place in 2021, following a change in ownership, improved the internal circulation and security and provided additional space at the yards. However, the site is in Green Belt where policy protection is strong to prevent urban sprawl by keeping land permanently open.

²² The Council's final position on area G1 is set out in Inquiry Document 8

72. The assessment has shown the acceptability of the small expansion to Plot B, additional structures on areas B1 and A2, the concrete surfacing of the internal access road including areas G1 and G2, the surfacing works to area C2 and the low bund, when considered individually and in combination. Very special circumstances exist, where necessary, to justify the development. There is compliance with Policy G2 of the London Plan. The material change of use and works are in accordance with the development plan when read as a whole. The expansion of the yard westwards onto area A1 and the expansion of hard surfacing onto areas C1 and C3 fail to comply with Policy G2 and the development plan as a whole and are not acceptable.

Planning conditions

73. I have considered the list of suggested conditions submitted by the Council and the appellants²³ against the policy set out in the Framework. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).

74. A control on the height of structures on areas A2 and B1 is necessary to protect openness and visual amenity. Control on the use of areas C2, G, G1 and G2 is necessary to ensure these areas function well in serving the businesses on-site and the dwelling, to protect openness and visual and general amenity. In view of the amount of hard surfacing and the use of these surfaces by vehicles a surface water drainage scheme is necessary to control surface water run-off and to protect the local water environment.

75. As regards the bund, conditions to achieve an approved landscape scheme and its future maintenance are necessary in the interests of visual amenity. The proposed wording is to ensure the condition is enforceable. I have amended the wording to require only the removal of the bund in the event the necessary steps are not carried out to ensure the condition is reasonable.

76. The conditions are supported by HLP Policy 26 Urban design, Policy 27 Landscaping and Policy 32 Flood management.

Appeal on ground (f)

77. This ground is concerned with whether the requirements are excessive to achieve the purpose of the notice. The proposed landscape scheme and restrictions on building and storage heights were matters for the ground (a) appeal when considering the planning merits and potential mitigation. There are no additional matters to consider under this ground of appeal when account is taken of the proposed corrections to the notice.

Appeal on ground (g)

78. When making the appeal a period of 12 months was requested. In view of the agreement reached between the appellant and the Council no matters were pursued at the inquiry.

79. The main issue is whether the compliance period is reasonable. This requires consideration of what the recipient of the notice will have to do in practice to carry out the remedial steps and how much time it is reasonable to permit for

²³ Inquiry Document 7 includes the most up-to-date lists

that purpose. The Green Belt location also suggests that the period the harm is allowed to continue should be as short as reasonably possible to maintain public confidence in the planning system.

80. My main concern is that the firm occupying Plot A would lose part of their existing premises. Reorganisation of the operation probably would be necessary, which may involve securing additional premises elsewhere. Safeguarding employment is an important consideration to balance against the harm to the Green Belt. A compliance period of six months is reasonable and the notice will be varied accordingly in relation to the requirements for area A1. To this extent the appeal on ground (g) succeeds.

Conclusion on Appeal A

81. For the reasons given above the appeal should succeed in part only. Planning permission will be granted for the erection of a building on area A2, the material change of use of area B1 and the siting of a metal container on area B1, the hard-surfacing of area C2 and the formation of a low bund along the southern edge of areas C1, C2 and C3, and the resurfacing in concrete of the access road G and the concrete hard surfacing of areas G1 and G2. I will uphold the notice with corrections and a variation and refuse to grant planning permission in respect of the material change of use and operational development on area A1 and the hard surfacing of areas C1 and C3. By virtue of section 180 of the 1990 Act the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant

ENFORCEMENT NOTICE B

Appeal on ground (e) and service of notice

82. The issue is whether copies of the enforcement notice were served as required by section 172 of the 1990 Act and whether the appellant or the person required to be served with a copy of the notice has been substantially prejudiced by the failure in service (if it occurred).
83. The appellant withdrew the appeal on ground (e). No substantial prejudice was demonstrated and I will not consider the appellant's case further. However, there is an outstanding matter regarding the Council's failure to serve a copy of the notice on the owners and occupiers of Meadow Farm.
84. As explained above, access to and from Meadow Farm is by way of the road along its western boundary. Land Registry documents show that the owners and occupiers of Meadow Farm have a right of way at all times along the access road. The Council accepts they should be seen as "any other person having an interest in the land, being an interest which, in the opinion of the local planning authority, is materially affected by the notice" and therefore they should have been served with a copy of the notice. I agree with this position and turn to the matter of substantial prejudice.
85. An enforcement notice was issued affecting land at Meadow Farm on 27 May 2022, the same date as the Park Farm notices. One of the alleged breaches of planning control is the construction of an access road from north to south on the western side of the site. A requirement of the notice is 'to remove the access road made using concrete'. A copy of the notice was served on the owners and occupiers of premises at Meadow Farm. An appeal was made

against the notice on grounds (a) and (g) by the owner of Meadow Farm²⁴. The appeal decision dated 18 April 2023 explained planning permission was not sought for the access road through the ground (a) appeal. The Inspector decided to uphold the enforcement notice.

86. The decision by the owner of Meadow Farm not to contest the enforcement action or to seek permission for the road is significant. It appears the reason for not doing so was because the road did not belong to them. The Planning Inspectorate's records confirm none of the occupiers made an appeal, relying on the land owner of Meadow Farm to act on their behalf.
87. Against this background the probability is the owners or occupiers of Meadow Farm would not have submitted an appeal even if they had been served with a copy of enforcement notice B. In addition, the Council confirmed the owner of Meadow Farm was aware of the Park Farm appeal and inquiry. Site notices about the inquiry were prominently displayed on the access to Meadow Farm and were still in place at the time of the accompanied site visit. A reasonable expectation is that if the owner or occupiers had a concern they would have either made a written representation or attended the inquiry. They did neither.
88. In conclusion, copies of the enforcement notice were not served as required by section 172 of the 1990 Act. The person(s) required to be served with a copy of the notice have not been substantially prejudiced by the failure in service. There is no justifiable reason to quash the notice.

Appeal on ground (a) and the deemed planning application

89. The deemed planning application covers the matters set out in the description of the breach of planning control, as corrected. To recap, the matters are the formation of a bund approximately 2m high, the erection of a boundary fence and gates and low brick wall, an access road constructed in concrete, the erection of street lamps and the installation of CCTV columns. The appellant decided not to pursue its case in respect of the fencing and gates and the street lights and CCTV installations. The Council did not oppose the granting of planning permission, subject to planning conditions, for the bund, the wall and the access road.
90. The main issue is whether inappropriate development has occurred in the Green Belt and if so whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. The cumulative effects for the Park Farm site, positive and negative, and for the Green Belt will be a consideration. In the event development is not inappropriate, very special circumstances do not have to be demonstrated. Matters for consideration will include the effect on the local character and appearance of the surrounding area and highway safety in relation to the road.
91. The policy context is the same as for Appeal A.

Bund

92. The bund is formed of earth, possibly including some rubble and extends along the northern, western and southern boundaries of the Land, as shown on the corrected plan. The bund is about 2m high along its length, with a steep profile.

²⁴ Appeal reference APP/B5480/C/22/3301752

It is mainly 4m to 5m in width but widening to 6m to the west of the access with the A12²⁵. Over time it has become partly covered with self-set rough vegetation.

93. The formation of the bund amounted to an engineering operation. This type of development is not inappropriate provided it preserves openness and does not conflict with the purposes of including land within the Green Belt²⁶.
94. The bund is akin to a landform, primarily affecting the land surface. The bund is 'solid' with a significant physical presence because of its height and width but it does not have the permanency of a building or piece of infrastructure. It has a visual impact in so far as it interrupts views across the undeveloped land but there are undulations and engineered mounds in the surrounding open areas off-site. The underlying aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The bund does not contribute at all to the spread of the built up area, whether at Park Farm or the adjacent residential area.
95. My conclusion is that the development preserves openness and does not conflict with any of the purposes of including land within the Green Belt. The bund is not inappropriate development.
96. As formed the bund has a harsh profile, appearing as a rather stark defence rather than as a means of defining a boundary or a means of enclosure. By way of mitigation, a landscape scheme, incorporating reprofiling and the planting of trees, hedgerow species and ground cover could be secured by condition. Implementation of an approved scheme would improve the appearance of the bund, contribute to biodiversity gain and provide the site security sought by the appellant. The bund would become more of a natural landscape feature. The submitted landscape scheme illustrates the scope of potential proposals.
97. In conclusion, the formation of the bund does not conflict with Policy G2 of the London Plan and complies with Policy 27 of the HLP, subject to submission and implementation of a detailed landscape scheme.

Boundary wall, fence and gates

98. The boundary treatment is a sturdy structure, in the form of timber panels of cross beamed fencing supported by timber posts at regular intervals. A low brick wall provides a base. The structure's height above ground varies slightly along its length due to the changes in ground levels. It replaced an agricultural style post and rail fence of timber that blended into its surroundings²⁷. Gates provide access into the undeveloped land, separate from the entrance into the Park Farm premises in the appellant's ownership. The structure has been erected along the western boundary of the main access road, extending a short distance along the site frontage.
99. The fencing, wall and gates fall within the definition of a 'building' in section 336 of the 1990 Act²⁸ and, with reference to paragraph 149 of the Framework, amount to inappropriate development in the Green Belt. By reason of the

²⁵ Landscape proposal page 3 (PF10)

²⁶ The Framework paragraph 150

²⁷ Photograph in ST11.

²⁸ Section 336 of the 1990 Act: "building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.

length, height and design the boundary treatment has an adverse effect on openness when seen against the backdrop of the more extensive undeveloped area of land outside of the main built-up area. The structure is a form of encroachment.

100. At the inquiry the appellant did not put forward a case for retention of the fence and gates and accepted that a more suitable form of boundary treatment should be provided. No very special circumstances exist and the development conflicts with Policy G2. The appellant and the Council agreed the low wall is the only acceptable element and that planning permission should be granted for this part of the development alone. This approach is an acceptable way forward to resolve the harm to the Green Belt.

Access road

101. The photographic evidence shows that in May 2021 the access road was in a poor state of repair with numerous potholes, loose material, poor surface water drainage and ill defined edges as a result of vegetation growth. A schedule of the works did not form part of the evidence but the road now has a concrete surface and drainage gutters. The Council's evidence indicates the width of the hard surface increased slightly, although vegetation continues to provide a verge. An engineering operation was carried out.
102. The work has given the road a more 'engineered' appearance but has not noticeably altered its ground level. A road connecting two commercial sites with the A12 Eastern Avenue has been in existence for many years. I conclude the development is not inappropriate.
103. The road has a longstanding purpose serving Park Farm and Meadow Farm. In view of the lawful uses of these properties, the traffic using the road is likely to be mixed and include vans, trucks and other commercial vehicles. A hard surfaced access to the A12 is essential for highway safety reasons to minimise materials and debris spilling onto the major highway and in assisting the smooth manoeuvring of vehicles on and off the A12. The swept path analysis confirms the road is an adequate standard. Details of a surface water drainage scheme could be secured by means of a planning condition, with a view to ensuring run off would not affect the safe operation of the A12. The appearance of the concrete surface and the means of access would be softened by more suitable boundary treatment, lighting and security measures. No policy conflict arises.

Street lamps and CCTV columns

104. The revised plan shows the siting of this element of the unauthorised development more accurately. There is no dispute inappropriate development has taken place. Essentially the lighting and CCTV poles and cameras are items of street furniture that are quite visually intrusive by reason of their height.
105. Security and safety are important considerations. A more suitable design solution is required in this Green Belt location to comply with HLP Policy 26, which the appellant accepts. This matter cannot be covered by a planning condition because of the uncertainty over whether any such scheme would form part of the matters enforced against.
106. To conclude, the harm to the Green Belt has substantial weight and is not clearly outweighed by other considerations. Very special circumstances do not

exist and the development should be refused in accordance with Policy G2 of the London Plan.

Conclusion on ground (a) and planning conditions

107. The fencing and gates and the street lamps and CCTV columns are contrary to the development plan and national policy to protect the Green Belt.
108. The bund, the low wall and the works to the access road are in accordance with the development plan and the Framework and are acceptable, including when the cumulative effect on the Green Belt is considered. Permission will be granted subject to conditions.
109. I have considered the list of suggested conditions submitted by the Council and the appellants²⁹ against the six tests.
110. In relation to the access road, details of a surface water drainage scheme are necessary to ensure the drainage system installed adequately controls surface water run-off in the interest of highway safety and to protect the local water environment. A landscape scheme for the bund, including programmes of implementation and maintenance, is necessary in the interests of visual amenity. The conditions will be worded to ensure they are enforceable, remembering that development has been carried out.
111. A condition removing permitted development rights to erect means of enclosure along the western side of the access road is reasonable because of the Green Belt location and the length of the boundaries. The proposed wording will be made specific to the relevant Class and Part of the GPDO³⁰. Reference to the existing brick wall is not necessary because the wall exists and is being granted planning permission. The inclusion of guidance on an acceptable form of fencing is not necessary because the condition does not require submission of a scheme.
112. The conditions are supported by HLP Policy 26 Urban design, Policy 27 Landscaping and Policy 32 Flood management.

Appeal on ground (f)

113. The issue is whether the requirements of the enforcement notice are excessive, taking account of the purpose of the notice. I will address the matters raised initially by the appellant.
114. The alleged increase in land levels and the related requirement will be deleted from notice. The submission of a landscape scheme for the bund is dealt with under the ground (a) appeal.
115. The submission of an alternative lighting and security scheme cannot be required because such a requirement would not be precise and new development would be involved. The matter would have to be pursued through a separate planning application.
116. In conclusion, the requirements as proposed to be corrected are not excessive.

²⁹ Inquiry Document 7 includes the most up-to-date lists

³⁰ The Town and Country Planning (General Permitted Development) (England) Order 2015

Appeal on ground (g)

117. The issue under this ground is whether the compliance period of three months is reasonable.
118. When making the appeal a period of 12 months was requested, although the ground (g) case was modified at the inquiry.
119. The appellant and the Council in coming to their agreed position anticipated that the notice would be quashed in part and the requirements related to the formation of the bunds and access road would be deleted. However, an enforcement notice can only be quashed in its entirety. The requirements in relation to the bund and access road will not be deleted from the notice. To do so could give rise to two inconsistent planning permissions, the conditional one granted and an unconditional one deemed to have been granted under section 173(11). The appellant will be able to rely on section 180, which provides that the enforcement notice will cease to have effect so far as inconsistent with the permission. The conditions attached to the planning permission will control the timescale for submission of landscaping and drainage schemes and the removal of the developments if schemes are not approved or implemented.
120. Therefore the compliance period will be most relevant to the requirements for the fencing and the lighting/CCTV columns. The probability is that the appellant would wish to replace them with more suitable structures and measures to provide the necessary security, safety and enclosure. In the circumstances a reasonable period for compliance is six months to allow time for proposals to be submitted and approved. The appeal on ground (g) succeeds to this extent.

Conclusion on Appeal B

121. For the reasons given above the appeal should succeed in part only, and planning permission will be granted for the bund, the low brick wall and the works to the access road. Otherwise, I will uphold the notice with corrections and a variation and refuse to grant planning permission in respect of the boundary fence and gates, the street lamps and the CCTV columns. By virtue of section 180 of the 1990 Act the requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant.

FORMAL DECISIONS

Appeal A Ref APP/B5480/C/22/3001798

122. It is directed that the enforcement notice is corrected:
- In paragraph 2 by inserting a full stop after the word 'plan' and deleting the phrase citing Land Registry details.
 - In paragraph 3 by the deletion of the description of the breach of planning control alleged and the substitution of the wording "Without planning permission:
 - i. A material change of use of the land in areas A1 and B1 (shown on the attached plan) to use as a scaffolding yard as an extension to the lawful premises shown in blue (Plot A) and pink (Plot B).

- ii. The erection of racking using scaffolding poles and corrugated roofing and the siting of a metal container in area A1; the erection of racking using scaffolding poles and corrugated roofing in area A2; and the siting of a metal container in area B1 (all areas as shown on the attached plan).
 - iii. The laying of crushed hardcore hard surfacing and part concrete hard surfacing and formation of a bund approximately 700mm high in areas C1, C2 and C3 and the resurfacing in concrete the access road marked G and hard surfacing constructed in concrete in areas G1 and G2 (all areas as shown on the attached plan).
- In paragraph 4 reason 3 the deletion of “erection of boundary fences, increase of land levels and construction of roads” and substitution of “and construction of access road” and the deletion of reference to Local Plan Policies 18, 29 and 31.
- Renumber paragraph 2 What You Are Required to Do as paragraph 5.
- In renumbered paragraph 5 under the heading Plots A and B substitute the wording:
 - i. Cease the use of the land in areas A1 and B1 (as shown on the attached plan) from use as a scaffolding yard; AND
 - ii. Remove all racking erected using scaffolding poles and corrugated roofing and metal container in area A1 (as shown on the attached plan); AND
 - iii. Remove all racking erected using scaffolding poles and corrugated roofing in area A2 (as shown on the attached plan); AND
 - iv. Remove the metal container in area B1 (as shown on the attached plan); AND
 - v. Remove from the site all building materials and debris associated with carrying out steps i to iv above.
- In renumbered paragraph 5 delete the heading Plot C and substitute the heading Plot C and Access Road
- In renumbered paragraph 5 under the corrected heading Plot C and Access Road substitute the wording:
 - i. Cease using the newly hard surfaced area in areas C1, C2 and C3 (as shown on the attached plan) as a parking area and remove all hard standing from the land in areas C1, C2 and C3; AND
 - ii. Remove from the land the concrete access road within areas G, G1 and G2 (as shown on the attached plan) and restore the land to the condition before the unauthorised development took place; AND
 - iii. Remove the bund approximately 700mm high used to enclose the parking area: AND
 - iv. Remove from the site all building materials and debris associated with carrying out steps i to iii above.

- The substitution of the plan attached to this Decision for the plan attached to the enforcement notice.
123. Subject to the corrections to the enforcement notice, the appeal is allowed in so far as it relates to area A2, area B1, the internal access road and areas G1 and G2, the hard surfacing of area C2 and the low bund at Park Farm, Eastern Avenue East, Romford RM3 7NR. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for a material change of use of the land in area B1 to use as a scaffolding yard as an extension to the lawful premises shown in pink (Plot B), the siting of a metal container in area B1, the erection of racking using scaffolding poles and corrugated roofing in area A2, the laying of crushed hardcore hard surfacing and part concrete hard surfacing in area C2, the formation of a bund approximately 700mm high, resurfacing in concrete the access road marked G and the hard surfacing constructed in concrete in areas G1 and G2 (all areas shown on the plan annexed to this Decision), subject to the planning conditions in Schedule A to this Decision.
124. It is directed that the enforcement notice is varied by in paragraph 6 Time for Compliance by the deletion of "effect." and the substitution of "effect, except in respect of the requirements for area A1 where the time for compliance is six months after the date when this Notice takes effect."
125. The appeal is dismissed, the enforcement notice, as corrected and varied, 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 in respect of a material change of use of the land in area A1 to use as a scaffolding yard as an extension to the lawful premises shown in blue (Plot A), the erection of racking using scaffolding poles and corrugated roofing and the siting of a metal container in area A1, the laying of crushed hardcore hard surfacing and part concrete hard surfacing in areas C1 and C3 (all areas shown on the plan annexed to this Decision) at Park Farm, Eastern Avenue East, Romford RM3 7NR.

Appeal B ref APP/B5480/C/22/3001800

126. It is directed that the enforcement notice is corrected:
- In paragraph 2 by inserting a full stop after the word 'plan' and deleting the phrase citing Land Registry details.
 - In paragraph 3 by the deletion of the description of the breach of planning control alleged and the substitution of the wording "Without planning permission,
 - i. The formation of bunds approximately 2m high on the northern, western and southern sides of the site (shown in yellow on the attached plan).
 - ii. The erection of gates and a boundary fence between 1.8m to 2m high using bricks for the base and timber frames (Lattice fencing) on the eastern and southern sides of the site (shown in red on the attached plan).
 - iii. The carrying out of works to construct a concrete surface to the access road running north to south between the access to Park

Farm and the junction with the A12 (shown grey on the attached plan).

- iv. The erection of street lamps and the installation of CCTV columns in the approximate positions marked X on the attached plan.
- In paragraph 4 the addition of “and CCTV columns” after the word “lamps” and the deletion of the words “increase of land levels” in reason (3) and the deletion of “and raising of land levels” in reason (4).
 - Renumber the paragraph What You Are Required To Do as paragraph 5.
 - In renumbered paragraph 5 by the deletion of the heading Land Levels and Street Lamps, the sentence below the heading and the wording within step (i) and the substitution of the heading Street Lamps and CCTV Columns, and the wording in step (i) “Remove all street lamps and CCTV columns erected in the approximate positions marked x as shown on the attached plan.”
 - In renumbered paragraph 5 under the heading Access Road Between Park Farm and Meadow Farm the deletion of the wording of step (i) and the substitution of the wording “Remove all concrete added to the access road running north to south between the access to Park Farm and the junction with the A12, shown in grey on the attached plan, and restore this access road to its condition before the unauthorised development took place; AND”
 - The substitution of the plan annexed to this Decision for the plan attached to the enforcement notice.
127. Subject to the corrections to the enforcement notice, the appeal is allowed in so far as it relates to the bunds, the low brick wall and the works to the access road at Park Farm, Eastern Avenue East, Romford RM3 7NR. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the formation of bunds approximately 2m high on the northern, western and southern sides of the site (shown in yellow on the plan annexed to this Decision), the low brick wall on the eastern and southern sides of the site (shown in red on the plan annexed to this Decision), and the carrying out of works to construct a concrete surface to the access road running north to south between the access to Park Farm and the junction with the A12 (shown grey on the plan annexed to this Decision) and subject to the planning conditions in Schedule B to this Decision.
128. It is directed that the enforcement notice is varied by the substitution of six months as the time for compliance.
129. The appeal is dismissed, the enforcement notice, as corrected and varied, 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 in respect of the erection of boundary fence and gates (excluding the brick wall) on the eastern and southern sides of the site, and the installation of street lamps and CCTV columns in the approximate positions marked x as shown on the plan annexed to this Decision, all at Park Farm, Eastern Avenue East, Romford RM3 7NR.

Diane Lewis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Glover K.C.	Instructed by Chaplin & Co Solicitors
He called	
Barry Murphy BA(Hons)	Salaried Partner at DWD
MRUP MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Merrow Golden, of Counsel	Instructed by the Council of the London Borough of Havering
She called	
Simon Thelwell BSc(Hons)	Head of Strategic Development, London Borough of Havering
Christopher Bird	Principal Planning Enforcement Officer, London Borough of Havering
Stathers	

DOCUMENTS submitted at the inquiry

- 1 Opening submissions of behalf of the appellant
- 2 Corrected Enforcement Notice A
- 3 Corrected Enforcement Notice B
- 4 Varied Enforcement Notice A
- 5 Varied Enforcement Notice B
- 6 Amended plan for enforcement notices
- 7 Note on resolution of the appeals
- 8 Closing submissions on behalf of the Council

APPEAL A SCHEDULE A PLANNING CONDITIONS

The areas referred to in the conditions are shown on the plan annexed to this Decision.

- 1) No structure within the area marked A2 shall exceed 4 metres in height above ground level.
- 2) No structure within the area marked B1 shall exceed 4 metres in height above ground level.
- 3) No open storage, or the erection of any structures, shall take place on the areas marked C2, G, G1 and G2.
- 4) The area marked C2 shall be used only for the parking of vehicles associated with the use of Plot A (including A2) and Plot B (including B1) as scaffolding yards and the dwelling known as Park Farm and for no other purpose.
- 5) The areas marked G1 and G2 shall be used for accessing the site and parking of vehicles associated with the lawful use of Plots A and B and the dwelling known as Park Farm and for no other purpose.
- 6) The bund along the back edge to areas C1, C2 and C3 and all resulting materials shall be removed within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme of landscaping for the bund shall have been submitted for the written approval of the local planning authority. The scheme shall include details of re-profiling the bund, soft landscape works (including planting plans, written specifications and schedules of plants noting species, plant sizes and numbers/densities), a timetable for the scheme's implementation and a programme of maintenance for a minimum period of 5 years.
 - ii) If within 5 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) The schedule of landscape maintenance, approved in compliance with condition 6 above, shall be carried out in accordance with the approved details. Any trees or plants which within a period of five years from completion of the landscaping scheme die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with plants of a similar size and species.

- 8) The concrete surface to the areas marked G, G1 and G2 and the hard surfacing to area C2 shall be removed within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- i. Within 3 months of the date of this decision a scheme for surface water drainage for areas G, G1 and G2 and area C2 shall have been submitted for the written approval of the local planning authority. The scheme shall include a timetable for its implementation and a programme of maintenance.
 - ii. If within 5 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved surface water scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule A

APPEAL B SCHEDULE B

PLANNING CONDITIONS

The areas referred to in the conditions are shown on the plan annexed to this Decision.

- 1) The concrete surface to the access road hereby permitted shall be removed together with all resulting materials within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for surface water drainage shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation and maintenance.
 - ii) If within 5 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) Notwithstanding the provisions of Class A in Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected on the western side of the access road hereby permitted or fronting the A12 highway other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.
- 3) The bund hereby permitted and all resulting materials shall be removed within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme of landscaping for the bund shall have been submitted for the written approval of the local planning authority. The scheme shall include details of re-profiling the bund, soft landscape works (including planting plans, written specifications and schedules of plants noting species, plant sizes and numbers/densities), a timetable for its implementation and a programme of maintenance for a minimum period of 5 years.
 - ii) If within 5 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) The schedule of landscape maintenance, approved in compliance with condition 3 above, shall be carried out in accordance with the approved details. Any trees or plants which within a period of 5 years from completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with plants of a similar size and species.

End of Schedule B



Plan

This is the plan referred to in my decision dated: 14 November 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Park Farm, Eastern Avenue East, Romford RM3 7NR

Reference: APP/B5480/C/22/3301798, APP/B5480/C/22/3301800

Plan inserted on following page.



Corrected plan for Enforcement Notices A and B

**Land at: Park Farm, Eastern Avenue East, Romford RM3 7NR
APP/B5480/C/22/3301798, APP/B5480/C/22/3301800**