



Appeal Decision

Site visit made on 6 August 2019

by Anthony J Wharton BArch RIBA RIASI

an Inspector appointed by the Secretary of State for Housing Communities and Local Government

Decision date: 19 August 2019

Appeal A - Ref: APP/F1610/C/18/3211503

Land at Primrose Cottage, Middle Chedworth, Chedworth, Cheltenham, Gloucestershire GL54 4AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Adam Manning against an enforcement notice issued by Cotswold District Council.
 - The enforcement notice was issued on 30 July 2018.
 - The breach of planning control as alleged in the notice is: the carrying out of earthworks, the construction of hardstanding and extension of residential curtilage of the land.
 - The requirements of the notice are as follows:
 - (i) Permanently reinstate the land to its former condition.
 - (ii) Cease the residential use of the agricultural land to the east of the curtilage and re-erect the boundary treatment that defines the residential curtilage of the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on grounds (a), (c), (f) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Appeal B - Ref: APP/F1610/W/19/3224046 Land at Primrose Cottage, Middle Chedworth, Chedworth, Cheltenham, Gloucestershire GL54 4AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Adam Manning against the decision of Cotswold District Council.
 - The application Ref 18/03955/FUL, dated 15 October 2018 was refused by notice dated 12 February 2019.
 - The development proposed is as follows: *'Engineering operations comprising the construction of hardstanding and turning area and regrading of land'*.
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Decisions

1. Appeal A is allowed in part and the enforcement notice is varied. Otherwise the appeal is dismissed. See formal decision below.
2. Appeal B is dismissed. See formal decision below.

Matters of clarification

3. The Reasons for Refusal (RfR) of the planning application in Appeal B and the issues arising in Appeal A on ground (a) are similar. However, there are differences in what was initially applied for, and refused, and what is alleged in the notice and has actually been carried out on site. The application in Appeal B was amended during its course of determination and this has been acknowledged by the LPA. It no longer includes the vehicular access in the far south-corner of the site. I have, therefore, dealt with the

planning merits of the appeals separately and on the basis of this change which omitted the provision of a new vehicular access. This is based on drawing No 2502/P/02D. In doing so I have taken into account all of the submissions and I am satisfied that no injustice is caused in dealing with the appeals in this way.

4. With regard to the wording as set out in Parts 3 and 5 of the notice, it is evident that the Council is of the view that the curtilage of the dwelling house has been extended into the land to the south east. This is considered by the Council to be '*agricultural land*'. However, this is disputed on behalf of the appellant who contends that the land has been used in the past for use as '*residential garden land*'.

5. It is also referred to by the appellant as 'Meadow' land and I consider that this best describes the extensive area of land to the south-east of the curtilage of the dwelling house. I shall, therefore, refer to this area of land as 'Meadow' land in both appeals. With regard to the allegation I do not consider that this needs to be corrected, as it quite clearly correctly refers to earthworks, hardstanding and the extension of the residential curtilage of Primrose Cottage. I have, however, varied the requirements of the notice and my reasons for this are set out below. I also set out below why I consider that most of the unauthorised development, as engineering works, lie outside of the residential curtilage of Primrose Cottage.

6. The appellant does not dispute that the works alleged to have been carried out, have in fact taken place. Reference is made to the planning application and the fact that the appellant wishes to restore the land to a position where it is '*as close as possible to its original condition*'. However, the planning application in relation to this was refused and is now the subject of Appeal B. The works carried out on site clearly exceed what was applied for in the first instance. These works include the deposition of hardstanding material extending between the house itself and well into the 'Meadow' land to the south-east. The Council contends that the works constitute development of a far more extensive part of the site and from my inspection I can only agree with that conclusion.

Background information

The appeals site and the surrounding area

7. The appeals site is located on the west side of the main road through the village, off of a dead end spur which gives access to other properties. It comprises the dwelling house and its immediate curtilage (as referred to above), together with an extensive area of 'Meadow' land that could not have been part of the immediate curtilage of the dwellinghouse. This is in two parts and a fence separates these two areas. About two-thirds of the 'Meadow' land (the first section) lies immediately to the south-east of the house curtilage (see later) and around one third (the second section) is located in the far south-easterly part of the site. The appellant also owns a separate field or paddock which is located to the south of the second section of the 'Meadow' land.

8. Primrose Cottage is not listed but lies within the Chedworth Conservation Area (CCA) and the Cotswolds Area of Outstanding Beauty (CAONB). The property used to be known as 'Bleakmore' and there are residential properties to the north and east in this central part of the village. It is stated to be in a Flood Zone 1 area and at low risk of flooding. There are several public Rights of Way (RoW) in the area and these are shown on a plan submitted on behalf of the appellant.

9. The cottage is located on the side of the valley which is typical of the dwellings in this part of Chedworth. The land generally slopes down from the south-west to the north-east and the main road through the village lies further to the north-east at a much lower level. The building is stated to date back to around 1840 and, according to policy

criteria, due to its architectural and historic interest and its age, it is considered by the Council to be a '*non-designated heritage asset*'. I deal further with this matter below.

10. Both sections of the 'Meadow' land to the south-east, which lie outside of the previously identified 'red line' area of the earlier planning application, are not perceived as being closely related to the cottage. Nevertheless it is still seen as being physically related to the main route through the village which is characterised by ribbon development.

11. The front of the cottage faces the lane to the north and there is no space to this frontage for parking. There is a small curtilage immediately surrounding the cottage, including a parcel of land to the north-western end of the site. However, this immediate curtilage has been altered by the deposition of part of the hardstanding. The principal elevation and the entrance to the cottage are on its south side, facing the 'Meadow' land area where the alleged unauthorised works have been carried out. An access from the spur road has been formed and there is a partly constructed wall on its western side.

12. During my site visit it was evident that the physical nature and condition of the appeal land (the cottage curtilage and the 'Meadow' land) was significantly different to its state at the time the notice was issued. The south-eastern parts of the first section of 'Meadow' land had been terraced and partly seeded and the hardstanding area extended from the house itself to a single tree (on an upper terraced section), a significant distance from the cottage. A retaining wall had been built from the south-west corner of the house to the end of the hardstanding.

13. The hardstanding is much longer and wider than shown on the submitted planning application drawing 2502/P/02D. It extends much further in a north-easterly direction. It was indicated to me that the final intention was to have a layout as shown on drawing 2502/P/02D. Reference was also made to a future garage, but clearly this would need to be the subject of a future application. At first sight the hardstanding area has the appearance of an enormous car park, totally out-of-scale within these rural surroundings. This perception is exacerbated by the length of the retaining wall which has been built along part of the southwest boundary to the site, between the house and the end of the hardstanding area. Although part of the wall lies within the residential curtilage of the cottage, a significant section extends into the 'Meadow' land.

The use of the land and the curtilage of Primrose Cottage

14. In 2014 planning permission (14/02944/FUL) was granted for a two storey front extension to the cottage and in 2017 there were two approvals granted for the felling of various unnamed trees, a cherry tree and a sycamore tree. There are no other planning permissions referred to relating to the cottage or the 'Meadow' land areas. It is contended by the appellant that the previous owners had intended the whole of their land to be within the 'red line' of the application. It is suggested that Council had requested that the 'red line' been restricted to the curtilage of the cottage. This may well have been the case but in my view, for reasons set out below, I would agree with the Council's position in this respect.

15. From all of the representations and my site inspection it seems to me, as a matter of fact and degree, that the 'red line' area for application 14/02944/FUL denoted the curtilage of the dwelling house, whilst the 'blue' line area related to the extensive 'Meadow' land area to the south-east. Although the Council refers to this as 'agricultural land', the evidence submitted on behalf of the appellant indicates that previous owners used the land as an 'extended' garden or 'Meadow', in conjunction with the residential use of the 'red line' area. Reference is also made to its use as an orchard.

16. In the absence of any evidence from the Council to contradict this historic use of the land, I shall deal with both appeals on the basis put forward on behalf of the appellant: that is, that the 'Meadow' land was not used for agricultural purposes but for purposes linked to the residential use of Primrose Cottage.

17. However, the fact that the 'Meadow' land had been used for residential purposes, does not necessarily mean that it lies within the '*curtilage of the dwelling house*'. I have dealt with this in more detail below under the ground (c) appeal in Appeal A. At this stage, as a matter of fact and degree, I consider that the cottage and its curtilage comprise one planning unit and the 'Meadow' land to the south-east comprises another planning unit. Again it is on this basis that I have dealt with the two appeals.

Relevant policy

18. The most relevant development plan policies are contained within the Cotswold District Local Plan 2011-2031 (CDLP). These are Policies EN1 (Built, Natural and Historic Environment); EN2 (Design of the Built and Natural Environment); EN4 (The Wider Natural and Historic Landscape); EN5 (Cotswold Area of Outstanding Natural Beauty); EN7 (Trees, Hedgerows and Woodlands); EN8 (Biodiversity and Geodiversity: Features Habitats and Species); EN10 (Historic Environment: Designated Heritage Assets); EN11 (Historic Environment: Designated Heritage Assets Conservation Area); EN12 Historic Environment: Non-designated Heritage Assets); EN15 (Pollution and Contaminated Land); INFA (Highway Safety) and INF5 (Parking Provision). The Council also refers to Appendix D to the CDLP, the Cotswold Design Code (CDC).

19. The National Planning Policy Framework (NPPF) is a major material consideration and I have had regard to the general policies as well as to sections 12 (Achieving well-designed places) and 16 (Conserving and enhancing the historic environment). I have also had regard to relevant guidance in Planning Practice Guidance (PPG). Because the site lies with the CCA and the CAONB, I have also paid special attention to the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) and to the duty set out in Section 85(1) of the Countryside and Rights of Way Act 2000 (CRWA)

20. The starting point for the determination of the merits of the cases is section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA), whereby the decisions must be made in accordance with the development plan unless material considerations indicate otherwise. However, before considering the merits of the appeals I turn to Appeal A in relation to ground (c).

Appeal A on ground (c)

21. To be successful on this ground it must be shown that either there is a planning permission in place for the operational development alleged to have been carried out, or that one is not required because, for example, the works constitute permitted development. The merits of the case do not fall to be considered. The onus is upon the appellant to shown that there has not been a breach of planning control.

22. Clearly there is no planning permission in place for the works carried out as specified in the enforcement notice. In fact the Council refused planning permission for works which were similar in part to those set out in the notice on 12 February 2019. This is now the subject of Appeal B.

23. On behalf of the appellant it is contended that the appeal site, the whole area of the cottage curtilage plus the 'Meadow' land areas, forms part of the residential curtilage of Primrose Cottage and, therefore, that the development carried out constitutes permitted development (PD). The Town and Country Planning (General Permitted Development)

(England) Order 2015 as amended 2016 (GPDO) permits certain works within the curtilage of a dwelling house. These works include buildings and small areas of hard surface and hardstanding.

24. The Council disagrees with the appellants position and refers to the works as constituting an '*engineering operation*' the extent of which cannot be permitted development. Having seen the area covered by the hardstanding, as well as the terracing and profiling works to the land (including the formation of the access), I agree with the LPA that the works go far beyond the provisions of Part 1 Class F of the GPDO.

25. In the context of what might be the curtilage of a dwelling house '*residential curtilage*' is not a use of land and a lawful residential use of land does not necessarily equate to it falling within the '*curtilage of a dwelling house*'. Parliament has not defined the word '*curtilage*' and decision makers have to rely on dictionary definitions and to the case law authorities set out over the years.

26. The courts have held that whether or not land falls within the '*curtilage of a dwelling house*' is 'a matter of fact and degree' and each case must be considered on the facts of the case. In this case the land to the south-east of the garden area to the cottage had previously been sub-divided from the cottage by a fence and the 'red line' area in 2014 only showed the immediate curtilage of the dwelling house.

27. There is no substantial evidence submitted to show that the whole of the appeal site (land immediately around the house plus the extensive 'Meadow' land) had been used as part of the curtilage to the cottage. Having seen the site I can understand the Council's stance that this land does not, as a matter of fact and degree, form part of the residential curtilage of the cottage. Even if part of the appeal land has been used for residential purposes in the past, it cannot follow that the whole of the 'Meadow' land area lies within the curtilage of the dwellinghouse, Primrose Cottage.

28. The courts have held that there are certain criteria which should be applied in assessing what constitutes the curtilage of a dwellinghouse. These are: the physical layout of the building(s); ownership past and present and the use and function of the land, past and present. In this case I accept that the criteria relating to '*past and present ownership*' and '*present function*' are met. Both past owners and the appellant appear to have used the 'Meadow' land as an extension to the immediate garden or curtilage area around the house.

29. I also accept that this part of the appellant's land can also be said to be still '*required for the comfortable enjoyment of the dwelling house*'. However, although it might be used in this way, I do not consider that the 'Meadow' land forms '*an integral part of the same*' in terms of the '*curtilage of the dwelling house*' as referred to by the courts. The 'Meadow' land, in my view, as a matter of fact and degree, lies outside of the curtilage of Primrose Cottage. If any part of any land is found to lie outside of the '*curtilage of the dwelling house*' then, irrespective of the use of that land being lawful for residential use, permitted development rights cannot apply and planning permission is required for any development on that land.

30. There is also evidence that material has been brought on to the lands which again would not constitute PD under the GPDO. I have also concluded above that the curtilage to the cottage and the 'Meadow' land area are different planning units. In addition the retaining wall does not wholly lie within the curtilage of the cottage.

31. In conclusion, therefore, in the absence of any planning permission for the works and the fact that they cannot constitute PD, there has been a contravention of planning control and Appeal A must fail on ground (c).

Appeal A on ground (a)

32. The main issues relate to the effects that the works as carried out, as specified in the enforcement notice, have had:

- On Primrose Cottage and its immediate surroundings/setting within the village;
- On the character and appearance of the Chedworth Conservation Area (CCA)
- On the Cotswold Area of Outstanding Natural Beauty (CAONB).

Effect on Primrose Cottage and its immediate surroundings/setting

33. Having visited the appeals site and having walked around other parts the centre of the village and noted other hardstandings and entrances , I share the Council's concerns about the effect of these extensive works. I consider that the construction of the large expanse of hardstanding and its protrusion into the 'Meadow' land has had a most significant detrimental visual impact in this part of the CCA and the CAONB.

34. I have already concluded above that the works as carried out have extended beyond what can reasonably be considered, as a matter of fact and degree, the residential curtilage of the Primrose Cottage. The works have extended well into the 'Meadow' land, the profile of which has been changed by the terracing.

35. I consider that the unauthorised works and particularly the hardstanding have had a most detrimental visual impact in this part of the village. In particular, it is my view that the works have completely upset the balance of the landscape within the appeals site. I acknowledge that what I saw on site is not what is eventually intended. However, in this appeal I must consider whether or not it is appropriate to grant planning permission for the unauthorised development as carried out.

36. I acknowledge that when works such as this are initially carried out, the earthworks look stark and obtrusive. Indeed this was the case in this instance. I also acknowledge that within a few years of normal landscaping works such as these, the basic form and greenery of the affected land can look reasonably normal and not so obtrusive. In fact I noted that the terraced part of the works in the 'Meadow' land had already started to be grassed and were obviously not as stark as shown in the earlier photographs.

37. Having seen the terracing in its present form it is my view that this is not, in itself, significantly harmful to the character of this part of the village. I noticed that top soil had been used to cover the underlying rock and rubble and that the grass had started to seed. When fully grassed I do not consider that the terracing will be perceived as being much different than the previous generally sloping 'Meadow' land. Thus, I find the profiling and re-grassing of the land to be acceptable.

38. However, I find the hardstanding to be totally unacceptable. The sheer form and scale of the hardstanding area has had a most negative impact on the immediate rural surroundings; on the setting of Primrose Cottage and on the character and appearance of the CCA and the CAONB. In my view the works as carried out have detracted markedly from the calm, balanced village setting of the house. Instead of being perceived as an integrated 'Meadow' land or extended garden area, the site has been transformed by the hardstanding area into an unacceptable development that bears no reasonable physical relationship to the rest of this part of the village. As indicated above the hardstanding is perceived as an over-sized and inappropriately located car park.

39. The hardstanding has harmed the setting of Primrose Cottage which, from both national and local plan policy perspectives, must be considered to be a non-designated heritage asset. I disagree with the appellant's view that it should not be considered as such. In my view it falls clearly into the NPPF definition of being a heritage asset by virtue of it having been identified as such by the LPA through the local plan process. My

reading of the submissions and my own inspection of the site reinforces my conclusion. Thus, for the reasons set out above, I consider that the works which are the subject of the enforcement notice have been harmful to the cottage and its setting and are contrary to policy EN12 of the CDLP and to policies within the NPPF. The appeal on ground (a) fails on this first issue.

Effect on character and appearance of the CCA

40. The cottage, like all of the others in this part of the village, contributes positively to the character and appearance of the CCA. The 'Meadow' land area is typical of some of the other more open areas between the houses in this notably ribbon development-like settlement. Overall the physical appearance of this part of the village is one of a calm balance between built form, well-landscaped gardens and the more open areas of soft landscaping on the sloping ground. This balance is a distinctive characteristic of Middle Chedworth even though there are many hardstanding areas associated with the dwellings. As referred to above I noted some of the accesses and hardstandings during my earlier walk around the village.

41. I have identified above, the harm caused by the works to the character and appearance of the cottage and to its setting within this part of the village. The CCA Appraisal had identified the cottage with its large garden and mixed tree planting as being a typical example of a village house constructed in the Cotswold vernacular. The setting has, in my view, been completely destroyed by the insensitive and excessive hardstanding area as laid out. It follows that the works have also harmed the character and appearance of the CCA which has neither been preserved nor enhanced by the hardstanding works as carried out and enforced against.

42. Having paid special attention to the requirements of section 72 of the PLBCAA and to local (Policy EN11 of the CDLP) and national policies (section 16 of the NPPF) relating to conservation areas and the historic environment, I consider that the appeal must also fail on this second issue.

The effect on the CAONB

43. Due to the detrimental effects identified above on the setting of the cottage and landscape of this particular part of the village and on the character and appearance of the CCA, it follows that I also consider that the natural beauty of the CAONB has been significantly harmed. As indicated by the Council the appeal site provides an important green gap which contributes positively to the character and appearance of the locality. Due to the extent of the works carried out on this sloping site and the effect on the garden area to the cottage, I consider that the works have failed to conserve or enhance the natural beauty of the CAONB.

44. I consider that the hardstanding works are perceived as a major detrimental incursion into the finely balanced green landscape of this part of the village. I acknowledge that in time the landscaping around the works would help to mitigate the overall visual impact. However, due to the extent of the hardstanding works the overall perception will remain as one which is obtrusive within the natural landscape. I do not consider that any other planning conditions could mitigate this harm to the CAONB.

45. Again, therefore, this appeal must fail on the third issue. Having had regard to the requirements of Section 85 of the CROWA and to all of the other submissions I conclude that the hardstanding works as carried out are contrary to the NPPF and to Policies EN2, EN4 and EN5 of the CDLP.

46. However, I have concluded that the terracing itself has not been harmful and I consider it appropriate, therefore, to vary the requirements of notice accordingly. Appeal

A on ground (a) succeeds to this limited extent and planning permission will be granted for the retention of the terracing or profiling of the land. Otherwise, for the reasons set out above, Appeal A fails on ground (a).

Appeal A on ground (f)

47. To be successful on this ground of appeal, the onus is upon an appellant to conclusively show that the steps required to comply with the requirements of the notice are, in the first instance, 'excessive' and secondly, that '*lesser steps*' would overcome the objections. The notice was issued in order to remedy the breach of planning control. This was the unauthorised works as specified in part 3 (THE BREACH OF PLANNING CONTROL ALLEGED) relating to the earthworks, the hardstanding and the extension of the residential curtilage. The reasons for issuing the notice referred to the harm which the Council contends has occurred due to the breach. With the exception of the profiling or terracing of the land I have agreed with the Council's conclusions.

48. On behalf of the appellant it is argued that the requirement to reinstate the land to its former condition is excessive. It is stressed that it would be difficult for the LPA to monitor this on the basis of the Google photographs which cannot be a precise measure. It is suggested that a lesser step would be reinstatement to an agreed plan and this would be a much better way of achieving a satisfactory outcome.

49. In accepting that the terracing is acceptable it follows that I consider the requirement to reinstate the land to its original profile would be excessive. This will be dealt with by variation of the notice. However, I do not consider that the removal of the hardstanding is excessive. I accept that another scheme might be acceptable whereby a much smaller area of hardstanding is provided. However, this cannot be considered in the context of this enforcement appeal.

50. I conclude, therefore that the requirements as varied are not excessive and that they are required in order to overcome the breach of planning control. Appeal A succeeds to a limited extent on ground (f) but otherwise fails.

Appeal A on ground (g)

51. Having considered both the appellant's and the Council's submissions on this ground of appeal, I consider that in the overall circumstances of these appeals, a 6 month period falls short of what should reasonably be required. Again I consider it appropriate to vary the notice by extending the compliance period to 12 months. This will give time for the requirements to be carried out as well as for the appellant to liaise with the Council on any final details for access to the site and/or a revised hardstanding scheme plus garage if required. I do not consider that this extension of the period will cause any injustice.

Appeal B

52. As indicated above the application for Appeal B was amended during the course of determination but this amendment is not reflected in the description of the as it appears on the decision notice.

53. However, section (c) of the Officer report dealing with highway safety recognised and accepted the change. There are no objections raised by the LPA in relation to any effects on residential amenity; highway safety; ecology or other heritage assets in the vicinity of the appeal site. It is on this basis, therefore, that I have dealt with Appeal B and in doing so I am satisfied that no injustice will be caused.

54. The main issues in this appeal are the same as those for the ground (a) merits appeal in Appeal A; that is, the effects that the works as proposed would have:

- On Primrose Cottage and its immediate surroundings

- On the character and appearance of the Chedworth Conservation Area (CCA)
- On the Cotswold Area of Outstanding Natural Beauty (CAONB).

55. The proposal relates to the retention and modification of the earthworks (including terracing) as carried out; the formation of a hardstanding and also includes some levelling of the bank to provide a new access. It proposes a narrower area of hardstanding which does not protrude so far into the north-eastern part of the 'Meadow' land. However it still extends as far as the tree to the south-east, similar to the extent and line of the hardstanding currently on site.

56. Having seen the proposed drawings for this application I accept that the area of hardstanding would be much less than that currently on site. Drawing 2502/P/02D indicates areas of soft landscaping between the house and the south-west boundary as well as between the hardstanding area and the north-east boundary. This would result in a much less stark appearance. The trees and shrubs, as indicated on the drawing, would screen the hardstanding area from most public viewpoints.

57. If carried out as shown on the drawing, the landscaping works would screen the cottage to some extent and it would not be so clearly perceived as being part and parcel of the wider hard landscaped area. I consider that the scheme would have less of an impact on the overall setting of the cottage in this part of the village than that of the hardstanding currently in place. I have already confirmed above that the terracing is acceptable and I do not consider that an appropriately landscaped access off the spur road would be visually harmful.

58. However, having accepted that there would be less of an impact on the cottage and its setting, it is my view that the impact on the character of the 'Meadow' land would be almost as visually damaging as is the wider area of hardstanding. Furthermore, these works would again lie well outside of the residential curtilage of the cottage (the red line area) and within the 'Meadow' land area.

59. The hardstanding would be extensive and, in my view, over and above any reasonable hardstanding which might be required within the curtilage of a dwelling house. Most of the hardstanding would be well outside what I have concluded, as a matter of fact and degree, is the curtilage of Primrose Cottage. From a point where the access from the spur road meets the access to the house, the distance to the end of the proposed hardstanding is shown to be over 30m. At its widest point it is shown to be over 10m. In effect it could provide a parking area for at least 10 to 15 cars.

60. I have referred above to the desire for a future garage on part of the hardstanding and that clearly this would need to be the subject of a further planning application. However, even if a such a garage were to be constructed, I fail to understand why it would require such an extensive area of hardstanding. The area shown could provide for much more than a double or even triple domestic garage. In any case it cannot be a justified argument at this stage that the hardstanding needs to be so extensive so as to cover a future building need.

61. Most of the hardstanding area is outside of the identified residential curtilage of Primrose Cottage and within another planning unit; that of the 'Meadow' land area. The 'Meadow' land cannot benefit from any PD rights under the GPDO and so there cannot be any claim that any of the matters which would qualify as being development within the curtilage of a dwelling house are applicable to this part of the appeals site.

62. I consider that a hardstanding of this size and in this location would still be significantly harmful to the character and appearance of the soft-landscaped 'Meadow' land and thus harmful to the CCA and the CAONB. The character and appearance of the

CCA would neither be preserved nor enhanced by the proposal. Nor would the natural beauty of the landscape in this part of the CAONB be conserved or enhanced.

63. In conclusion I agree with the Council's view that the harm caused by this proposal would be substantial and that the harm would not be outweighed by any public benefits. I also agree that the proposal conflicts with policies within the NPPF and policies EN2, EN11 and EN12 of the CDLP. I do not consider that there are any other material considerations which indicate that the decision should be made other than in accordance with the development plan. I conclude, therefore that planning permission should not be granted for this particular proposal and Appeal B, therefore, fails.

Other Matters

64. I have taken into account the fact that what I saw on site was not the intended final position regarding the hardstanding and landscaping. I also acknowledge that the appellant is not precluded from submitting any further applications to the Council regarding access, hardstanding works; landscaping or any other development on the site. However, these would need to take into account my conclusions that the whole of the appellant's land does not constitute part of the residential curtilage of Primrose Cottage.

65. In reaching my decisions in both appeals I have taken into account all of the initial submissions; the detailed statement; the officer reports; the photographic evidence and the appellant's rebuttal statement to that of the Council. However, none of these carries sufficient weight to alter my conclusions on the grounds pleaded in Appeal A and the arguments put forward in support of Appeal B. Nor is any other matter of such significance so as to change my decision that both appeals should fail.

Formal Decisions

66. Appeal A succeeds in part and planning permission is granted for the terracing or re-profiling of the land (the 'Meadow' land, set out as 'blue line' land in application 14/02944/FUL) as carried out to the south-east of Primrose Cottage, Middle Chedworth, Chedworth, Cheltenham, Gloucestershire GL54 4AL.

67. Appeal A also succeeds to a limited degree under ground (f). I direct that the notice be varied in part 5 (WHAT YOU ARE REQUIRED TO DO) by deleting requirement 5(i) in its entirety and by substituting therefor, the following requirement:

'5(i) Permanently remove all of the hardstanding on the land which lies outside of the curtilage of the dwellinghouse at Primrose Cottage. Other than the terracing/land profiling, permanently reinstate the land to its former condition. For the avoidance of doubt, that is, all of the hardstanding which lies outside of the 'red line' area in application 14/02944/FUL'.

68. For the reasons set out above I also direct that requirement 5(ii) be deleted in its entirety and by substituting therefor, the following requirement:

'5(ii) Cease the use of the 'Meadow' land as being part of the curtilage of the dwellinghouse at Primrose Cottage. For the avoidance of doubt the curtilage of the dwellinghouse is the 'red line' land and the 'Meadow' land is the 'blue line' land in application 14/02944/FUL'.

69. Appeal A also succeeds to a limit degree under ground (g). I direct that the notice be varied by deleting the figure '6' before the word 'months' in part 5 (WHAT YOU ARE REQUIRED TO DO) and by substituting therefor, the figure '12.'

70. Otherwise Appeal A is dismissed and the enforcement notice is upheld as varied. Planning permission is refused on the application deemed to have been made under Section 177 (5) of the Act.

71. Appeal B is dismissed.

Anthony J Wharton

Inspector