



WOKINGHAM BOROUGH COUNCIL

Statement by Local Planning Authority

Appellant:	Jaswinder Brar
Site:	Land at Mileswood Farm, Old Wokingham Road, Crowthorne, RG40 3BU
Local Planning Authority Reference:	261352 Enforcement Notice B
Planning Inspectorate Reference:	6010871
Date:	August 2026
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1 Introduction

1.1 This statement of case relates to the appeal by Jaswinder Brar against Enforcement Notice B issued on 12 May 2026 (**Appendix 1**). It is one of two notices issued on land at Mileswood Farm. Notice A is extant and relates to a compound within Mileswood Farm which immediately adjoins the orange area in Notice B. The compliance date for Notice A is 5 December 2026. This is at **Appendix 2** for information and is also relied upon for providing photographic evidence for context.

1.2 The alleged breach outlined in Notice B is:

Without planning permission, the material change of use of the Land to use for storage purposes (marked in the approximate locations shaded blue and green on Plan 1) including engineering operations in the form of levelling the Land, the laying of a hard surface (shown in the approximate location outlined orange on Plan 1) and the formation of spoil heaps/ bunds along the northern boundary to the Land (marked in the approximate location shaded purple on Plan 1).

1.3 The reasons for issuing Notice B are as follows:

1. *It appears to the Council that the material change of use and the engineering operations have occurred within the last 10 years.*
2. *The Land is located within the countryside and is protected by a woodland tree preservation order (TPO-1316-1986). The expansion of storage uses on land which was not previously developed is an unacceptable form of development which has led to excessive encroachment into the countryside and to the destruction of protected trees including the loss of irreplaceable habitat. This is contrary to paragraphs 125, 136, 187 and 193 of the National Planning Policy Framework ("NPPF"), Wokingham Borough Core Strategy DPD 2010 ("Core Strategy") policies CP1, CP3, and CP11; Wokingham Borough Managing Development Delivery ("MDD") Local Plan 2014 policies CC01, CC02, and CC03.*
3. *The Council considers that planning permission should not be given because planning conditions would not overcome these objections.*
4. *To remedy the breach of planning control*

2 Site/ surroundings and relevant history

- 2.1 The appeal site is accessed from Old Wokingham Road and comprises several businesses. It used to form part of Newlands Farm which is located to the south and is now a small industrial estate with workshops, outside storage areas and a carwash. The site is covered by a woodland tree preservation order (TPO-1316-1986). This has been provided with the questionnaire and was confirmed on 20 February 1987. All trees are protected within the area identified on the TPO plan including trees and saplings which grow naturally or are planted within the woodland area after the Order is made.
- 2.2 Where permission has been granted over the years on land covered by the TPO it is accepted that the TPO area has been amended. Turning to the appellant's statement Appendix 2, planning permission 97/66427/F granted on 9 April 1998 for B8 storage use but only in the area identified on the plan. It did not approve the blue and green areas shown on the Notice plan as still shown as woodland including the wider orange area. The appeal decision dated 30 June 2000 at the appellant's Appendix 3 describes the site at paragraph 3 as having 'agricultural shed-type buildings scattered about the woodland site'. The access described at paragraph 8 of the decision was winding through 'the dense tree belt'. The area covered by the appeal was the same for 97/88427/F.
- 2.3 The appellant's Appendix 4 refers to an appeal decision dated 24 June 2004 which relates to a replacement industrial building presumably replacing the established B1/B2 building approved under 97/88427/F. This is outside of the orange area. The site was described as 'densely wooded' at paragraph 6. This building became the carwash under ref 212047 (appellant's Appendix 5).
- 2.4 The appellant's Appendix 6 refers to the lawful development certificate ref 231266 approved on 20 March 2024 for the use of land for open storage. This is the last known planning position before the notices were

issued and indicates the extent of the land in use at that time and the location of trees.

3 Ground (c) That there has not been a breach of planning control

- 3.1 S171A (1) (a) states that the carrying out of development without the required planning permission constitutes a breach of planning control.
- 3.2 The definition of development under s55(1) of the Town and Country Planning Act 1990 (as amended) is the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- 3.3 The change of use of the land must also constitute material development under s56 of the Act in respect of the time when the development began.
- 3.4 Any decision on whether what is alleged in the notice is a breach of planning control is a matter of fact and degree. For enforcement action to succeed there should be some physical evidence that land is being used for storage purposes (shaded blue and green) and that engineering operations as stated in the notice have taken place (orange).
- 3.5 The appellant claims that the area shaded blue is car parking however the carwash introduced a sui generis use and any land within that red line indicated by the CLUED plan under ref 212047 would have been ancillary to the carwash and not used for B8 purposes. The original red line for the CLUED application (**Appendix 3**) was amended as it included a larger area which was not in carwash use. At Appendix 3 of this statement the area shaded blue on the notice plan is shown as green on the OS base map which was submitted for the CLUED application. This corroborates that the blue area was not hard surfaced. Also, aerial imagery 2017 – 2020 (**Appendix 4**) shows that this land was not hard surfaced at the time the application was determined or in storage use. It reads as vegetation separating the car wash area from the rest of the

wider site. The blue area has been hard surfaced and used recently for storage purposes. This is corroborated by figures 2 and 3 of the Photo Pack at **Appendix 5**. The works were not substantially complete on or before 25 April 2024 so are not immune from enforcement action; the period being 10 years.

- 3.6 The appellant claims that the hardstanding is permitted development under Class J however the blue, green and orange notice areas are not within the curtilage of a building. Also, it would not meet Article 3(5) of the GPDO if found unlawful. Similarly, with the green area identified in the notice, when permission was granted for the original storage use the land was identified as 'dense woodland' or 'woodland' as annotated on the 231266 CLUED plan. The carwash CLUED being an earlier snapshot in time demonstrates that the hardstanding seen on site now has been applied recently to the ground where engineering operations have taken place including the removal of more vegetation and the introduction of more formalised storage areas.
- 3.7 Photographs at Appendix 5 show how the site has been cleared over time. When the photographs were taken on 14 June 2023 for application 231266 storage areas could be seen but in amongst the trees and limited to central areas of the site only. Any cleared area of trees and vegetation in 2023 is shown on the certificate plan for 231266 outlined in blue below which still surrounded pockets of trees at that time presumably the remnants of the TPO woodland in this area.



- 3.8 It is apparent that protected trees have been consistently removed or damaged since 2022 (**Appendix 6**). Regulation 14(1)(vii) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (The Regulations) allows the cutting down, topping, lopping or uprooting of a tree in so far as where it is necessary to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (iii)(cc) **a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995**) granted on an application under Part III of the Town and Country Planning Act 1990 (control over development) or granted on an application under section 293B or 293D of that Act, or deemed to have been granted (whether for the purposes of that Part or otherwise).
- 3.9 In this case, the clearing of land involving engineering operations to make way for further storage areas and the laying of hard surfacing cannot be considered permitted development as the Regulations override this provision. TPO consent would have been required (see also Paragraph: 083 Reference ID: 36-083-20150415, Gov.uk). Hence the engineering operations and storage uses are unlawful and are not permitted development. Also, permitted development cannot be claimed

retrospectively. The applicant has neither applied for consent for this development or demonstrated that the works at the time of commencement were permitted development and are now lawful. No ground (d) appeal has been made either. As such without planning permission and TPO consent there is a breach of planning control and the appeal on ground (c) should fail.

4 Ground (f) The steps required to comply with the requirements are excessive, and lesser steps would overcome the objections.

4.1 It is considered that the extent of the engineering operations that have taken place to create an access way and levelled storage areas is not *de minimis* because it is apparent that machinery has been used in creating this but also the ground was uneven within the remaining woodland at the time of 231266 CLUED application site visit. Officers have first hand knowledge of the site at the time (**Appendix 5**).

4.2 The cleared area (edged blue) above has been extended, altered and resurfaced recently and trees have been removed and/ or damaged in the process. This is within the orange area. The steps required to comply are not excessive to address the breach of planning control. It is noted that the appellant accepts that there is a breach in respect of the notice purple area. However, it is apparent that this is spoil from clearing the site which required machinery to do this. If the accessway had not been created, then the bund would not exist. As such the appeal on ground (f) should fail on the basis that the level of remediation work required means reverting the land to its original woodland state i.e. that at the time of the 231266 CLUED position.