



Appeal Decisions

Hearing Held on 23 and 24 July 2019

Site visit made on 24 July 2019

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal A: APP/K0425/C/18/3219227

**Land at Mudds Bank Stud Farm, City Road, Stokenchurch,
Buckinghamshire**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jillian Clark against an enforcement notice issued by Wycombe District Council.
- The enforcement notice was issued on 16 November 2018.
- The breach of planning control as alleged in the notice is without planning permission the erection of 2.5m high entrance gates.
- The requirements of the notice are:
 1. Remove the solid timber entrance gates from the Land;
 2. Remove all materials and debris resulting from carrying out Step 1 of this Notice from the Land.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/K0425/C/18/3208308

**Land at Mudds Bank Stud Farm, City Road, Stokenchurch,
Buckinghamshire**

- The appeal is made under section 174 of the 1990 Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jill Clark against an enforcement notice issued by Wycombe District Council.
- The enforcement notice was issued on 8 June 2018.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from agricultural to a mixed use comprising of agricultural and residential use by virtue of the siting of a mobile home on the Land for residential occupation.
- The requirements of the notice are:
 1. Cease the use of the Land for the siting of a mobile home for residential purposes;
 2. Remove the mobile home (shown edged in blue on the attached plan) from the Land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Appeal C: APP/K0425/W/18/3204653

Mudds Bank Farm, Mudds Bank, Water End, Stokenchurch, HP14 3XH

- The appeal is made under section 78 of the 1990 Act as amended against a refusal to grant planning permission.
- The appeal is made by Mrs Jill Clark against the decision of Wycombe District Council.
- The application Ref 18/05251/FUL, dated 25 January 2018, was refused by notice dated 9 May 2018.
- The development proposed is described in the application form as "agricultural workers accommodation for a temporary period of 3 years".

Summary of Decision: The appeal is dismissed.

Appeal D: APP/K0425/W/18/3214316

Mudds Bank Farm, Water End, Stokenchurch, HP14 3XH

- The appeal is made under section 78 of the 1990 Act as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
- The appeal is made by Mrs Jill Clark against the decision of Wycombe District Council.
- The application Ref 18/07056/PNP6A, dated 2 August 2018, was refused by notice dated 30 August 2018.
- The development proposed is "agricultural barn for the storage of hay".

Summary of Decision: The appeal is allowed.

The Development Plan

1. Since the Hearing, the Wycombe District Local Plan has been adopted¹. Policies of the previous Local Plan² and Core Strategy³ are, therefore, superseded. For the avoidance of doubt, it is the policies in force at the date of the decision that it must be based on. I have determined the appeals accordingly.

Appeal A on ground (a) and the deemed planning application

Preliminary Matters

2. The allegation concerns the erection of close boarded gates, which have been retained at the access to the site following the grant of planning permission for a replacement five-bar gate⁴. During the Hearing the appellant asserted that the erection of the gates amounted to an engineering operation. I shall consider this matter first as my findings have a bearing on the Green Belt assessment.
3. Section 55(1) to the 1990 Act as amended says that the word '*development*' means 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. Section 55(1A) says that for the purposes of the Act '*building operations*' includes (a) demolition of buildings (b) rebuilding (c) structural alterations of or additions to buildings and (d) other operations normally undertaken by a person carrying on business as a builder.

¹ Council meeting of 19 August 2019.

² Wycombe District Local Plan to 2011 (as saved and extended 2007).

³ Adopted Core Strategy July 2008.

⁴ Ref 17/05627/FUL dated 18 May 2017.

4. The erection of gates is not specifically mentioned as being within the term '*building operations*' as set out in s55(1A). However, the use of the word '*includes*' shows that the words that follow it are not exhaustive of its meaning. I appreciate that the gates were made by the appellant's son. However, the nature of the operation suggests that the erection of new gates falls within the concluding clause of the definition of '*building operations*' as being work normally undertaken by a person carrying on business as a builder. This is due to the work involved in the fabrication of the gates, and their physical construction and size. This required an element of pre-planning and is likely to have necessitated construction in accordance with measurements and drawings.
5. An engineering operation would also involve works with an element of pre-planning that would normally although not necessarily be supervised by a person with engineering knowledge⁵. I understand that the gates were welded together and fitted using lifting equipment, but this could equally comprise a building operation. The question as to whether the erection of the gates constitutes a building or an engineering operation is an evaluative one which requires an exercise of planning judgement. Ultimately, it is not apparent that plant and machinery was required in the same way as it would be employed in, for example, excavation works. Taking account of all matters, I find that the works alleged amounted to a building operation within the meaning of development in s55(1).

Main Issues

6. The development is located within the Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB). I consider that the main issues in this appeal are:
 - Whether the development is inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area, in particular, the AONB;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate development in the Green Belt

7. The terms of the deemed planning application are derived from the allegation, hence, planning permission is sought for the erection of 2.5m high entrance gates. The Framework states that the fundamental aim of Green Policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

⁵ *Ewen Developments v SSE* [1980] JPL 404.

8. Paragraphs 145 and 146 set out that certain forms of development are not inappropriate development. I have concluded that the erection of gates comprises a building operation and, therefore, the development does not fall within any of the defined exceptions. Consequently, it is inappropriate development which is, by definition, harmful to the Green Belt.

Effect on openness

9. It is established that openness of the Green Belt has a visual as well as a spatial aspect, but it is not the case that any change has an adverse effect on openness. This depends on factors such as the scale of the development, its locational context, and its spatial and/or visual implications.
10. The gates are relatively tall but they have a limited spatial impact due to their design. They are set back from the road and are not widely visible. In addition, there is a substantial hedgerow along the site frontage, which provides effective screening. The gates are seen within the context of the wider boundary treatment and their timber facing materials are not wholly out-of-character in this location. Despite their height, the gates are of a relatively modest scale. Although they represent a built form of development in an otherwise natural frontage, their visual impact is limited by their design, form and siting.
11. Overall, I find that the development alleged has a marginal effect on the openness of the Green Belt.

Effect on character and appearance

12. The Council describes the AONB as a living landscape encompassing a variety of character areas and a range of settlement types. In addition, the Landscape Character Assessment for the Stokenchurch Settled Plateau sets out the land use and settlement pattern, which is typified by mixed farmland with varying degrees of enclosure across the landscape.
13. The gates form a solid feature which contrasts sharply with the approved five-bar gate. The latter is more likely to be encountered in a farming landscape with elements of enclosure. However, as explained above, the visual impact of the gates is limited due to their set back from the road and the screening provided by the hedgerow.
14. Overall, I do not consider the development to be out-of-keeping with the agricultural appearance of the land, and the wider, semi-rural area. Thus, the effect on the natural beauty of the AONB is neutral. The development is in accordance with Section 85 of the Countryside and Rights of Way Act (2000), which is to conserve and enhance the natural beauty of the area. It meets the aims of Policy DM30 of the Local Plan which, among other things, seeks to conserve and enhance the natural beauty of the AONB, which has the highest status of protection in relation to these issues.

Other considerations

15. The appellant described the various security breaches that have occurred at the farm, over a relatively short time period, when the unauthorised gates were not in use. This involved the theft of livestock and machinery and other occasions of trespass.

16. The appellant explained that she purchased the farm in order to establish a flock of dairy sheep for the purposes of cheese production. The enterprise is in its early stages and any losses are significant. The appellant has agreed to accept a condition limiting the gates to a maximum of three years, by which time the enterprise is hoped to be more established and security would be improved through the completion of farm buildings.
17. I accept that the security breaches are significant, especially the loss of stock. This is particularly problematic given the nature of the enterprise. Rural crime is a serious matter and it is apparent that the gates have been effective in securing the site. Overall, I am satisfied that the solid gates are necessary on a temporary basis and I afford this consideration considerable weight.
18. My attention was drawn to other similar developments in the vicinity which it is argued form part of the area's character and set a precedent. As far as I could establish, it seems that the other examples differ in terms of their site-specific characteristics and several of the gates referred to are unauthorised. In view of this, the consideration carries limited weight.

Conclusion

19. The development is inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there is a marginal impact on openness. The development has a neutral effect on the character and appearance of the area.
20. Considerable weight is attached to the other considerations put forward by the appellant. These considerations clearly outweigh the totality of harm. Consequently, I consider that very special circumstances exist which justify the development on a temporary basis. I consider it necessary to impose a condition restricting the permission to a maximum period of three years. This is because the farm needs to establish itself as an enterprise and the circumstances may change if it is not successful.
21. Subject to this condition, I find that the development accords with the Framework and Policies CP8 and DM42 of the Local Plan, which seek to protect Green Belt land through resisting inappropriate development.

Conclusion: Appeal A

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Appeal B on ground (a) and the deemed planning application; Appeal C

Preliminary Matters

23. The enforcement notice concerns a material change of use whereas the decision notice in respect of the application for agricultural worker's accommodation includes the words "erection of". This did not appear in the description of development on the application form and suggests the Council considered the proposal to be a building.

24. During the Hearing, it was explained that this alteration to the description was not an intentional act to define the accommodation as a building. Moreover, the terms of the deemed planning application are derived from the allegation and it is clear from the evidence that the Council has considered the development to be a change in the use of the land.
25. To ensure clarity, I have considered whether the alleged structure is a mobile home that falls within the definition of a caravan. In which case it cannot amount to operational development but is a change in the use of the land.
26. Section 336(1) of the 1990 Act as amended includes in the definition of the word '*building*' any structure or erection, and any part of a building, as so defined. This description has been interpreted by the Courts to include structures which would not ordinarily be described as buildings. In *Cardiff Rating Authority*, which was endorsed by the Court of Appeal in *Skerritts*, three primary factors were identified as decisive of what was a '*building*' and these are as follows: (a) that it was of a size to be constructed on site, as opposed to being brought on to the site, (b) permanence, (c) physical attachment. No one factor is decisive⁶.
27. The appellant's assertion is that the structure is a mobile home, which is accepted by the Council. There is no evidence that it was constructed on site, it is intended to be sited for a temporary period and could be removed from the land relatively easily. In the circumstances, it cannot reasonably be described as a structure that falls within the definition of the word '*building*' in s336(1).
28. For completeness, I shall consider whether the structure is a mobile home that falls within the definition of a caravan. A caravan is defined in Section 29(1) to the Caravan Sites and Control of Development Act 1960 (the 1960 Act) as "any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or being transported on a motor vehicle or trailer) and any motor vehicle so designed and adapted".
29. Section 13 of the Caravan Sites Act 1968 (the 1968 Act) provides that "twin-unit caravans (1) a structure designed or adapted for human habitation which: (a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled".
30. In terms of (a) the construction test, as explained above, there is no evidence that the structure was constructed separately. In relation to the mobility test (b), the structure is intended to be mobile and is capable of being moved. Consequently, I find that the structure satisfies s13(1) to the 1968 Act and s29(1) of the 1960 Act. As such it can reasonably be considered a mobile home, which constitutes a change in the use of the land on which it is sited.

⁶ See the case of *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385 and *Skerritts of Nottingham Ltd v SSETR* [2000] JPL 1025.

31. At the start of the Hearing, I queried whether the allegation (Appeal B) was correct in respect of the mixed use alleged and the land identified. The Council explained that it considers the planning unit to be the land owned and occupied by the appellant, and there are two primary uses operating within the planning unit as set out in the allegation. The mobile home is sited within the farmyard on a wider area of hardstanding. There is no defined boundary to the residential use; the occupants step out of the mobile home into the farmyard, car parking is shared and there is a single point of access. Overall, I am satisfied that it is not possible to identify a physically separate and distinct planning unit that could be considered solely in residential use. Consequently, I find that the allegation and plan are correct.
32. I heard evidence about other uses that may have been in operation on the land at the date of the notice. These were described as the use of the land for the keeping of horses and a commercial enterprise involving animal hire for the film industry. The Council advises that these matters were not included in the allegation because, at that time, it did not appear to them that there had been a breach of planning control as the operations were 'de minimis'. It was confirmed that it is not considered necessary to amend the allegation. I have determined the appeal on this basis.

Main Issues

33. I consider that the main issues in these appeals are:

- Whether the development is inappropriate development in the Green Belt having regard to the revised Framework and relevant development plan policies, including the effect on openness;
- The effect of the development on the character and appearance of the area, in particular, the Chilterns AONB;
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate development in the Green Belt

34. Planning permission is sought for the material change of use of the land to a mixed use comprising agricultural and residential use by virtue of the siting of a mobile home for residential occupation. The appellant seeks permission for agricultural workers accommodation for a temporary period of three years. Paragraph 146 of the Framework sets out that certain forms of development are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. This includes material changes in the use of the land.
35. The mobile home occupies part of the land that was previously open. Its presence has inevitably resulted in a harmful loss of openness as compared to the effect of the previous use. In addition to the spatial element, it is also necessary to consider the visual effects. The countryside contains a wide variety of features and the effect of development as encroachment may be in the form of loss of openness or intrusion.

36. There is a hedge along the site frontage which provides screening. However, the mobile home remains visible in more distant views from the footpath to the north due to the topography. The siting of residential accommodation on land that was formerly open constitutes a loss of openness and results in an encroachment into the countryside.
37. I find that the development alleged does not preserve the openness of the Green Belt and conflicts with the aim of safeguarding the countryside from encroachment. Consequently, the development is inappropriate development which is, by definition, harmful to the Green Belt.

Effect on character and appearance

38. The mobile home is sited adjacent to the boundaries of the site. Although it is visible in the landscape, it is seen in the context of the agricultural development on the site. Therefore, I agree with the main parties that the effect on the natural beauty of the AONB is minimal. The development is in accordance with Section 85 of the Countryside and Rights of Way Act (2000) and Policy DM30 of the Local Plan which, among other things, seeks to conserve and enhance the natural beauty of the AONB, which has the highest status of protection in relation to these issues.

Other considerations: essential need

39. As explained above, the appellant purchased Mudds Bank Farm with the aim of establishing a flock of dairy sheep for cheese production. The flock initially⁷ consisted of 135 Friesland sheep, which it is stated was made up of home bred lambs, shearlings and ewes, and has since been expanded to 227 pure bred Friesland sheep⁸. I note that this is not consistent with the stock on site in March 2018, as recorded by the Council's agricultural consultant, and numbers have fluctuated in the intervening period.
40. The initial proposal was to maintain a flock size of 220 breeding ewes, with lambs at foot, and three rams. It was anticipated that the ewes would produce a total of 66,000 litres of milk per annum, based on a milk yield of 300 litres per ewe/annum. This would involve year-round milk production. The appellant argued that the enterprise generates an essential need for a worker to live on site to meet the welfare requirements of the sheep throughout the year. As such, the appellant's son is currently occupying the mobile home with his family.
41. Paragraph 79 of the Framework seeks to avoid the development of isolated homes in the countryside subject to exceptions, which includes where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Council accepted that if the enterprise was developed as proposed, there would be an essential need to have a worker readily available at most times to meet the welfare requirements of the stock. However, it is maintained that the enterprise is not capable of achieving financial viability and sustainability at the end of the three-year period. In addition to disputes about land and building availability, the Council considers there are significant issues with financial viability.

⁷ July 2018.

⁸ April 2019.

42. The main parties agreed that the Framework does not require the proposal to be economically viable. However, the appellant accepted that to meet the economic role of sustainable development, and justify the temporary accommodation, there must be sound plans to develop the enterprise as a viable concern.
43. The Council argued that the financial projections provided by the appellant are inaccurate in several respects and cannot be relied upon. Firstly, the milk yield is considered optimistic. Projections are based on all the ewes being pure bred and all producing milk throughout the year. In addition, the projections rely on optimum sales.
44. I appreciate that the investment to date shows commitment to the enterprise. However, there are justifiable concerns about the appellant's ability to develop the business as described. While initial yields and sales are encouraging, it cannot be assumed that this would remain the case over the medium to longer term. Sheep dairy farming demands a level of knowledge and expertise. Crucially, year round lambing requires specialist management which is not in evidence. It is likely to be some time before the enterprise operates in the way anticipated, which will seriously affect profit margins.
45. Secondly, not all costs were factored in, for example, set-up costs, or production and operating costs. The projections failed to include the costs associated with the purchase of ewes going forward. The initial predicted labour requirements were also considered to be inaccurate based on revised information submitted. The appellant countered these arguments and adjustments were made, which affected the profit figure. While this indicated the enterprise would still be viable, this is on the basis that the production costs in relation to cheese making would be minimal, which is uncertain as there is limited evidence to support that claim.
46. Policy DM27 of the Local Plan allows for a situation where permission could be granted for a temporary period to establish whether the business can demonstrate ongoing profitability and a sound financial footing. However, in this case, the business planning aspects of the proposal are not robust, as the Council was able to demonstrate through challenge of various aspects of the financial projections and the base assumptions. These matters need to be addressed before the appellant will be able to show that the enterprise has a reasonable prospect of achieving viability at the end of the temporary period. Significant matters of uncertainty cannot be dealt with over the next three years as suggested.
47. The Council also questioned the availability of land. The land owned at Mudds Bank Farm extends to 6.5 hectares, which is only sufficient to support 66 ewes. The appellant has secured tenancies, or has informal agreements, over a further 58.5 hectares. Notwithstanding the appellant's assertions during the Hearing, it is clear from the evidence that the owned land is insufficient to support the level of stock proposed⁹. It is also apparent that all milking ewes need to be kept alongside the dairy.

⁹ A flock comprising 220 breeding ewes at the agreed stocking rate of 11 ewes per hectare gives a total land requirement of 20 hectares.

48. However, most of the agreements are not secure, formal tenancy agreements. There is no evidence of a tenancy or licence for the adjoining land and it is apparently subject to informal agreements. It is also asserted that the appellant had to move stock to another holding due to the poor quality of the land, although this may well have been due to adverse weather conditions at that time.
49. The Council conceded that land rented informally could be considered available where the appellant has shown an ability to rent additional land without issue. That is not the case here, but the appellant seeks a temporary permission to enable him to develop relationships with the local landowners, many of whom are absent. I note that some progress has been made in securing additional, appropriately located land. However, the land availability presents a further vulnerability to the development of the enterprise and there is limited evidence of plans in place to manage this risk.
50. The Council also expressed concerns over the availability of buildings. Planning permission has been granted for the construction of an agricultural building for use as a feed store, machinery store and cheese production¹⁰, and for a livestock barn¹¹. I saw that both buildings had been built and the agricultural building contained equipment for milking and cheese making, which the appellant explained is operational.
51. It was agreed that the livestock barn is of insufficient size to support the winter housing of the 220 ewes. In addition, the proposed year round lambing brings a further requirement for winter housing. I understand that the appellant has sought permission to extend the livestock building but the application was refused, as has a prior notification application for hay barn (Appeal D).
52. The approval of the hay barn, below, would assist matters by providing storage for bedding and fodder. The limited size of the livestock building is not fatal to the appeal, but it contributes to the vulnerability of the enterprise. I understand that there is a pressing need to resolve this matter due to size and needs of the stock on site at present. However, the extension to the livestock building is not before me.
53. I accept that there are unlikely to be opportunities to purchase a house in the vicinity, which could have an impact on the appellant's ability to manage the farm as it stands at present. However, it may be that a rental property located nearby would meet this need while the appellant and her son continue to develop the enterprise and assimilate the relevant information to satisfy the Council. Security of tenure may be an issue but landlords often allow a longer lease if required.
54. I appreciate the appellant's intentions to develop the enterprise and make a genuine contribution to the local economy, while carrying out land management in the area, in line with broader objectives of the Framework that seek to support a prosperous rural economy. However, there are significant limitations in the business planning aspects of the proposal. As a consequence, the essential need consideration carries only moderate weight.

¹⁰ Ref 17/06547/FUL.

¹¹ Ref 17/08047/FUL.

Other Matters

55. As explained above, the mobile home is occupied by the appellant's son and his family. The occupants' rights under the European Convention on Human Rights, which is incorporated into the Human Rights Act 1998, must be considered. Article 8 deals with the right to respect for family life and the home. Dismissal of these appeals will require the occupants to vacate their current home, with no immediate alternative accommodation. This would represent an interference with their home and family life. However, the conflict with national and local planning policy which would arise is considerable and should be resolved as soon as practicable.
56. I am satisfied that the legitimate aim of conforming with planning policy and avoiding detriment to the Green Belt cannot be achieved by any means which are less interfering with the occupants' rights. The interference with home and family life is proportionate and necessary in the circumstances and would not result in a violation of their rights under Article 8.
57. My attention was drawn to appraisals written by Council's consultant relating to a different site, where development was supported despite limiting circumstances. As explained at the Hearing, I am not in possession of the full balance of considerations that informed those appraisals and any subsequent planning decisions. Similarly, the existence of other agricultural workers dwellings in the area does not show that the proposal before me is acceptable. It is difficult to make sound comparisons and I give these considerations limited weight.

Conclusion

58. The development is inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. There is minimal impact on the character and appearance of the area. Moderate weight is attached to the other considerations put forward by the appellant. These considerations do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.
59. The development conflicts with the Framework and Policies CP8, DM27 and DM42 of the Local Plan, which seek to protect the countryside and Green Belt land through resisting inappropriate development.

Conclusion: Appeal C

60. For the reasons given above I conclude that the appeal should not succeed.

Appeal B on ground (g)

61. The appeal on ground (g) is that the time taken to comply with the requirements of the notice falls short of what should reasonably be allowed.
62. I have not seen any contracts with purchasers to justify the 24 months compliance period sought by the appellant. There are three-year agreements in place for two Farm Business Tenancies covering land at Marlow Road and Mudds Bank. However, the dismissal of the appeals does not mean the land cannot be grazed by the appellant. It may be that the appellant could continue to develop the enterprise while living in rented accommodation nearby.

63. Nonetheless, this decision will lead to stress and uncertainty for the occupants of the mobile home. Therefore, I consider that the six months compliance provided by the notice should be extended to nine months to give a longer period for the occupants to find somewhere else to live.
64. On this limited basis, the appeal on ground (g) succeeds and I will vary the notice accordingly.

Conclusion: Appeal B

65. For the reasons given above I conclude that the appeal should succeed on ground (g) only. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Appeal D

Preliminary Matters

66. The GPDO enables certain types of development to take place without the need for specific planning permission. Provisions exist under Article 3(1) and Schedule 2, Part 6, Class A for the erection of agricultural buildings, subject to certain conditions and limitations.
67. There is a dispute between the main parties as to whether the development would be permitted development. The requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3(1). Development which is constructed not in accordance with the terms or conditions of the permission would be at risk of enforcement action. However, the prior approval procedure set out under Part 6 makes no provision for any determination to be made as to whether the development would be permitted development, and so I cannot purport to decide that question. In reaching this view, I have had regard to *R (oao Marshall) v East Dorset*¹² and the related comments of the main parties.
68. The Council's decision notice indicates that prior approval is required but does not explicitly state that prior approval is refused. However, looking at the notice as a whole, including the reason as set out, it is reasonable to read the notice as a refusal of prior approval.
69. I acknowledge the concerns of interested people related to the impact of the proposed building on the character and appearance of the local area. However, the principle of development is not before me.

Main Issue

70. The main issue in this case is whether approval should be given for the siting, design and/or external appearance of the building.

Reasons

71. The appellant is seeking to erect a new three-bay building to store hay/straw and supplementary feed. The proposed building would face north onto the land.

¹² *R (oao Marshall v East Dorset DC & Pitman* [2018] EWHC 226 (Admin).

72. The Council considers it would be more practical for the open fronted building to face towards the livestock building. This would also bring more protection from weather incursion and eliminate a need for additional hardstanding. I appreciate the Council's concerns but the appellant understands how the farm operates and has a preference for the building to face onto the fields. I do not consider that the proposed siting is unacceptable due to the orientation. There would be a need to extend the hardstanding but this would have a minimal impact on the character and appearance of the area.
73. The plans show that the building would be enclosed to three sides with cladding over solid panels. The appellant explained the materials would be concrete panels with steel cladding. The materials proposed are consistent with an agricultural building and would be compatible with the other farm buildings in the vicinity.
74. The development accords with the development plan insofar as it assists in assessing the matters before me. Overall, I consider that approval should be given for the siting, design and external appearance of the building.

Conditions

75. I have not imposed a condition relating to materials as the GPDO does not provide any general authority for doing so in relation to Part 6. In any event, I agree that the materials can be broadly established from the details submitted with the application.
76. Any planning permission granted for an agricultural building under Article 3(1) and Schedule 2, Part 6, Class A is subject to the conditions A.2.(2) v and vi, A.2.(5) and A.2.(7). These specify that the development shall be carried out in accordance with the details approved and within five years from the date of that approval, that the building should be removed from the land where the agricultural use ceases, unless otherwise approved, and the developer shall notify the local planning authority in writing of the completion of the development within seven days.

Conclusion: Appeal D

77. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A: APP/K0425/C/18/3219227

78. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of 2.5m high entrance gates on Land at Mudds Bank Stud Farm, City Road, Stokenchurch, Buckinghamshire referred to in the notice, subject to the following condition:

- 1) Within 3 years of the date of this decision, the gates hereby approved shall be removed from the site.

Appeal B: APP/K0425/C/18/3208308

79. It is directed that the enforcement notice is varied by the deletion of the word "six" in paragraph 6 and its replacement with the word "nine".

80. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C: APP/K0425/W/18/3204653

81. The appeal is dismissed.

Appeal D: APP/K0425/W/18/3214316

82. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for an agricultural barn for the storage of hay at land at Mudds Bank Farm, Water End, Stokenchurch, HP14 3XH in accordance with the terms of the application Ref 18/07056/PNP6A, dated 2 August 2018, and the plans submitted with it, pursuant to Article 3(1) and Schedule 2, Part 6, Class A.

Debbie Moore

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr T McArdle
Mrs J Clark
Mr D Clark

FOR THE LOCAL PLANNING AUTHORITY:

Ms G Davies
Ms J Scrivener

INTERESTED PERSONS:

Mr and Mrs Saunders

DOCUMENTS SUBMITTED AT HEARING

1. Copies of 9 no invoices and 4 No BACS statements
2. Site plan and proposed elevations (Ref 18/07056/PNP6A)
3. Report to Wycombe District Council on the Examination of the Wycombe District Local Plan, dated 10 July 2019
4. List of suggested planning conditions
5. Extract from Landscape Character Assessment; LCA 16.1, LCT 17
6. Suggested amended breach for enforcement notice, Appeal B
7. Extracts from the Agricultural Budgeting and Costing Book (May 2019) and John Nix Pocketbook (2019 49th Edition)
8. Stokenchurch and environs annotated plan (rented land matters)

DOCUMENTS SUBMITTED AFTER HEARING BY AGREEMENT

9. Comments from main parties in relation to *R (oao Marshall v East Dorset DC & Pitman* [2018] EWHC 226 (Admin)
10. Local Plan adopted policies and statement