



Appeal Decision

Hearing held on 8 April 2025

Site visit made on 8 April 2025

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 02 June 2025

Appeal Ref: APP/K2230/C/25/3358530

Land at Walnut Hill Nursery, Walnut Hill Road, Gravesend, Kent DA13 9HL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr C Lawson (C. John Lawson Limited) against an enforcement notice issued by Gravesham Borough Council.
 - The notice was issued on 4 December 2024.
 - The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the material change of use of the Land (which includes the buildings) from an agricultural use to a mixed use of Use Class E (Commercial, Business and Service) and Sui-Generis Use in relation to the operation of a drainage company including for the avoidance of doubt the parking of HGV tanker lorries in connection with the unauthorised use.
 - The requirements of the notice are to:
 - (i) Remove all HGV tanker lorries from the Land
 - (ii) Cease the use of the Land and buildings thereon for use within Use Class E (Commercial, Business and Service) and the Sui-Generis Use in relation to the operation of a drainage company
 - (iii) Remove all plant, machinery, equipment and vehicles in connection with the unauthorised mixed use from the Land
 - (iv) Remove all resultant debris and associated materials generated by the unauthorised development and compliance with the above steps from the Property utilising an authorised waste carrier
 - The periods for compliance with the requirements are: (i) Step 5(i) within 28 days of the date when this notice takes effect and (ii) Steps 5(ii) to (iv) (inclusive) within three calendar months from the date when the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 (as amended) (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by:

Deleting the matters which appear to constitute the breach of planning control at part 3 of the notice and substituting it with '*Without planning permission, the material change of use of the Land and buildings to a sui generis use as a drainage engineering depot including the parking of HGV tanker lorries and commercial vans and the storage of equipment and materials.*'

Deleting step (ii) of the requirements and substituting it with 'Cease the use of the land as a drainage engineering depot.'

Deleting the word 'mixed' from step (iii)

Deleting the word 'Property' from step (iv) and substituting it with 'Land'.

2. Subject to those corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (b)

3. The appeal on ground (b) is made on the basis that the matters comprising the alleged breach of planning control *have not occurred* as a matter of fact. It concerns the circumstances leading up to, and at the time when the notice was issued.
4. The previous lawful use of the site is described by the Council as agricultural¹, being occupied by a commercial plant nursery. A large brick building occupies the site frontage. This building was originally erected with express planning permission granted in May 2001 to provide equipment/materials storage, propagation area, potting and packing and loading areas at ground floor level and staff facilities, drying room, office and storage at mezzanine floor level. Although the building may well have been used for administrative purposes to a degree by the previous nursery use, there is no evidence to indicate that this was anything more than incidental to the primary use of the site as a commercial plant nursery, and therefore an agricultural use.
5. The use of the building ceased when the nursery closed in 2022. The Council consider that the site is in a mixed use with the building falling within Class E (commercial, business and service) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the 'UCO'), with the remainder of the site in a use of its own, a sui generis use. The appellant's view is that the site as a whole falls within use Class E.
6. Since 2024, the site has been occupied by a drainage company who use the main building as an office for 16 employees who deal with the administrative side of the business. Parking is provided to the front of this building for use by on-site staff. The company also employ the services of drainage engineers through an agency. Those workers use the company vans and HGVs which, it seems, are mostly kept at the appeal site. Beyond and to the rear of the main building, there are a number of buildings and structures. These I noted at my visit were used for the storage of materials and specialist equipment for the business and some provided personal space for use by employees. None of them were being used as office accommodation.
7. At the hearing, the appellant confirmed that the company owned 11 HGVs, and these were present at my visit. It was also acknowledged that the 'vast majority' of employees worked on the drainage side of the business rather than administration. The appellant explained that most of the work undertaken by the company utilised the vans rather than the HGVs and that the vans, of which they owned 20, were kept away from the site at the home of the user and rarely visited the site. At the time of my visit, several of the company vans were parked on the site.

¹ Section 336 of the Act - "agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly.

8. No maintenance, repair or cleaning of the vehicles is said to take place at the site and any collected waste is emptied at a waste treatment plant away from the site. Although the administrative side of the business appears to operate generally between 0800 and 1700 during the working week, the non office-based work appears to operate on a 24/7 basis with operators coming to the site, when required, to collect HGVs or vans for a specific job. While there were some conflicting views about the storage of work vehicles, it seems to me that the vehicles would most likely be kept at the site as those employed as drainage engineers, who use the vehicles, are agency staff employed as and when, and therefore I am doubtful that they would keep a vehicle, particularly an HGV, at their home address.
9. While it is acknowledged that drainage work is undertaken away from the site, it is apparent from the presented evidence that the commercial vehicles are a main part of the business as without these vehicles, drainage work would not be able to be undertaken. Accordingly, I am not persuaded that the office use is the primary use of the site with the storage uses and parking of vehicles incidental to that use. In this respect, I consider that the use of the land is better described as a depot from which the commercial business operates. I acknowledge that the appellant is considering restructuring the business and reducing the fleet of vehicles, but the appeal before me reflects what is alleged to have occurred on the land in the time leading up to and when the notice was issued.
10. To ensure that the description of the alleged breach is correct, I intend to delete the allegation and replace it with wording that accurately reflects the development that has occurred. I consider that on the basis of the submitted evidence and the discussions during the hearing, no injustice would be caused to either party². To ensure that the requirements of the notice follow on from the allegation, it will also be necessary to modify the terms of the notice accordingly.
11. Overall, I consider that the matters comprising the alleged breach of planning control, as amended, have occurred as a matter of fact. Moreover, the operational activity is materially different to the former lawful use as a commercial plant nursery in an agricultural use and is development as defined by s55 of the 1990 Act.
12. The appeal on ground (b) cannot therefore succeed.

Ground (a) and the deemed planning application

Main Issues

13. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policy;
 - The effect on openness of the Green Belt;
 - The effect on the landscape character of the area;

² Any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.

- The effect on the living conditions of neighbouring residents;
- The effect in relation to highway safety;
- The effect in relation to groundwater source protection; and
- If the development is inappropriate, whether the 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 proposal.

Reasons

Whether inappropriate development

14. Policy CS02 of the Gravesend Local Plan Core Strategy 2014 (the 'LPCS') prioritises development in the urban area as a sustainable location for development. In the rural area it states that development will be supported within rural settlements that are inset from the Green Belt and defined on the Policies Map. Development outside those settlements will only be supported where it is compatible with national policies for protecting the Green Belt and policies in the LPCS.
15. There have been recent changes in national planning policy which affect development in the Green Belt, and these were considered by the main parties both in their submissions and at the hearing. It was generally agreed by the main parties that the site should be considered as 'grey belt' as defined in the Framework. This is because it does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 of the Framework.
16. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Any harm to the Green Belt should be given substantial weight. Development in the Green Belt is inappropriate unless either it would utilise grey belt and satisfy all three criteria set out in paragraph 155 of the Framework or one of the exceptions in paragraph 154 applies. It is agreed that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, thus criterion a. of paragraph 155 is met.
17. Criterion b. is that there is a demonstrable unmet need for the type of development proposed. The appellant maintains that the local authority has a substantial under delivery of employment floorspace land and an unmet need for such land for commercial industries such as their business. In response to the appellant's argument, it was not disputed that employment delivery on key sites identified in the LPCS had been low and that there had been a level of out-commuting to neighbouring boroughs, possibly due to a delivery of commercial floorspace and employment opportunities. While it was considered that this could reflect a lack of demand, I am not satisfied that there is sufficient evidence to show a demonstrable unmet need for the development. The appellant stated that a site search was undertaken for 2 years before the appeal site was located. However, I have not been supplied with any details of other sites that may have been looked at to show why they were not suitable. I am also aware that the company provides drainage services for commercial and residential customers across London, Kent, Sussex, Cambridge, Reading, Oxford, Bristol, Birmingham and further locations. In view of

this, it is reasonable to consider that alternative suitable locations could be available to the company elsewhere. Consequently, it therefore fails to comply with criterion (b).

18. Criterion c. is that the development would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework. In determining whether the location is sustainable, account should be taken of the lawful use of the site. While I recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The company employs 16 people who work at the site on mostly a full-time basis and agency drivers for their 11 HGVs and 20 vans. Workers are said to be within close proximity, described as 30 minutes away, so that they can reach the office quickly when called out to a job.
19. The appellant's submissions refer to bus routes within a 10 minute walk which provide services to and from Meopham, Sevenoaks and Gravesend, but there is no indication of their frequency. The site is in the countryside where public transport options available in the locality will be limited, and it is natural to assume that employees would use private methods of transport for their journeys to and from the site. A traffic survey indeed shows that individual journeys to and from the site are made by employees and it is also apparent that journeys are made using the companies own commercial vehicles. The previous use of the land will have generated journeys to and from the site and it is most likely, due to the products for sale, that those by the public will have been by private car to carry home purchases.
20. Nevertheless, there is limited information relating to how the former use actually operated, and therefore I am not able to truly compare what has gone on previously with the current use. Whether locations are sustainable should be determined in light of local context and site or development-specific considerations. Thus, as a matter of fact and degree, I consider that because of the way in which the site operates, particularly with regard to the commercial vehicles, it cannot be deemed to be in a location where sustainable transport options offer an alternative to reduce congestion and emissions and improve air quality and public health. Moreover, there is little to persuade me that the location is one that could be made sustainable.
21. Further to the matter of sustainable transport modes, it is also appropriate to address whether safe and suitable access to the site can be achieved for all users. It is acknowledged the previous lawful use of the site was a commercial plant nursery and that its use will have generated traffic movements by suppliers, employees and the public. While there is limited information for the previous use and no factual data regarding highway movements, local residents recount a level below that of the current use and lorries being unloaded away from the site and their content being delivered to the nursery on smaller vehicles. The overall picture is one of significantly quieter road use and one that operated during daylight hours during the week and Saturdays.
22. Furthermore, the roads within proximity of the site are narrow, winding, unlit and lack pedestrian footways. Along the surrounding roads I noted that there are limited formal 'pull-in' places to allow other vehicles to pass, and evidence has been presented to show that in some places the road is just wide enough for an

HGV. I have no reason to disagree that this has made the local road network challenging for road users and I am not persuaded that safe and suitable access to the site could be achieved in these circumstances. In this respect, the development does not meet criterion c.

23. Since all of the criteria in paragraph 155 of the Framework are not met, the appeal development cannot be considered to be not inappropriate on the basis that it uses grey belt land.
24. Paragraph 154 of the Framework also considers that development in the Green Belt is inappropriate unless one of the listed exceptions applies. In that list at point h) is other forms of development provided they preserve openness and do not conflict with the purposes of including land within the Green Belt. It is suggested that the following are of relevance in these circumstances: iv. the re-use of buildings provided that the buildings are of permanent and substantial construction; and v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
25. The building is of apparent permanent and substantial construction, and it is the Council's opinion that as the building is in situ, its re-use would not affect the openness or purposes of the Green Belt, and it would therefore not be inappropriate development. However, while that may well be the case, the enforcement notice attacks the use of the whole site and it has not been claimed that all of the land is curtilage of the building, thus the deemed planning application must be determined against the land and buildings which extend to some 1.1 hectares. In these circumstances, the exception does not apply to the development that has taken place which is a material change of use of the land rather than the mere re-use of a building.
26. Regarding development in the form of a material change in the use of the land, exception v. provides examples of changes that may be considered acceptable. I consider that the material change in use of the land in this case would not fall within this exception. The list is not an open-ended category but rather, because of the words "such as", the uses within it should take their flavour or extent from the examples given. If it was simply an open-ended category, then it is not clear why examples would be given at all. Therefore, the development cannot be considered to be not inappropriate on the basis of these exceptions.
27. To conclude on this matter, although the appeal site would reasonably be considered as grey belt land as defined by the Framework, there is little cogent evidence to suggest that there is a demonstrable unmet need for this type of commercial development in this location which is also considered to be a location which is not sustainable in relation to genuine alternative modes of transport. As such, the appeal proposal, when judged against the criteria set out in paragraph 155 of the Framework, would constitute inappropriate development.

Openness

28. Openness is an essential characteristic of the Green Belt which can be perceived both spatially and visually. The former nursery site is rectangular in shape, is approximately 50m in width and extends back some 270m. It is located on the northern side of Walnut Hill Road, set back behind metal entrance gates, within a treed setting. The front part of the site is more 'built up' and includes polytunnels, buildings/structures for offices, workshops and storage, and parking areas. The

rear part of the site has been cleared and remains devoid of any structures, although there are some new areas of hardstanding. Immediately to the west of the site is a residential property and The Conifers Camping and Caravan Site. To the east is woodland and to the north and south open agricultural land and fields.

29. The site is within well-established boundaries that mostly protect it from public views. It contains land that had been previously developed with built form and tracks for internal access and gravel surfacing across most of the site. There were said to be built structures at the front of the site albeit smaller and open and temporary in nature. The clearing of the site in part, introduction of additional formal hardstanding, parking of commercial vehicles and construction of larger, more permanent buildings have an impact on its openness, both spatially in terms of the greater spread of development across the site and visually in terms of the obtrusiveness of the buildings and urbanisation of the site. The activity levels are also said to be more intensive than the previous use, with significantly more and larger vehicles on the site. The appeal development has an adverse impact on the spatial aspect and to a lesser extent, due to the limited views, the visual aspects of the Green Belt's openness in comparison to its previous lawful use.
30. Given the locational context of the site, and its previous lawful use, I consider there to be no intrusion into the countryside by encroachment. However, the scale of the development has reduced the openness of the Green Belt and although I consider the loss of openness to be localised and moderate, any loss is harmful when considered against the provisions of the Framework.

Landscape character of the area

31. The appeal site is located in the Instead Arable Farmlands Landscape Character Area within the Gravesend Landscape Character Assessment (2009) which describes the area as defined by gently undulating topography with open arable fields divided by roads, tracks and occasional hedgerows, with orchards to the east and minor native woodland clumps. The overall condition of the landscape is poor and has moderate sensitivity. It is recommended that distinctive features and patterns of the landscape should be restored, while landscape elements that support landscape character should be created.
32. Formerly a commercial plant nursery, the site would have mostly been a mix of hard and soft landscaping with its displays of plants and shrubs. There will have been buildings and structures on the land and at times, areas of hardstanding would have been used for customer vehicles, although this will have been confined to the site's frontage.
33. The clearance of the site, laying down of additional hardstanding, parking of numerous large vehicles, and construction of new buildings has undoubtedly significantly altered the visual appearance of the site from the horticultural use to one of a semi-urban nature. The change is one that is discordant with its verdant rural surroundings and although the built form is contained towards the front of the site, the effect of the development is urbanising within the rural landscape setting.
34. Notwithstanding this, I am satisfied that visual improvements and enhanced biodiversity within the site could be secured by appropriate planning conditions to ensure that the development would be acceptable. In this respect, the commercial use of the land would not unacceptably harm the landscape character of the area and subject to appropriate conditions there would be no conflict with the aims of

Policies CS12 and CS19 of the LPCS which among other things seek to conserve, restore and enhance landscape character and the natural environment.

Living conditions

35. The notice generated substantial interest from local residents, many of whom attended and spoke at the hearing. The impact of the development is described by way of light pollution, noise and disturbance. Neighbours refer to intrusive and extensive lighting from security/external spotlights on the appeal buildings, which are said to be on for a significant amount of time having been triggered by activities on the site. They also refer to the disturbance caused by lights on the commercial vehicles that enter and exit the appeal site, particularly during unsociable hours. Photographic evidence was provided to support their claims.
36. In addition to the nuisance caused by the lighting, local residents report disturbance from vehicles reversing, vibrational noise and from the loading and unloading of vehicles and the general high level of noise from the site including by operatives shouting over the noise of the machinery. At the hearing, a neighbour listed activities that had occurred during that morning regarding vehicle movements at the site. Six vehicles were recorded as entering and leaving the site between 5.27am and 6.58am and this included a commercial waste collection reversing into the site.
37. Vehicle movements are reported as being early and extensive. Vehicles are said to be jet washed on the site and that there is the occasional stench of diesel and evidence of water and cleaning chemicals. While there were reports of waste having been tipped on the site, the appellant referred to pipework and irrigation equipment being stored on the land but countered that all waste products were disposed of using official treatment plants. I have no reason to dispute this, although as I observed a jet wash on site, I cannot be certain that vehicles or equipment have not at times been cleaned at the site.
38. Following the hearing I viewed the appeal site from the nearest neighbours' property. There are views into the site through parts of the common boundary and it was apparent that the boundary would do little to prevent light shining towards the neighbours' property or block noise radiating from the site.
39. A noise assessment was submitted by the appellant but only intermittent vehicle movements during the daytime operational hours have been assessed against the measured ambient background noise level taken between 08:00 and 10:00. In addition, the assessment appears to be primarily based on van/LGV movements and not larger/tanker vehicle movements. The assessment advises that it is based on a "...very low level of vehicle movements backed up by the traffic data" and is stated as being on the basis that tanker movements do "not occur on a daily basis, but occasionally only..."
40. It is apparent from the recorded complaints that HGV movements have occurred throughout the week and at weekends often at unsociable times. A selection was provided by the Council which lists occurrences as early as 6am and as late as 2am over seven days of the week. I am also informed that a Community Protection Warning letter under section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014 was served on the owner of the premises and business operator on 23 September 2024 due to such disturbances.

41. From the evidence that has been provided, it is apparent that activities associated with the business have taken place outside of regular weekday 'office' hours and the noise assessment has not addressed this. There is disturbance because of loading and unloading and out of hours vehicular movements/engine noise and reversing sounders of the tankers and larger vehicles/HGVs coming and going from the premises. The appeal site is in a quiet rural location where noise from the site will be more noticeable due to quieter background noise levels. While I have regard to the previous lawful use and fall-back position and the fact that noise would have been generated by that use, the opening hours for the nursery are recorded as being from 8am to 4pm Monday to Friday and from 10am to 3pm on Saturdays. These are significantly less than the hours of operation that have been experienced by local residents through the current use.
42. The appellant suggests that hours of operation could be conditioned. However, if the business operated as it currently does during restricted working hours, I am not persuaded that the levels of activity and traffic movements generated by the use would not have a harmful impact, in terms of noise and disturbance, on the occupants of properties within proximity of the appeal site. This is particularly so given the physical extent of the site and the quiet rural nature of the immediate environment.
43. In this respect, there is conflict with Policy CS19 of the LPCS which aims, among other things, to ensure that new development will be located, designed and constructed to: safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land; and avoid adverse environmental impacts from pollution, including noise, air, odour and light pollution.

Highway safety

44. A Transport Statement submitted by the appellant surveyed the site on two weekdays between 07.30-10.00 and 16.00-18.30. The results indicate that the current use generates limited traffic on weekdays, and this is said to be significantly below the accepted traffic assessment thresholds. However, the movements have recorded mainly car journeys and there is no clear indication of when or how many HGV and commercial vehicles enter or exit the site.
45. It is also suggested that the former commercial nursery use would have generated significantly more traffic, particularly at the weekend. While it is stated that the appellant's use does not result in any use at the weekend, the submitted evidence shows this has not always been the case. Furthermore, although traffic data has been used to inform the levels that may have been generated by the previous and lawful use, taking account of representations from local residents, many of whom have resided in the area for many years and recall a significant increase in vehicle movements by the current use of the site, I cannot be certain that the level of vehicle movements truly reflects the previous lawful use.
46. Nevertheless, whether the nursery generated more vehicle movements than the current use, a primary concern is the type of vehicles that are using the local road network and their suitability. The site lies outside the urban area on a rural lane and highway safety concerns have been raised by local residents regarding the traffic generated by the use of the appeal site, particularly with regard to the size of vehicles and as a consequence the safety of other road users including cyclists, pedestrians and horse riders. The lanes within proximity of the site are narrow in

width with poor forward visibility, no pedestrian facilities and are unlit. Along the surrounding roads I previously noted there are limited formal 'pull-in' places to allow other vehicles to pass, and evidence has been presented to show that in places the road is just wide enough for an HGV.

47. While I have had regard to the appellant's Transport Statement, I am not persuaded that it satisfactorily reflects the impact of the use of the site. Consequently, it is considered that the use of these roads by traffic generated by the site is harmful to other highway users regarding safety and the flow of traffic. In this respect, there is conflict with Policies T1 and T5 of the Gravesham Local Plan First Review 1994 (the 'LPFR'), and Policy CS11 of the LPCS which seek to ensure that new developments mitigate their impact on the highway and public transport networks. Policy P3 of the LPFR concerns parking standards and I find it of limited relevance in these circumstances.

Groundwater source protection

48. Groundwater is particularly sensitive in this location which is within source protection zone 1 and is located upon a principal aquifer (Lewes Nodular Chalk). The appellant's Contamination Assessment report fails to identify that the site is situated within Source Protection Zone 1 and fails to assess the potential risks from spillages and accumulation of contaminants with any surface drainage.
49. I accept that no tanker discharge of waste occurs at the site and that no lorry maintenance or re-fuelling takes place. However, there remains concern that there could be surface water run-off from the concrete parking area suggested by the appellant. Notwithstanding any effect the additional hard surfacing may have on the Green Belt, it is considered that the contamination risks from parking a large number of HGVs and vans on the land remains an inadequately addressed matter concerning any impact with regard to groundwater.
50. It was agreed by the main parties that a strategy to deal with the potential risks associated with any contamination of the site could be subject to appropriate planning conditions as put forward by the Environment Agency. I find no reason to disagree and therefore, subject to appropriate conditions, I consider that there is general compliance with Policy CS19 of the LPCS which aims, among other things, to ensure that new development will be located, and designed and constructed to: avoid adverse environmental impacts from pollution and land contamination; and not pose an unacceptable risk or harm to the water environment, including the quality and/or quantity of ground waters, surface waters, wetlands and coastal water systems.

Other Considerations

51. I turn now to address other considerations brought forward by the appellant that, potentially, might clearly outweigh the identified harm so as to provide the very special circumstances required to justify a grant of planning permission.
52. The appellant has suggested that conditions can secure additional buffer landscaping and biodiversity enhancements together with the retention of the existing soft landscaping, leading to better screening from the wider countryside and Green Belt and significant qualitative benefits. I do not doubt that significant improvements could be made to the site concerning these matters and I therefore attach substantial weight to these suggested benefits.

53. The use of the site provides for employment floorspace that the appellant suggests the Council is underdelivering. While this has been judged against criteria b. of paragraph 155, I attach limited weight to this matter. It is also considered that the loss could result in a net loss given the former commercial nursery ceased to operate. The land had a previous commercial use operating and providing employment, albeit on a substantially lower level, and the provision of employment and associated economic benefits to the locality is unlikely to be lost entirely. Therefore, I attach limited weight to this.
54. The site delivers employment in this rural location, which includes 16 members of staff based within the offices and the appellant considers it to be a commercially sustainable location when considered against the lawful fallback commercial nursery use. Although it is not a rural based business that directly contributes to the rural economy, it aligns with the aims of the Framework in contributing to economic growth and economic and social benefits through employment. Therefore, I attach moderate weight to these benefits.

Green Belt balance and conclusion on ground (a) and the deemed planning application

55. The development constitutes inappropriate development which is, by definition, harmful to the Green Belt. There is also harm to the living conditions of neighbouring residents and highway safety. These are matters to which substantial weight is given.
56. The Framework advises that very special circumstances will not exist unless harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Having carefully taken account of the other considerations in this case, I find that individually and cumulatively, the substantial weight given to the Green Belt and policy conflict is not clearly outweighed to justify allowing the appeal. Consequently, the very special circumstances necessary to justify the development do not exist.
57. I have found that the development, taken as a whole, would conflict with the development plan Green Belt policy, and with policies aimed at preventing harm to highway safety and the living conditions of local residents. There are no material considerations that indicate that permission should be granted.
58. For the reasons given above, I conclude that the appeal on ground (a) cannot succeed, and I refuse to grant planning permission on the deemed application.

Ground (f)

59. The basis for an appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) of the Act provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case, its primary purpose is to remedy the breach by discontinuing the use of the land. For the appeal on ground (f) to succeed, the appellant must propose alternative lesser steps which would remedy the breach.
60. The appellant suggests removing all parking, plant and equipment and machinery and allowing the continued use of the office. While this may well go some way to

alleviate the impact of the development, the notice attacks the material change of use of the site as a whole to a use that is considered inappropriate in the Green Belt, and unacceptable in this rural location. By allowing the use to continue would not remedy the alleged breach of planning as amended. Given that the notice does no more than seek to achieve the purposes of section 173(4)(a) of the 1990 Act, it is not excessive.

61. The appeal on ground (f) fails.

Ground (g)

62. The appeal on ground (g) is that any period specified in the notice in accordance with s173(9) of the Act falls short of what should be reasonably allowed. I am mindful of the importance of striking a balance between enforcement that is intended to be remedial rather than punitive, while maintaining public confidence in the planning system. The appellant has requested that the compliance period be extended to 12 months rather than 28 days and 3 months due to the lack of appropriate alternative sites for the business. A 12-month compliance period is considered more appropriate and would allow time to search for an alternative site and apply for planning permission

63. During the appeal the appellant discussed how he was planning to reduce the use of the HGVs and be more reliant on vans, which it is claimed are mostly kept off site. As the appellant has suggested that all commercial vehicles, plant and equipment could be removed from the site under the ground (f) appeal, and considering the limited evidence to the contrary, it would seem that alternative parking and storage provision would be available elsewhere. Therefore, and due to the harm caused by the use, I consider that extending the period for compliance with 5(i) to more than 28 days would not be appropriate. In the absence of evidence to the contrary, I am not persuaded that 3 months would be insufficient time to search for alternative office accommodation and storage.

64. Accordingly, the appeal on ground (g) fails.

Overall conclusion

65. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal cannot succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

S A Hanson

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Paul Nicholls	Company and Planning Director, Graham Simpkin Planning
Christopher Lawson	Director, First4Drains

FOR THE LOCAL PLANNING AUTHORITY

Katherine Parkin	Senior Planning Officer
Sikdeep Coyle	Planning Enforcement Manager
Richard Hart	Team Leader, Development Management
Shazad Ghami	Head of Planning

INTERESTED PARTIES

Cllr Dakota Dibben

Mr Kelvin Curtis

Mr and Mrs Easter

Mr Ron Nash

DOCUMENTS SUBMITTED AT THE HEARING

Companies House details for the appeal site

Photographs supplied by Mr and Mrs Easter

Site plan