

Enforcement Notices – Fry’s Bottom

Justification Statement on Grounds A of Appeal:

“that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged”

Overview

This statement sets out why planning permission should be granted under **Ground (a)** of section 174(2) of the Town and Country Planning Act 1990. The justification is founded on adopted local planning policies and national guidance.

23/00023/UNDEV/OD3

Tracks:

1. Greenbelt Policy – Local and National Context

1.1. NPPF (2024) – Chapter 13 Protecting Green Belt Land

- 1.1.1. The NPPF (2024) sets out a presumption against inappropriate development in the Green Belt, unless very special circumstances exist. However, not all development in the Green Belt is inappropriate.
- 1.1.2. Paragraph 154 of the NPPF explicitly sets out forms of development that are not considered inappropriate. These are;
 - a) ‘Buildings for Agriculture and Forestry
 - b) The provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;’

...

1.1.3. Justification:

- 1.1.3.1. The track(s) is essential infrastructure for facilitating forestry operations including timber extraction and woodland maintenance.
- 1.1.3.2. Forestry is a long-recognised land use in the Green Belt and is not inappropriate in principle.
- 1.1.3.3. The track(s) is modest in scale compared to the overall size of the woodland and does not conflict with the five purposes of the Green Belt (e.g. it does not lead to sprawl, encroachment, or the merging of settlements).
- 1.1.3.4. The track(s) preserves openness, as it is low-profile, unlit, and constructed from natural materials in harmony with the rural setting.

1.2. Local Planning Policy – Core Strategy Policy CP8 & Development Plan Policy GB2

- 1.2.1. Local Planning Policy states that inappropriate development will not be permitted unless justified by very special circumstances.

1.2.2. Justification:

- 1.2.2.1. The development is not inappropriate when assessed against the NPPF test (see above), and thus very special circumstances are not required.
- 1.2.2.2. The track(s) supports the appropriate use of land for forestry, which is a primary land use in the Green Belt and consistent with CP8's aims of safeguarding the countryside and GB2's appropriate development.

2. NPPF Paragraph 84 – Supporting a Prosperous Rural Economy

- 2.1. Paragraph 88 encourages the sustainable growth and expansion of rural businesses, particularly land-based operations such as forestry.

2.2. Justification:

- 2.2.1. The track(s) is essential to the functioning of a legitimate rural business enterprise.
- 2.2.2. It supports economic activity without introducing built development or harming the landscape.

2.3. BANES Economic Strategy

- 2.3.1. The council has declared a climate and ecological emergency and actively supports woodland creation and management as part of its wider environmental objectives.
- 2.3.2. Supporting infrastructure such as forestry tracks is necessary to ensure the viability of woodland management as part of a sustainable, circular rural economy.

3. Design

- 3.1. The track(s) is not surfaced with tarmac or concrete but uses permeable materials consistent with woodland settings. Materials used, are also in line with waste exemption licence for the site.
- 3.2. Its alignment minimises visibility from public viewpoints.
- 3.3. There is no lighting, signage, or permanent structures associated with the track.
- 3.4. There is no material change of use or intensification of non-forestry activity linked to the track.

4. Conclusion

- 4.1. The forestry track(s) are:
 - 4.1.1. A necessary and proportionate form of development to support woodland management;
 - 4.1.2. Not inappropriate when judged against the NPPF Green Belt policy;
 - 4.1.3. In line with BANES's adopted planning policies, including those protecting landscape, biodiversity, and supporting environmental stewardship; and
 - 4.1.4. A key component of sustainable rural land use and ecological enhancement.
 - 4.1.5. Accordingly, planning permission should be granted under Ground (a) of the enforcement appeal, and the notice should be quashed or modified as appropriate.

Dams:

5. Greenbelt Policy – Local and National Context

- 5.1. While the NPPF seeks to protect the openness and purposes of the Green Belt, Paragraph 154 allows certain forms of development that are not inappropriate, including:

“engineering operations, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.”

5.2. Justification:

- 5.2.1. The proposed ponds involve minor earthworks in a low-lying woodland setting and do not introduce buildings or built form.
- 5.2.2. The development preserves openness, as the ponds are sunken landscape features with no above-ground infrastructure.
- 5.2.3. The project does not lead to urban sprawl, unrestricted encroachment, or any conflict with the five purposes of Green Belt designation.

5.3. NPPF Chapter 15 – Conserving and Enhancing the Natural Environment

- 5.3.1. The NPPF strongly supports developments that conserve and enhance biodiversity, particularly those that:
- 5.3.2. Establish or restore priority habitats;
- 5.3.3. Support ecological networks;
- 5.3.4. Deliver measurable net gains.

5.4. Justification:

- 5.4.1. The ponds are designed to create wetland habitats supporting a wide range of species, including amphibians, invertebrates, birds, and aquatic plants.
- 5.4.2. The project enhances structural diversity in the woodland and connects a range of habitats
- 5.4.3. They can deliver Biodiversity Net Gain (BNG) for the site.

6. Alignment with BANES Planning Policy

6.1. Policy NE3 – Sites, Species and Habitats

- 6.1.1. This policy supports development that protects and enhances biodiversity, particularly where it contributes to habitat restoration or ecological networks.

6.2. Justification:

- 6.2.1. The creation of conservation ponds is a proactive response to local declines in wetland biodiversity and the fragmentation of freshwater habitats.
- 6.2.2. The ponds will be managed to support key species and habitats listed in BANES's Biodiversity Action Plan and Ecological Emergency Action Plan.

6.3. Policy CP6 – Environmental Quality

- 6.3.1. CP6 promotes high environmental quality and ecological enhancement.

6.4. Justification:

- 6.4.1. The proposal transforms underutilised woodland into a multifunctional natural space, increasing its ecological value while maintaining its woodland character.
- 6.4.2. There is no conflict with landscape or visual amenity goals – the ponds blend with the natural landform and are not publicly visible.

7. Climate and Ecological Emergency Declaration (BANES, 2019–Present)

- 7.1. BANES has committed to tackling the climate and ecological emergency through practical local action, including habitat creation, restoration of ecosystems, and nature-based solutions.

7.2. Justification:

- 7.2.1. The pond project embodies nature-based solutions that address both climate resilience and biodiversity decline.
- 7.2.2. It enhances BANES's green infrastructure network and supports long-term community and environmental wellbeing.

8. Conclusion

- 8.1. The proposed creation of conservation ponds by damming a stream within woodland in the Green Belt is:
- 8.1.1. A low-impact, ecologically positive intervention;
 - 8.1.2. Not inappropriate development, as defined by NPPF policy;
 - 8.1.3. In line with BANES Local Plan objectives for biodiversity, landscape, and environmental management;
 - 8.1.4. A meaningful contribution to BANES's climate and ecological resilience goals.
 - 8.1.5. Planning permission should be granted. The proposal represents a model example of environmental stewardship in the rural Green Belt and should be supported accordingly.