



Appeal Decisions

Inquiry held on 21, 22, 27-31 January and 3-4, 6-7 February 2025

Site visit made on 21 January 2025

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2025

Appeal A Ref: APP/T2215/C/24/3351756

Appeal B Ref: APP/T2215/C/24/3351776

Land at Hawkspare, Green Street Green Road, Dartford DA2 8DP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). Appeal A is made by Mr Derek Hawkins of Hawkspare Limited and appeal B by Mr Richard Evans of South Darenth Farms and Cold Store Company Ltd against an enforcement notice issued by Dartford Borough Council.
- The notice was issued on 9 August 2024.
- The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the Land to a mixed use involving:
 - i. plant hire depot for purposes of crane hire, sales, maintenance and storage;
 - ii. various storage compounds;
 - iii. a printing business;
 - iv. general haulage businesses;
 - v. a scaffolding yard;
 - vi. scaffolding sales; and
 - vii. a construction engineering yardtogether with associated development that facilitates the material change of use, including the levelling of land, laying of concrete slabs and hardcore, the erection of multiple scaffolding structures, siting of multiple site offices, buildings, containers, tanks and toilets, erection of retaining wall, fences and entrance gate and the siting of containers and concrete blocks; and Without planning permission, the rebuilding of a barn associated with a haulage business and the erection of a metal structure associated with the printing business.
- The requirements of the notice are to:
 1. Cease all elements of the mixed use of the land, involving:
 - a) Plant hire depot for purposes of crane hire, sales, maintenance and storage;
 - b) Various storage compounds;
 - c) A printing business;
 - d) General haulage businesses;
 - e) A scaffolding yard;
 - f) Scaffolding sales; and
 - g) A construction engineering yard
 2. Remove all scaffolding structures, site office structures, buildings, containers, tanks and toilets and concrete blocks that facilitate the material change of use, the approximate location within areas marked A, B, BC, C, D, E, F, G and G1 on the aerial image attached to this Notice
 3. Remove the retaining wall (concrete in gabion cases) that facilitates the material change of use, located on the shared boundary of areas marked BC and C on the aerial image attached to this notice
 4. Remove all internal dividing fences, palisade perimeter fences and gate at the main entrance that facilitate the material change of use
 5. Remove all concrete slabs and hardcore that facilitate the material change of use, the approximate location within areas marked A, B, BC, C, D, E, F, G and G1 on the aerial image attached to this Notice
 6. Demolish the metal structure shown marked 'X' on the attached plan
 7. Demolish the building shown marked 'X-X' on the attached plan
 8. Remove from the land all material and debris arising from compliance with the above steps

- The period for compliance with the requirements is: 9 months.
- Both appeals are proceeding 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 appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeals are dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Procedural Matters

1. Evidence was given at the Inquiry in relation to grounds (b), (c), (d), (f) and (g) along with the evidence of the planning witnesses and a neighbouring residential occupier in relation to ground (a) on oath or affirmation.
2. A number of matters under ground (a) were subject of round table discussions.

Preliminary Matters

Corrections

3. Requirements 2 and 5 of the enforcement notice would be better expressed with the word “in” replacing a comma. This is a minor correction that will not cause injustice to any party, so I will correct the notice.
4. The description of the breach of planning control refers to the rebuilding of a barn associated with a haulage business and the erection of a metal structure associated with the printing business. These are referred to in the requirements of the notice as marked ‘X’ and ‘X-X’ on the plan attached to the enforcement notice. For consistency and clarity, given the arguments under ground (b) relating to the use of building X-X, I will correct the description of the breach of planning control to be consistent with the requirements of the notice.

Nullity/invalidity

5. The enforcement notice does not specify the use from which the alleged material change of use has occurred, such that appellant A suggests the enforcement notice is a nullity or invalid. The judgement in *Miller-Mead v MHLG* [1963] 2 WLR confirms that the enforcement notice must tell the person on whom it was served clearly what they had done wrong and what they had to do to remedy it.
6. The judgement in *Ferris v SSE* [1989] 57 P&CR 127 suggests it is not necessary for an enforcement notice to identify the existing use from which a material change of use is alleged to have changed. In most cases, the person on whom the notice was served would be clear as to the use to which the land could revert; they would know for what the land was used prior to the material change of use alleged.
7. It is suggested that the particular circumstances of this case mean that the previous use, to which the land could revert, needs to be set out in the allegation as the appellants are unclear as to what that should be. In addition to the notice’s requirement to cease the use subject of alleged material change of use of the land, it also requires removal of works that “facilitate the material change of use”, potentially including large areas of hardstanding. Appellant A suggests that this case is extremely complicated, with a multifaceted mixed-use being alleged and a long and complicated planning history. They suggest, on that basis, that it is not clear how they could remedy the alleged breach of planning control. They also indicate that this meant it was hard to properly make out their grounds of appeal.

8. The notice is clear that all elements of the mixed use are required to cease. I note that there was some discussion between the parties as to which buildings were lawful such that they were not required to be demolished and the areas of hardstanding required to be removed. Information was provided by the Council that sought to do that. It seems to me that such confirmation was provided for clarity, rather than due to deficiencies in the notice. It did not seek to amend the notice in any way.
9. The judgement in *Ferris* indicates that some uncertainty on the face of an enforcement notice may be acceptable on the basis that the person on whom it was served would know about the previous use of the land and would also know what works had facilitated any change of use.
10. The Council suggested that there was no lawful use immediately prior to the material change of use outlined in the notice. They suggest there is no use to which the land could revert. If the Council are correct, then the enforcement notice is sufficiently clear as to what the appellants had done wrong and what they need to do to remedy it. In those circumstances, the enforcement notice is clearly not a nullity or invalid.
11. The appellant had the opportunity to set out what was the lawful use to which the site could revert and challenge the Council's assertions in this regard. Indeed, they sought to do that during the Inquiry.
12. I have considered the use of the site under grounds (b), (c) and (d). Based on my conclusions on those grounds, there is no lawful use to which the site could revert. As a result, I conclude that the Council could not set out a previous lawful use in the description of the breach of planning control to which the use of the site could revert. As a result, the lack of reference to such a use does not affect the validity of the notice. The enforcement notice is not a nullity or invalid.

Other matters

13. I note the suggestion that the effect of the enforcement notice in requiring removal of Building X-X would not be expedient. However, expediency is not a matter for me under the grounds of appeal.

The Appeals on Ground (b)

14. Appeals on this ground are that the matters described in the notice have not occurred. The burden of proof is on the appellants, with the relevant test of the evidence being on the balance of probability. The appellants suggest that no haulage use has taken place on the site such that it was not in use by general haulage businesses. They indicate reference to that use should be removed from the enforcement notice.
15. Haulage businesses would be principally concerned with the transport of loads such that this land would form a base for that use. This relates to the uses taking place within area A by Southern Van Lines (SVL) and area B by EMS Logistics.
16. EMS Logistics use area B for parking of lorry bodies, with access to further facilities on the neighbouring industrial estate. I understand that their lease allows them to use area B for storage purposes, in particular of the lorry bodies. There was some evidence on one aerial photograph of other storage, although it is unclear how often that may have occurred. Little additional evidence of EMS

Logistics operations was provided other than assertions from the landowner and their advisors. They appear to be primarily engaged with transporting loads. Whilst EMS Logistics may be engaged with some storage activities, I consider, on the balance of probability, that is incidental to the main use and that they are a haulage business.

17. Area A contains a large warehouse, building X-X, along with open space around it. The warehouse building is used for storage. The space around is used for parking of Heavy Goods Vehicles (HGVs) and other vehicles, along with some storage of maintenance equipment such as AdBlue and tyres. I understand that some of the lorry bodies may be used for storage. The evidence, principally that from the company website, make clear that SVL focusses on storage for the entertainment industry. It also collects related equipment, scenery, props, etc and delivers it to where it is required. The land and building is primarily used for storage purposes and, whilst there is a significant element of haulage as part of the business, it cannot be defined as a general haulage business as specified in the notice. In any event, they are a specialist business focussing on the entertainment industry such that they are not “general”.
18. I note reference to the need for haulage businesses to have space for servicing and repair of vehicles, for which there is limited evidence, particularly in area B. However, it is possible that there may be space for that elsewhere and these yards only used for parking of trailers when they are not in use. Whilst that may be a storage use and that use is listed separately on the enforcement notice. I consider that, on that basis, the reference to EMS Logistics as a general haulage business on the enforcement notice is correct.
19. Taking all the above into account, I find that there was only one general haulage business at or before the time the notice was issued such that the notice will need varying in that regard. This is a minor amendment that does not materially affect the operation of the notice. Consequently, such a change would not cause injustice to the appellants or the local planning authority.
20. For these reasons, I conclude that the appeals under ground (b) should succeed to the extent that the enforcement notice should be varied to make “general haulage businesses” singular.

The Appeals on Ground (c)

21. The appeals on this ground are that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
22. The Council suggest that a change in the use of the land took place prior to issue of the enforcement notice in 2023-24, which followed another change in use of the land in around 2017-18. The appellants indicate they consider the use had not changed such that any change of use of the land alleged in the enforcement notice in either 2017-18 or 2023-24 was not material or did not comprise development as defined at section 55 of the Act and was not, therefore, a breach of planning control. In any event, they suggest that the use may have planning permission. I will address these matters as follows.

Whether planning permission has been granted for the use alleged

23. In 1962 an enforcement notice was issued in relation to most of the land alleging “the storage and dismantling of vehicles, plant and mechanical equipment”. It required the cessation of the use, removal of the vehicles, plant and mechanical equipment and restoration of the land to its former condition. At the Inquiry, I heard that the use was primarily in relation to storage of vehicles, plant and mechanical equipment but that some were dismantled where they were not capable of repair prior to onward sale, often for export. At appeal, the area over which that enforcement notice would have operated was reduced to cover only part of the site subject of this notice.
24. At the time of the 1962 enforcement notice, Kent County Council was the local planning authority and delegated authority to the Rural District Council of Dartford to issue the enforcement notice. There is little evidence on the face of the notice that they did so as waste authority. On the balance of probability, therefore, I consider this was a notice aimed at the use of the land for storage purposes. The enforcement notice has never been withdrawn, so remains extant. In accordance with section 181(2) of the Act that enforcement notice would not be effective against any other use, such as a mixed use. I note that attempts at prosecution against that notice appear to have ceased in the early 1980’s but that does not affect its validity.
25. An Established Use Certificate was granted in 1973 under section 94 of the Town and Country Planning Act 1971. That confirmed that the use described had commenced prior to 1 January 1964. However, that has no effect in relation to the land subject of the enforcement notice of 1962. Neither does it confirm lawfulness of the use as would a Lawful Development Certificate under sections 191 or 192 of the 1990 Act.
26. In 1980 there were two planning applications. DA/80/519 sought planning permission for the use of the land, being the dismantling and storage of commercial vehicles, plant and equipment, but was withdrawn. DA/80/520 granted planning permission for operational development, the demolition of wooden offices and storage buildings and erection of single storey office building and new store building together with provision of improved access, car and vehicle parking facilities. It appears that the two applications were seeking to regularise the use and provide facilities to support that use. However, only the operational development element was approved.
27. The site location plan relating to DA/80/520 approximately accords with the plan subject of the enforcement notice. The block plan annotates the majority of the site as an open storage area. Nevertheless, the permission is clear that it was for operational development only. It suggests that the land was in the use described in DA/80/519 at the time but it did not grant planning permission for any use, which would have been granted on the other application had that been approved.
28. In 1998 permission reference DA/98/00635/FUL was granted for “conversion of existing barn & extension to provide ancillary office use, together with demolition of 2 storage buildings, car parking & landscaping” subject to conditions. Condition 9 required the office use to remain ancillary to the main use of the site. That permission did not specify, on its face, that main use. The Officer Report described

the use as a commercial plant hire depot and the site to cover approximately 10 acres. It stated that officers had accepted that there was an established use for commercial storage and vehicle hire business. The site plan submitted with that planning application approximately accords with the plan subject of the enforcement notice. Although not included within the plans listed on the decision notice, that plan identified the planning unit and assists with understanding the permission. Nevertheless, planning permission was granted for operational development related to the lawful use of the land at that time. It did not grant planning permission for a use.

29. During consideration of the application for the change of use of the building occupied by Printing Portal in 2023 Officers referred to having previously accepted that the land and buildings had an established use for a commercial storage and vehicle business.
30. Whilst I note there has been acceptance by the Council in the past of a use for storage and vehicle hire, that has not been formally confirmed as lawful at any point, for example through a Lawful Development Certificate. Nor has it been regularised through a planning application.
31. For these reasons, I conclude that no planning permission has been sought from or granted by the Council for the change of use described in the enforcement notice in whole or in part.

Whether there has been a change of use

32. My attention has been drawn to the tests to define a planning unit as set out in *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207, including where the site is in a mixed use as the land is in two or more activities and it is not possible to say that one is incidental to another. This includes where component activities fluctuate in intensity from time to time but are not confined within separate and physically distinct areas of land. In this case, the parties agree that the whole appeal site is a single planning unit and I see no reason to disagree.
33. Appellant A suggests that a material change of use would take place where there was a change in the character of the use which is observable through real planning effects. It is possible for a material change of use to take place through the intensification of a use, as set out in the judgement of *Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd* [2012] EWCA Civ 1473; [2013] JPL 560. A material change of use would occur where the character of the use had changed in a fundamental way.
34. Aerial photographs and photographs taken from a neighbour's property show that the very substantial rear portion of the site was covered in vegetation until sometime between 2017-2024. Prior to those changes I understand that hidden in that portion of the site was a large volume of storage, including of vehicles and plant. There were paths through the site that were surfaced and repaired from time to time. Evidence demonstrated that some of the lorry bodies and containers on the site contained other storage of building materials and similar. However, it is unclear how much of that took place such that, on the balance of probability, it was likely to be a small and incidental part of the overall use of the land. Nevertheless, the vehicles and plant were hidden from view to a certain extent in aerial photographs and from neighbouring properties.

35. Between 2017-19 Printing Portal began occupation of a building. It carries out 3D printing, comprising a modern hi-tech engineering operation. The building it occupies was previously used for maintenance activities relating to other businesses on the site. The differences in the use result from the occupier being a separate business from other occupiers of the site. This would have had modest effects, such as additional vehicle movements to and from the site resulting from staff of the new enterprise, visitors and deliveries.
36. Around the same time, a large area was cleared of vegetation and any vehicles and plant contained within it. This area is located toward the centre of the site, close to the footpath so would have been visible from it. The yard was laid with a concrete surface for occupation by All Seasons Scaffolding. There was a clearly visible change in this area on the aerial photographs taken between 2015 and 2019. Structures were constructed for storage of their scaffolding materials. The appearance of this area would have fundamentally changed at that point, particularly in views from the footpath through the site. Even if the land had previously been used for storage in and between vegetation, that change in appearance and more intensive use would have altered the character of the site and that had a real planning effect in terms of character and appearance. In addition, it would have added further vehicle movements to and from the site which would have also had a real planning effect.
37. I note that clearing of vegetation may have occurred from time to time in the past. However, the wholesale removal of vegetation in 2017-19 and 2023-24, along with laying hardstanding on most of the site, led to a complete change in the character and appearance of the site beyond what appears to have happened before.
38. For these reasons, there were changes to the site at that stage that was observable through real planning effects in the period 2017-19. The character of the use changed in a fundamental way. On that basis, I conclude there was a material change in use of the land at that stage.
39. Further changes took place in 2023-24 as most of the remainder of the site was cleared of vegetation and surfaced with a mix of surfaces, including concrete and hardcore. That indicates very significant changes to the appearance of the site in views particularly from the public footpaths through and to the rear of the site and from other views in the immediate vicinity. The neighbour, in their formal evidence given on oath/affirmation, suggested that the impacts on the enjoyment of their home have been significant, including loss of sleep due to noise and lights from the site overnight. Whilst I will return to the actual extent of those effects and whether they are acceptable in planning terms under the ground (a) appeal, it is clear that the appearance and other effects of the development have altered the character of the site during that period. There was a change in the character of the use observable through real planning effects. The character of the use changed in a fundamental way. That is sufficient to conclude there was a material change in use of the land.

Conclusion relating to the use of the land

40. For these reasons, the change of use to a mixed use constitutes development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been granted for that change of use.

Retaining walls and fencing

41. It is suggested that some of the walls and fences that have been erected on the site may comprise development granted planning permission by Article 3 and Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Development granted permission under the GPDO is “permitted development”.
42. Article 3(5) of the GPDO states that deemed permission granted by Schedule 2 does not apply if, in the case of permission granted in connection with an existing use, that use is unlawful. On that basis and as I have concluded the use is unlawful, the walls and fences cannot benefit from the permitted development rights conferred by the GPDO.
43. For these reasons, I conclude that the appeals on ground (c) should fail in relation to the walls and fences referred to in the enforcement notice.

The works to Building X-X

44. Building X-X is a substantial barn now used by SVL for storage. It was a concrete framed and concrete or asbestos clad building with a small lean-to extension. That cladding and extension were removed and a new floor installed with metal sheeting replacing the previous cladding. A modest extension was added to the south-western end. The original entrance doors were replaced with a large roller shutter door facing south-east and further pedestrian doors into the extension. The parts of the original building that remained following the works were the foundations and concrete frame, including purlins in the roof.
45. The result is a building of a completely different appearance to that of the previous building. Whilst there are elements of the original building remaining, the changes are so substantial that, as a matter of fact and degree, it is essentially a new building.
46. To the extent that the works to the building may have been permitted development I note the effect of Article 3(5) of the GPDO as set out above in relation to the walls and fences. As a result, the works cannot benefit from the permitted development rights conferred by the GPDO.
47. For these reasons and as a matter of fact and degree, I conclude that the works to building X-X have resulted in a new building, such that the appeals under ground (c) must fail in this regard.

Hardstanding

48. There have been routes through and around the site laid with hardsurfacing, constructed with materials such as concrete and type 1 road stone. These have been repaired and improved from time to time. However, large areas of the site have been covered with hardstanding and my attention, for the purposes of this part, has particularly been drawn to that around building X-X.
49. Similar to the works to the building, walls and fences, provision of hard surfaces for industrial and warehouse premises, or their replacement in whole or in part, can constitute permitted development under Class J, Part 7, Schedule 2 of the GPDO. These require hardstanding not to be made of porous materials where there is a

risk of groundwater contamination, which is the case here as I will set out under the appeal on ground (a). Most of the hardsurfacing on the site is constructed of type 1 road stone or similar, which is porous. As a result, the surfacing does not comply with Class J, Part 7, Schedule 2 of the GPDO. Furthermore, Article 3(5) of the GPDO means that, as the use is unlawful, the provision of hard surfaces, particularly around building X-X, cannot benefit from the permitted development rights conferred by the GPDO.

50. For these reasons, I conclude that the works to the hardstandings are not permitted development and the appeal under ground (c) must fail in this regard.

Conclusion

51. I have concluded that no planning permission has been granted for the use of the land as described in the enforcement notice such that it constitutes a breach of planning control. The walls, fences and hardstanding do not constitute permitted development as set out in the GPDO and building X-X, as a matter of fact and degree, is a new building such that these works can also constitute part of the breach of planning control.

52. For these reasons, I conclude that the appeals under ground (c) should fail.

The Appeals on Ground (d)

53. Appeals under this ground are that, at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control which may be constituted by those matters. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability. Case law indicates that evidence does not need to be corroborated by independent evidence to be accepted, but does need to be sufficiently precise and unambiguous, even if there is no evidence to contradict it.
54. The enforcement notice was issued on 9 August 2024. It is possible, under section 171B of the Act, for a use to become lawful were it to have continued for a period of 10 years beginning with the date on which the operations were substantially completed or the use began. In this case, I have already concluded under ground (c) that the character of the use changed in a way that resulted in two material changes in use in 2017-2019 and 2023-2024. The date the use referred to in the description of the breach of planning control commenced at that time, so could not have continued for a 10 year period beginning with the date of the breach.
55. The hardsurfacing of the area occupied by All Seasons Scaffolding was laid between 2017 and 2019 such that it had been located on the site for a period in excess of 4 years prior to the issue of the notice. Where, as in this case, substantial completion of the breach of planning control took place prior to 25 April 2024, Section 171B of the Act stated that operational development would become lawful after four years beginning with the date on which the operations were substantially completed. However, the breach of planning control is clear that the hardstanding was constructed in order to facilitate the material change of use. As a result, it is not subject of the four year immunity period.
56. For these reasons, I conclude that the appeals under ground (d) should fail.

The Appeals on Ground (a) and the Deemed Planning Application

Main issues

57. I have concluded under the appeals on grounds (b), (c) and (d) that there is no lawful use of the land to which the site could return. I will take this into account in considering the main issues in this case.
58. The main issues are:
- Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect on the openness and purposes of the Green Belt;
 - The effect of the development on the intrinsic character and beauty of the landscape;
 - The effect of the mixed use of the land on the living conditions of neighbouring occupiers with particular regard to light, pollution, noise and disturbance;
 - Whether the proposed works would preserve the Grade II listed buildings known as Clock House, Durham Cottage and House and The Forge Cottage and Grade II Scheduled Monument at the icehouse or their setting or any features of special architectural and historic interest (or significance) which they possess;
 - The effect of development on potable water supplies in the vicinity of the site;
 - The effect of traffic relating to the mixed use of the land on the safe and efficient operation of the highway network in the vicinity of the appeal site;
 - The effect of the mixed use of the land on users of public rights of way (PROW);
 - The effect of the development on ecology and biodiversity; and
 - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

59. The National Planning Policy Framework (the Framework) states that development within the Green Belt is inappropriate with a number of exceptions. In addition, the Framework states that commercial development on grey belt land should not be regarded as inappropriate subject to a number of factors. Policy M12 of The Dartford Plan, Dartford Borough's Local Plan to 2037, states that inappropriate development in the Green Belt will be resisted in accordance with national planning policy.
60. Whether the land comprises grey belt and how it relates to those factors will be affected by other main issues. I will, therefore, return to this matter once I have considered those issues.

61. I have concluded that building X-X was re-built. As a result, it is a replacement building. Although it is subject to a modest extension over the size of the original building, it is not materially larger than the building it replaces. However, taking account of my conclusions relating to the use under the previous grounds of appeal, it is in a different use such that it would not fall within the relevant exception to inappropriate development in the Green Belt at paragraph 154d) of the Framework.
62. The front part of the site, an identified employment area under Policy M20 of The Dartford Plan, is within the village of Green Street Green. Prior to the development it contained buildings between other development fronting Green Street Green Road. As such, the development within this area could be considered limited infilling within the village. However, the rear part of the site beyond the identified employment area is not within the village. I need to consider the development as a whole, such that I conclude it does not comprise limited infilling in the village for the purposes of the exceptions to inappropriate development in the Green Belt.
63. The exception to inappropriate development in the Green Belt at paragraph 154g) of the Framework enables limited infilling or the partial or complete redevelopment of previously developed land. Although I have found that there is no lawful use of the land under the above grounds of appeal, it is clear that the whole site was within the curtilage of the buildings subject of planning permissions DA/80/520 and DA/98/00635/FUL. I have not found that the curtilage of those buildings have changed since that time. As a result, the site can be considered previously developed land. However, this exception requires any development to not cause substantial harm to the openness of the Green Belt, which I will return to in the next section.
64. Similarly, compliance with the exceptions to inappropriate development in the Framework set out at paragraph 154h) require development to preserve openness and not conflict with the purposes of including land within it. These include engineering operations, the re-use of buildings provided that the buildings are of permanent and substantial construction and material changes in the use of the land.

Openness and the purposes of the Green Belt

65. The site has been largely covered with hardstanding used for storage and parking of vehicles, building materials including scaffolding, plant and machinery used for the purposes described in the enforcement notice. Whilst that surfacing does not, of itself, affect the visual or spatial openness of the Green Belt, the storage and parking taking place on it does harm that visual and spatial openness. Even if I were able to take account of the previous storage within the vegetation on the rear parts of the site, the more open views across the hardstanding means that storage and parking has a more stark visual effect on openness, albeit the spatial effects are modest.
66. The scaffolding buildings are located in what was an open area of the site prior to their construction. They are substantial structures that are visible from the path through the site and other locations. As a result, they affect both the visual and spatial openness of the Green Belt.
67. The unfinished metal frame is intended to be an additional building for use by Printing Portal. Any effect on openness is limited to some extent by its close

proximity to neighbouring buildings and within the area designated as part of an identified employment area. Nevertheless, it does affect the spatial and visual openness of the Green Belt, such that it also harms openness.

68. Building X-X was, as set out above, re-built. As a replacement of a previous building it has not materially altered the openness of the Green Belt in visual or spatial terms. However, the modest extension has had a small effect on visual and spatial openness. A number of other buildings on the site have been on the site for many years, such that the changes of use have not altered their effect on the openness of the Green Belt in visual or spatial terms.
69. Taking account of all the above, I conclude that the development has resulted in substantial harm to the openness of the Green Belt. As such, it does not fall within the exceptions to inappropriate development set out at paragraphs 154g) and h) of the Framework.
70. There are five purposes to the Green Belt. The Council indicates that the only of those purposes relevant in this case is to check the unrestricted sprawl of large built-up areas, in this case London. I see no reason to consider the development affects the other purposes.
71. The section of the site fronting Green Street Green Road comprises a number of buildings, many of which would be able to remain even if the enforcement notice were upheld. This part of the site is within an identified employment area within Policy M20 of The Dartford Plan where development is supported by that and other policies of The Dartford Plan. It is located between the other section of Malt House Farm identified employment area and other development along Green Street Green Road. This section of the site does not materially contribute toward the purposes of the Green Belt.
72. The rear part of the site was open and, as set out above, contributed toward the openness of the Green Belt. Nevertheless, this is an edge of settlement site, with development of Malt House Farm identified employment area to one side of the site and between it and Green Street Green Road. As an essentially open area, it does contribute toward checking the unrestricted sprawl of large built-up areas. Nevertheless, that contribution is not strong and the development does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.

Character and beauty of the landscape

73. Green Street Green Road is located at the bottom of a wide valley. The land at Hawkspare is on the side of the valley as it rises up to the fields behind. To the front of the site is the open green with a footpath through the site that continues up the hill and beyond. It links with another footpath directly to the rear of the site and leading west, roughly parallel to the road. To the other side of the valley and at the top of the hill is Beacon Wood Country Park that contains a number of footpaths, that on the edge of the wood with glimpsed views through the trees, particularly when they are not in leaf, and across the valley. The site is visible from the road, green and those footpaths.
74. The experience of the site when progressing from the road and green to the front through the site to the paths at the rear would have seen a gradual move from the development at the front of the site through the landscaping with storage under to

the open fields to the rear. The view from the road and footpaths to the rear is blocked to varying degrees by landscaping. However, development on the site is clearly visible through and over that landscaping.

75. Development on the site has clearly changed that character and appearance on the walk along the footpath through the site and immediately to the rear. The land has been levelled in sections with terracing and hardstanding over most of the rear part of the site, along with the vehicles, building materials, plant and machinery stored on it that dominates views from these directions. It is lower on the slope of the hill than the footpath to the rear but the artificial terraces and hardstanding are prominent in views from this direction, as well as dominating the footpath through the site. There are similar effects on views from surrounding houses. This contrasts with the open field or vegetation that may have existed prior to development to the rear of the site taking place, or even the appearance comprising storage of vehicles and other items within landscaping immediately prior to the clearing of the site. As a result, the uses and development on the rear of the site appears incongruous and harms the landscape within these shorter views.
76. Even had the storage of vehicles and other items within the previous vegetation been lawful, the recent changes have significantly altered the character and appearance of the site, harming landscape character.
77. The buildings, surrounding parking and storage to the front of the site form part of the built development fronting Green Street Green Road and within the identified employment area. This section of the site hasn't materially changed in its appearance such that the development, other than the unfinished metal frame of a building for Printing Portal, does not affect the character and beauty of the landscape in this location. Whilst building X-X has been replaced, it remains of essentially the same size, scale and character as the building it replaced, such that it has not affected the character and appearance of the area.
78. The unfinished metal frame of the Printing Portal building appears incongruous in this location and, of itself, results in harm to the character and appearance of the area.
79. Wider views of the site from surrounding roads and footpaths along with views from Beacon Wood Country Park are seen in the context of surrounding development and the land rising up to the rear. Whilst the taller cranes are visible from these longer views, they are temporary structures. For these reasons, the effect of the development is modest in longer views within the landscape.
80. The appellant proposes that landscaping could be provided to soften the appearance of the site and reflect the surrounding rural landscape. The Landscape Mitigation Strategy Plan sets out an outline strategy showing planting around the outside of the site and between yards within the site. Whilst it would soften the appearance of the site and restrict views, the landscaping bands in and around the site would be relatively narrow on this large site. They appear unlikely to substantially improve the existing appearance of the site, especially taking account of its previous character and appearance and particularly in views from neighbouring dwellings and those using the public footpaths in and around the site. The effect on longer views would be more substantial and, once mature, likely to largely mitigate the harm on landscape character in these views. Further details

could be required by condition, but I am not convinced that these would overcome the effect of the development on the character of the landscape.

81. For these reasons, I conclude that the effects on the experience of the site from the public footpath through the site and in views from the immediate site surrounds have resulted in harm to the character and beauty of the landscape that would not be adequately mitigated by the outline landscaping scheme provided. As a result, the development conflicts with Policy M1 of The Dartford Plan that seeks development to use and enhance the distinctive landscape and tree coverage.

Living conditions

82. The appeal site is located next to and to the rear of a number of houses fronting Green Street Green Road. These include Malt House next to the site and with the rear elevation facing the side boundary of the site, with Malt Cottage, Old Malt Farmhouse and Malt Bungalow further along the road. Further houses, including Durham House and Durham House Cottage are located to the other side of the site.
83. The development of the site has resulted in removal of vegetation that would have disguised any vehicle movement around the site. Lorries parked on the site are now clearly visible from the rear of the closest property, Malt Cottage. Whilst their visibility does not, of itself, have material adverse impacts on living conditions, this indicates that their movement to, from and within the site could have an impact on the living conditions of occupiers of neighbouring houses.
84. Evidence from the occupier of Malt Cottage was clear that lighting, particularly on the rear part of the site, up the hill from his home and following removal of landscaping, has significantly affected his living conditions. That lighting relates to floodlights that enable late night working on the site and lighting from vehicles as they manoeuvre around the site. I understand this affects the sleep of occupiers.
85. Similarly, noise from the site has disturbed occupiers of neighbouring houses. Vehicles are able to move around the site, including at night, that is audible above background noise within bedrooms of the neighbouring dwellings. This includes noise from manoeuvring vehicles particularly when reversing, horns and resulting from the open roller shutter door in building X-X that now faces toward the nearest residential neighbour. In addition, replacement of the cladding on that building with metal means that it is more reflective of sound.
86. The effects of the development on living conditions identified by neighbours appears to have started when the area of the site closest to their boundary was cleared and laid with hardstanding, and the changes to building X-X in 2023-24. Prior to that date, I understand that there was no material disturbance from activities on this site.
87. Evidence provided by the appellants' acoustic consultant included details of noise measurements from a number of monitoring positions. These include one on the boundary of the site to the rear of the nearest residential neighbour. I understand that measurements in that location would be comparable with those had they been taken on the rear wall of that house. These demonstrate that activity within the site is within the range of ambient levels caused by road traffic on Green Street Green Road. I accept that is the case. However, it is clear from the evidence from the

neighbour that the noise within the house, particularly rear facing bedrooms, is significant and sufficient to disturb sleep.

88. I note that complaints to the Council that have been assessed by their Environmental Health team have concluded that no statutory nuisance has been found. Nevertheless, considerations in planning terms are different such that this does not alter my conclusions on the effects of operations on the site on the living conditions of occupiers of neighbouring dwellings.
89. My attention has been drawn to potential conditions that might significantly reduce the effect of the development on living conditions of occupiers of neighbouring properties. I have also taken into account the proposed landscaping that may also have some effect on mitigating the effects of the development on living conditions. These could include restrictions on the hours of operation and where floodlighting is located. These would have substantial effects on the operation of the uses on the site but may mitigate the effects of the development to some extent. However, in this case I consider these would not wholly overcome the harm I have identified to the living conditions of neighbouring occupiers.
90. For these reasons, I conclude that the mixed use of the land and building X-X has resulted in unacceptable material impacts to the living conditions of occupiers of neighbouring dwellings with particular regard to light, pollution, noise and disturbance. As a result, it is contrary to Policies M2 and M20 of The Dartford Plan that seek to ensure development does not have unacceptable material impacts on neighbouring uses and that the design of development, including layout, to reduce adverse impacts and achieve better management of harmful or nuisance creating activities.

Heritage

91. Neighbouring the front of the appeal site is the grade II listed building of Durham House. This is a two storey brick building of broadly Classical design with sash windows, portico and string course to the front façade that reflect contemporary design of the early 18th century. The rear elevation is of more utilitarian character, with the remains of agricultural buildings including oast house in the rear garden, that contribute to the historic understanding of the building. It would have formed a homestead with associated land including the appeal site, although that link was severed a long time ago. Its significance as a heritage asset is derived from its vernacular importance as an early 18th century dwelling within a rural setting.
92. Durham Cottage is attached to Durham House and they are listed as a pair. It is a one bay addition to the side of the house with a more traditional Kentish vernacular design of a lower status than the main house. Its significance arises from that vernacular appearance and relationship with Durham House.
93. The setting of Durham House and Cottage has changed over time. The front part of the appeal site has had a commercial appearance for a substantial period and any functional link to Durham House and Cottage has been severed. The relationship of the building to the road and common to the front is important but the link to the appeal site is limited. The rear of the building, and its outbuildings including oast, is visible in views over and through the appeal site from the public footpath as it rises up the hill through and to the rear of the site. The rural setting prior to the development of the site would have contributed to the setting of the

listed building. As a result, the extent of the use and development of the site as a whole has resulted in harm to the setting of Durham House and Cottage.

94. The icehouse located to the rear of Durham House is close to the boundary with the appeal site. It is listed grade II and is also a Scheduled Monument. It comprises a cold storage chamber that would have been used for the storage of ice and food for occupiers of Clock House, a short distance along Green Street Green Road from the site. It has also been misrepresented as a former dungeon, perhaps due to having been owned by Sir Edward Davenport, the Sheriff of Kent in the 17th century. It was constructed in the early 19th century and, externally, it is largely overgrown. It is of significance mainly due to its elaborate internal appearance.
95. The most important relationship of the icehouse with other development is that with Clock House that it was built to serve. The appeal site is located very close to the opposite sides of the building. The change from previous rural uses to current outside storage uses has affected, to some extent, the setting of the icehouse. I note that the identified employment area under Policy M20 of The Dartford Plan also extends very close to the icehouse such that a similar form of development would be expected in this location. Nevertheless, there is some harm to the setting of the listed building and Scheduled Monument.
96. Clock House is also grade II listed. It is located a short distance along the road from Durham House and Cottage, separated by more modern buildings. It is a two storey building that appears to have been constructed in the 17th century or earlier, but re-fronted in a classical style in the 18th century. It was at one time in the same ownership as the appeal site, although in separate occupation. Its significance derives from the re-fronting of an earlier dwelling and historic fabric.
97. The separation of Clock House from the site means that there is a limited relationship between them, primarily through shared views from the green to the front and in the rear garden that extends to the side of the site. However, there is little visibility of the building from the site and they are not easily visible together in other views. On balance, I consider that the development has not affected the setting of this listed building.
98. The Forge House is located further along Green Street Green Road than Clock House, beyond intervening development. It is a two-storey house with an attic in a mansard roof that appears to have been constructed in a classical style during the 18th century either as a single dwelling or semi-detached pair. It was later associated with the adjacent smithy and a shop front has been installed. It is of significance due to its surviving historic fabric, form and appearance along with its historic interest in association with the forge and as a shop.
99. The separation of The Forge House from the site, including Clock House, Durham House and Cottage and other, more modern, development mean there is a limited relationship between the listed building and site. The Forge House and the site are not readily visible together in views. As a result, the development of the appeal site has not affected the setting of The Forge House.
100. I have found that the development has affected the setting of Durham House and Cottage and the icehouse. The effect on setting in both cases is less than substantial. On a spectrum of harm that to the icehouse is very limited and to Durham House and Cottage is limited. Nevertheless, in accordance with

paragraph 212 the Framework, great weight should be given to the assets' conservation. The harm is of considerable importance and weight in the planning balance.

101. Paragraph 208 of the Framework establishes that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The only public benefit in this instance is the economic benefits of the development in contributing to the supply of employment land in the area, particularly the supply of land available for outside storage. However, that benefit is minimal and cannot outweigh the identified harm to the listed buildings.
102. I have concluded that the development does not preserve the setting of the Grade II listed buildings known as Durham Cottage and House and the icehouse, that is also a Grade II Scheduled Monument. The harm to the setting is less than substantial and there are no public benefits that outweigh that harm. Taking account of the degree of harm set out, this is not a strong reason for refusing the development. For these reasons, the development is contrary to Policies M5 and M6 of The Dartford Plan that seek heritage assets to be conserved in a manner appropriate to their significance, with harm to the setting of listed buildings only to be permitted in exceptional circumstances, weighed against the public benefits of the proposal where less than substantial harm.

Potable water supplies

103. The appeal site is used for a number of storage and maintenance uses, including vehicle manoeuvring and maintenance. Many of those vehicles are HGVs and large cranes. These uses have continued for a long period of time. They potentially lead to hazardous substances being on the site that could spill or otherwise enter the ground, resulting in contamination.
104. Rainwater drains from the surface, storage and vehicles on the site into the ground and percolates to a discharge point, such as a spring or abstraction borehole. In this case, there is an abstraction borehole relatively close to the site that is used to abstract groundwater for a public drinking water supply. There is a risk that run-off from the site could enter the ground with any contamination and lead to contamination of the borehole. For these reasons, the site is sensitive to water contamination and the near surface geology is permeable, on a principal aquifer and within the Inner Source Protection Zone of the borehole.
105. Whilst that is the case, the surveys carried out suggest that contamination has not made its way to the borehole such that there has not yet been an effect on potable water supplies. Nevertheless, this cannot be excluded and the appellants have put forward a scheme to enable the contamination to be removed prior to discharge.
106. That scheme involves drainage of surface water into a number of underground tanks before water discharges from these into wetland reed beds toward the front of the site. These require very substantial engineering works, with the water tanks taking up a significant portion of the site. The layout of the scheme has changed to better reflect the Landscape Mitigation Strategy Plan, although would displace some other uses, such as the parking at the front of the site. The ground would need to be impermeable such that large areas of the site would be likely to require re-surfacing. Altogether, that would comprise very significant engineering works. It

is likely to require further changes prior to implementation. The works would alter the character and appearance of the land substantially. As such, they go beyond what could be reasonably considered in relation to a submission of details required by condition.

107. For these reasons, I conclude that there is a likely adverse effect of the development on potable water supplies in the vicinity of the site. As a result, the development is contrary to Policy M2 of The Dartford Plan that seeks to avoid unacceptable material impacts on the environment or public health, including groundwater source protection zones, without adequate mitigation or removal of impacts in areas of potential sensitivity.

Highways

108. The junction of the access road with Green Street Green Road is on the inside of a bend in the road. Visibility from the access toward Dartford is good but visibility in the opposite direction does not meet relevant standards. The parties agreed that the effects of concern related to whether there is sufficient visibility for vehicles egressing the site of road users approaching from the Longfield direction and the effect of vehicles, particularly HGVs, waiting to turn into the site from that direction.
109. My attention has been drawn to relevant policy in the Framework that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety. Policy M15 of The Dartford Plan states that development will not be permitted where it would result in severe impacts on road users. The issue, therefore, is whether any impacts on highway safety could be defined as unacceptable or severe.
110. The sub-standard visibility toward Longfield means that there is a risk of vehicles approaching and having insufficient time to see and react to a vehicle emerging from the access. This could lead to an accident in this location.
111. The evidence presented relating to accidents in the vicinity of the site shows that there have been no accidents at this access. However, there have been a number within the wider local area. These include accidents around other junctions and suggests that there is a risk of an accident at junctions in the vicinity.
112. The parties have drawn my attention to guidance in Manual for Streets relating to the visibility splays measured from accesses to ensure adequate visibility. They are agreed as to the distances to be measured but there was a difference of opinion as to where this should be measured to. The guidance is clear that it measures to the kerb line but the appellant suggested that in reality the greatest risk is to motorcyclists, who generally ride close to the centre line of the road. As a result, they suggest that the measurement should be taken to that point. Visibility to that point would be sufficient to meet the distances set out in Manual for Streets.
113. I accept that there will be a risk to highway users from use of the access, taking account of accidents at nearby accesses and that visibility distances don't meet the requirements set out in Manual for Streets. However, taking account of the accident record and ability to meet the distances set out in Manual for Streets, albeit only at the centre line of the highway, on balance I consider that the risks are neither severe nor unacceptable at present.

114. The regularity of vehicles approaching the site and amount of space available outside the gates at present mean there would rarely be a need for vehicles to wait outside the site. The reason they would need to wait is because the gates to the site are managed such that visiting vehicles stop at that point prior to being allowed in. There is space for a single HGV to wait on the access outside the gate but other vehicles may need to wait on the road. In practice, at present there is space for vehicles to wait off the road.
115. Vehicles that have approached from the Longfield direction and are waiting on the road, particularly HGVs, are not easily visible on the approach due to the bend in the road such that they are at risk of being subject of a collision from behind. Given the current level of usage, the chances of that happening at present are slight and, as a result, the risks are limited. Again, on balance the risks are neither severe nor unacceptable at present.
116. However, it is possible that occupiers of the site will change over time. That might result in increased vehicle movements. The calculations of the appellants and Council, based on TRICS data, suggest that could be very significant, such that the risks would be very much greater than at present. Without mitigation, the effects on highway safety would increase to an extent that I consider would be severe or unacceptable if they were not mitigated.
117. The appellants have suggested that improvements could be made to the access arrangements, such that vehicles would not be held for any length of time at the access gates. Landscaping of the frontage to ensure the sightlines from the access are clear and improved beyond the current lines could also be provided. In those circumstances, I consider these would ensure the risks of highway safety impacts would be neither severe nor unacceptable. On that basis, this issue could be overcome by condition.
118. For these reasons, if I were to attach appropriate conditions to secure the mitigation set out, the risks of the mixed use of the land on the safe and efficient operation of the highway network in the vicinity of the appeal site would not be unacceptable or severe. Without such mitigation, the development would conflict with Policies M15 and M16 of The Dartford Plan and the Framework that seek development to make suitable provision to minimise and manage transport impacts, including resulting in unacceptable or severe impacts on the safety of road users.

Public rights of way

119. A PROW runs up the centre of the site, connecting Green Street Green Road and the green to the two footpaths that converge to the rear of the site. The line of the PROW is not clear through the site, with limited signage. It is approximately along the route of the access drive from which the different yards take access except for the part at the rear of the site that is pedestrian only. This means that, for most of its length, pedestrians share the route with vehicles accessing the yards.
120. I have not seen evidence of conflicts between vehicles and pedestrians on the access road to date. However, this is probably because those using the access and PROW tend to be regular users, with few visitors who may be unaware of the situation. The occupiers of the site generate relatively small volumes of traffic but it is possible this would change with different occupiers. If that were to occur, there

would be greater risk of conflict between pedestrians using the path and vehicles, many of which may be large such as HGVs, accessing the yards.

121. The appellant has suggested that it would be possible to increase signage and provide a clearer path through part of the site. That path was shown on the landscape plans submitted. It appears not to follow the designated route of the PROW. Nevertheless, combined with improved signage it would assist in providing a safe route through the site. That could be subject of a condition if I were to grant planning permission.
122. For these reasons, subject to an appropriate condition, I conclude that the effect of the mixed use of the land on users of the PROW would be acceptable. Without such a condition, the development would not comply with Policies M2, M15, M16 and M20 of The Dartford Plan insofar as they relate to the safety of the PROW. These policies seek the safety of pedestrians and safe and convenient access to footpaths, protecting PROW.

Ecology and biodiversity

123. The land has been cleared of vegetation and laid with hard surfaces used for storage and manoeuvring of vehicles. These have an adverse impact on ecology and biodiversity. Nevertheless, the appellant has offered other land to provide improved habitat in order to provide a modest improvement in biodiversity close to the site. That would be secured through a planning obligation. The Council accept that would provide adequate mitigation for the development.
124. The legal agreement provides two alternatives as a 2017 baseline, before the Council say any works took place, and 2020. Given my conclusions under the ground (c) appeal, I consider that the appropriate baseline for the mitigation would be 2017. I have taken the obligation into account on that basis.
125. For these reasons, subject to the planning obligation provided, I conclude that the effect of the development on ecology and biodiversity would be adequately mitigated. In those circumstances, the development would accord with Policy M14 of The Dartford Plan that seeks to protect and enhance biodiversity but where it would adversely affect existing habitats, this must be replaced by compensatory habitat of a similar type, size and condition in close proximity to that which is lost.

Other matters

126. The site provides accommodation for a number of businesses, most of which require outside storage. They provide some 67 jobs. The businesses operating on the site provide building services and equipment, such as cranes and scaffolding, that support economic activity elsewhere, particularly in the construction industry. The Council's Employment Areas Final Report in support of the Dartford Development Policies Plan dated June 2016 acknowledges that rural sites such as this can contribute to the economy as they allow smaller businesses to co-locate in small clusters. The occupiers of the site contribute to economic growth.
127. If the enforcement notice were upheld and they were required to relocate, this would result in a need for them to find alternative accommodation.
128. I note that part of this site is an identified employment area for which Policy M20 of The Dartford Plan provides a supportive approach for employment proposals. As

such, this part of the site is likely to be available for some of the current occupiers, should planning permission be granted for their use.

129. Policy S4 of The Dartford Plan states that planning permissions must take account of the desirability of providing approximately an average rate of 25,000sq.m. per annum of new industrial/distribution premises. It is common ground that the amount of industrial/distribution premises provided has been well in excess of this, albeit predominantly within large warehouse units. Policy M18 of The Dartford Plan states that new business and services in Use Classes B and E will be supported where appropriately located and designed, with major developments to be accessible by good public and active transport, including at identified employment areas.
130. The appellants indicate that occupiers of the site would struggle to find alternative suitable accommodation as that provided has generally not comprised outside storage of the type they require. Evidence from a local agent identified a number of sites that were available and may be suitable. I accept that some may only be available in the short term and that the rent of other sites may be greater than present rents at this site. On balance, although I accept that there may be limited availability of sites, I consider it is likely that alternative accommodation would become available to meet the needs of occupiers.
131. It was suggested that open storage sites at reasonably affordable rents, with unrestricted hours and well located with respect to the road network, such as this, are very valuable. However, taking account of my conclusions on the main issues and the discussion of conditions at the Inquiry, it is likely that any permission would be subject of some restrictions on hours of use. Even if the land remained available at reasonably affordable rents, this may affect the suitability of the site for current occupiers.
132. Taking all the above into account, the businesses occupying the site contribute to the economy locally and toward economic growth in the wider UK economy. Nevertheless, I consider that an unmet need for this type of development has not been demonstrated.

Grey belt

133. Grey belt is defined in the Glossary to the Framework as Green Belt land comprising previously developed land and/or any other land that does not strongly contribute to purposes (a), (b) or (d) of the Green Belt. Although not all the land in this case may be defined as previously developed, I have concluded that the land does not contribute strongly to those purposes of the Green Belt.
134. In addition, grey belt excludes land where the application of policies relating to a number of areas or assets would provide a strong reason for refusing or restricting development. The only areas or assets relevant in this case are the heritage assets, for which I have concluded there is not a strong reason for refusing or restricting development.
135. For these reasons, the land subject of this appeal is grey belt.
136. Paragraph 155 of the Framework states that commercial development in the Green Belt should not be regarded as inappropriate where they comply with all the criteria. These criteria relate to the development utilising grey belt land and not

undermining the purposes (taken together) of the remaining Green Belt across the area of the plan, there is a demonstrable unmet need for the type of development proposed and the development would be in a sustainable location. The reference to the 'Golden Rules' in the final criterion only applies where applicable, which it does not in this case as that only relates to major development involving the provision of housing.

137. I have concluded in other matters that there is not a demonstrable unmet need for the type of development subject of the enforcement notice.
138. The definition of a sustainable location makes particular reference to paragraphs 110 and 115 of the Framework. These refer to limiting the need to travel and offering a genuine choice of transport modes, prioritising sustainable transport and taking into account that such solutions will vary between urban and rural locations. This is a rural location but is accessible to the wider road network that meet the needs of the development. There are bus links available close to the site and a train station at nearby Longfield. As a result, I find the site to be in a sustainable location for the purposes of paragraph 155 of the Framework.
139. The site is within an identified employment area and fronts Green Street Green with other development along this side of the green. In the context of the wider Green Belt within the area of the plan, this is a modest site that contributes little to checking the unrestricted sprawl of built-up areas, preventing neighbouring towns from merging and safeguarding the countryside from encroachment. It does not affect the setting or special character of any historic town or affect the recycling of derelict and other urban land. As a result, it does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.
140. Taking all of the above into account, the lack of a demonstrable unmet need for the type of development subject of the enforcement notice means that development of the site comprises inappropriate development. As a result, it is contrary to the Framework and, consequently, Policy M12 of The Dartford Plan where inappropriate development is resisted.

Green Belt balance

141. I have found that the appeal site comprises grey belt land. However, the mixed use would be inappropriate development in the Green Belt given that I have found there is not a demonstrable unmet need for this use. In addition, building X-X does not comprise a replacement building as defined in the Framework such that it is inappropriate development. I have concluded that the development would not meet the exceptions to inappropriate development at paragraph 154e), f) and g) of the Framework. The development has harmed the openness of the Green Belt.
142. In addition, I have identified harm to the intrinsic character and beauty of the landscape and to the living conditions of neighbouring occupiers. There would be less than substantial harm to the heritage assets of Durham Cottage and House and the icehouse. The effects of water run-off would cause risk of harm on potable water supplies in the vicinity of the site and without mitigation measures, which I have found would not be possible in this case, this would count as a harm resulting from the proposal. Whilst harm could be mitigated via conditions or obligations to the safe and efficient operation of the highway network, users of PROW and on ecology and biodiversity, without such mitigation there is harm that arises from the development in relation to these matters.

143. I note that there are benefits from the development to the economy, including its contribution to economic growth particularly in the construction sector, and taking into account the identified employment area subject of Policy M20 of The Dartford Plan. This carries considerable weight in favour of the development. There would be improvements to biodiversity, subject to further works that would be required in accordance with appropriate conditions and obligations, which carries modest weight in favour of the development.
144. For these reasons, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the proposed development is contrary to Policy M12 of The Dartford Plan and the Framework that seek to protect the Green Belt from inappropriate development.

Obvious alternatives

145. The ground (a) appeal and deemed planning application is in respect of the matters stated in the enforcement notice as constituting the breach of planning control (Section 177(5) (s177(5)) of the Act). There is power when determining an appeal under s174 for the Inspector to grant planning permission in respect of the matters stated in the enforcement notice as constituting the breach of planning control, whether in relation to the whole or any part of those matters (s177(1)).
146. It was suggested during the course of the Inquiry that an obvious alternative would be the grant of planning permission solely to the part of the site that has been allocated as an identified employment area. It was indicated that the retention of the development on that part of the site may achieve the purposes of the enforcement notice with less cost and disruption.
147. If I were to allow the appeal in relation to that part of the site, it would enable the uses to continue and the built development referred to in the notice be retained. That includes the metal frame for the Printing Portal business and building “X-X” used by SVL. Whilst it may be possible to mitigate the effects of the development on the landscape, no scheme relating solely to this land has been provided and it is unclear whether a condition would ensure sufficient mitigation of any effect. In any event, I have already concluded that the metal frame is incongruous in this location and has resulted in harm to the character and appearance of the area.
148. The layout of building “X-X” results in the large roller shutter doors opening toward the neighbouring residential occupier, in addition to the continued movement of vehicles close to the boundary with residential neighbours. As set out above, this results in harmful effects on their living conditions.
149. The scheme of mitigation for effects on potable water supplies relates to the whole site. It may be possible to design a scheme to mitigate any effects from retention of development on the identified employment area, albeit that may also require substantial engineering works and that may alter the character and appearance of the site. Nevertheless, the nature and extent of the works put forward on the whole site indicate such a scheme would be extensive and would go beyond what could be required by condition. Whilst the scheme on a smaller area would be less extensive, it would be substantial and would also go beyond what could be required by condition. As a result, I conclude that there is a likely adverse effect of the development on potable water supplies in the vicinity of the site.

150. The icehouse, which is grade II listed and a Scheduled Monument, is located adjacent to the identified employment area. I have found that proximity has meant some harm to its setting. I found that, on the spectrum of less than substantial harm to its significance, the harm was very limited. In the context of considering development of the identified employment area as an obvious alternative to the whole area, I consider those considerations would not materially alter. Nevertheless, use of this limited area for the purposes for which it was designated would be a public benefit sufficient to outweigh that harm.
151. As set out above, this part of the appeal site has had a commercial appearance for a substantial period and any functional link to Durham House and Cottage has been severed. As a result, retention of the development on this part of the site would not affect the setting of this listed building. As a result, its setting would not be harmed by retention of the development on this area. I have not found harm to the settings of Clock House or The Forge House for the development as a whole and retention of the development on the identified employment area would not affect that. For these reasons, I conclude that the development on the identified employment area would not harm the significance of these heritage assets.
152. I accept that the principle of employment uses on the identified employment area, similar to those being undertaken on the site, would be in accordance with Policies S4, M18 and M20 of The Dartford Plan, subject to meeting the detailed provisions of those and other policies. I have found that development of this area would constitute limited infilling in the village of Green Street Green such that it would constitute an exception to inappropriate development in the Green Belt. Nevertheless, the effects of the development on the intrinsic character and beauty of the landscape, on occupiers of neighbouring dwellings and on potable water supplies in the vicinity of the site mean that the development that has taken place on the part of the site identified as an employment area does not comply with all the provisions of Policies M1, M2 and M20 of The Dartford Plan.

Conclusion

153. I have concluded that the development has resulted in harm to the Green Belt, the intrinsic character and beauty of the landscape, living conditions of occupiers of neighbouring dwellings, heritage assets, potable water supplies, highway network users of the PROW and on ecology and biodiversity. Whilst some of these matters could be overcome with appropriate conditions and an obligation, there would be conflict with Policies M1, M2, M5, M6, M15, M16 and M20 of The Dartford Plan. That would result in conflict with the development plan as a whole.
154. For the reasons set out above, I conclude that the development does not accord with the development plan. No material considerations, including the Framework, indicate I should conclude other than in accordance with the development plan. The appeal on ground (a) therefore fails.

The Appeals on Ground (f)

155. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to cease the use of the land and remove the associated development that facilitates the material change of use, in

order to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.

156. The appellants suggest that the change of use identified in the enforcement notice has resulted from additional uses added to the previous mixed use. This has resulted in a new mixed use and, in those circumstances, I consider it is reasonable for the notice to require the cessation of that use in order to remedy the breach of planning control.
157. Under grounds (b) and (c) I have found that the use changed in 2017-18 and again in 2023-24. Section 57(4) of the Act states that, where an enforcement notice has been issued in relation to development, planning permission is not required for the purpose for which it could lawfully have been used if that development had not been carried out. The intervening use means that there is no use to which the site, or any part of it, could revert. In these circumstances, the requirement of the notice to cease all elements of the mixed use, as listed, is not excessive in order to remedy the breach of planning control.
158. It has been suggested that the requirement to demolish building X-X is excessive. However, I have concluded that the changes to that building are so substantial that, as a matter of fact and degree, it is essentially a new building. In this context, the requirement to demolish this building would remedy the breach of planning control, so is not excessive.
159. I have considered whether there are obvious alternatives to the development described in the breach of planning control that formed part of the development under the ground (a) appeal. In this case, I have concluded that no obvious alternatives exist that would overcome the reasons for issuing the notice with less cost and disruption. As a result, I have not identified any lesser steps that would remedy the breach of planning control.
160. As a result, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

The Appeals on Ground (g)

161. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The period for compliance on the notice is 9 months and the appellants suggest that should be increased to 24 months.
162. The site is occupied by a number of businesses. I understand that they employ in the region of 67 people. During the period for compliance, these businesses will need to either relocate or seek planning permission to remain on this site. The evidence from the appellant is that there is limited availability of suitable sites for these occupiers. As a result, they suggest it could take some time for them to find alternative and suitable accommodation.
163. The appellant suggests that they could seek planning permission for the use of this site for these purposes and that there is a reasonable prospect of planning permission being obtained, at least on the identified employment area. I appreciate that it would take a considerable period of time to prepare and submit a planning

application, and for the Council to determine it. Nevertheless, in this case much of the background evidence has been prepared as part of this appeal such that it may reduce the amount of time taken to prepare a planning application.

164. In considering this ground, I am aware that the effects of the development, particularly on neighbouring occupiers, would continue for the period of compliance.

165. For these reasons, I accept that the period of 9 months falls short of what should reasonably be allowed and consider a period of 12 months would be appropriate in this instance.

166. Furthermore, the Council have drawn my attention to their power under the Act to extend the period for compliance with the notice in the event that they are persuaded there is sufficient justification for them to consider it is necessary to do so.

167. As a result, I conclude that the appeal under ground (g) should succeed and the period for compliance be extended to 12 months.

Formal Decisions

168. It is directed that the enforcement notice is corrected and varied by:

The deletion of "... that facilitate the material change of use, the approximate location within ..." and the substitution of "... that facilitate the material change of use in the approximate location within ..." in requirements 2 and 5 of section 5. What You Are Required To Do;

The deletion of "general haulage businesses" and the substitution of "general haulage business" in section 3. The Breach of Planning Control Alleged and requirement 1.d) of section 5. What You Are Required To Do;

The deletion of "associated with a haulage business" and the substitution of "marked 'X-X' on the attached plan" in section 3. The Breach of Planning Control Alleged

The deletion of "associated with the printing business" and the substitution of "marked 'X' on the attached plan" in section 3. The Breach of Planning Control Alleged; and

The deletion of 9 months and the substitution of 12 months as the time for compliance.

169. Subject to the corrections and variations, the appeals are 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.

AJ Steen

INSPECTOR

APPEARANCES

FOR APPELLANT A:

Andrew Fraser Urquhart KC instructed by DHA Planning Ltd, who called:

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BA(Hons) MBA MRTPI	

Laura Hicken	Property Manager, Hawkspare Ltd
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Richard Turnill	Watson Day Chartered Surveyors
MRICS	

Michael Symmonds	Clarke Saunders Acoustics
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Paul Lulham	DHA Planning Ltd
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Geoff Keenan	SLR Consulting Limited
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James Appleby

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Sarah Davidson	HCUK Group
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Rob Whitlock	Ecology Solutions Ltd
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FOR THE LOCAL PLANNING AUTHORITY:

Jack Parker, Counsel instructed by John Wenham of Dartford Borough Council Legal Services, who called:

Ingrid Smith	Ivy Legal Ltd
BA(Hons) BSc(Hons)	

Ahsan Ghafoor	Ivy Legal Ltd
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Chris Carter	Regional Director, AECOM Ltd
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INTERESTED PARTIES:

Steven Waghorn	Local resident
Peter Affleck	Local resident

DOCUMENTS SUBMITTED AT THE HEARING/INQUIRY:

- Document 1: Comments from Thames Water (Core document reference: CD12/8)
- Document 2: Comments from Kent County Council regarding ecology (CD2/35)
- Document 3: Dartford Employment Needs Review January 2020 (CD7/5)
- Document 4: Economic Land Report September 2021 (CD7/6)
- Document 5: Letter from James Design Associates to Dartford Borough Council dated 24 June 1999 regarding planning application 98/0635FUL (CD4/29a)
- Document 6: Updated evidence of Laura Hicken (CD2/34)
- Document 7: Public Rights of Way Map (CD12/1)
- Document 8: Appeal decision reference APP/M2270/C/24/3339249, APP/M2270/C/24/3339251, APP/M2270/W/24/3339337 and APP/M2270/W/24/3339338 (CD8/15)
- Document 9: Updated Biodiversity Net Gain report and metric
- Document 10: Replacement landscaping plans
- Document 11: Vision Zero The Road Safety Strategy for Kent (CD9/10)
 - Improved Crossover Plan drawing no. 34481-H-01 Rev P4 (CD9/11)
 - Improved Crossover Plan with titles overlaid drawing no. 34481-H-05 Rev P1 (CD9/12)
 - Kent County Council's Rights of Way Improvement Plan (CD9/13)
- Document 12: Email instructions from dha to Richard Turnill MRICS
- Document 13: Statement, photographs and record of dates and times of disturbance from Steven Waghorn
- Document 14: Extract from website of Southern Van Lines
- Document 15: Dartford Borough Council Annual Monitoring Report 2021-22
- Document 16: Dartford Borough Council Annual Monitoring Report 2022-23
- Document 17: Email correspondence between Ingrid Smith and John Collins May-June 2024
- Document 18: The Dartford Plan pages 7 and 51

Document 19: Landscape Mitigation Strategy Plan Existing Crossover Arrangement drawing no. D00538_001 D

Revised drainage plan

Document 20: Draft Section 106 Legal Agreement

Note on interpretation

Document 21: Draft suggested conditions and comments from John Collins

Document 22: Transport Statement of Common Ground

Document 23: Agreed note on Biodiversity Net Gain

Document 24: Appendix PN19A of Proof of Evidence of Paul Nicholls: Aerial Photograph dated 2013