



Appeal Decisions

Inquiry opened on 24 April 2019

Site visit made on 2 November 2020

by Paul Dignan MSc PhD

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

Decision date: 4 January 2021

Appeal A: APP/T0355/C/18/3205490

Land at Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB.

- 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 Robert Johnson against an enforcement notice issued by Council of the Royal Borough of Windsor and Maidenhead.
 - The enforcement notice, numbered 16/50097/ENF, was issued on 16 May 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of the Land from the keeping of horses for private recreational purposes comprising non-commercial DIY livery, functioning with a maximum of six horses and six stables, to a mixed use comprising of private stabling and commercial livery with ancillary activities including "assisted" DIY livery, part livery, full livery, schooling, hacking, lessons, massage, grooming, clipping; and the formation of hardstanding, the erection of buildings and the siting of a metal container to facilitate the material change in the use of the Land.
 - The requirements of the notice are: 1. Cease the use of the land as a commercial livery and all activities that comprise the commercial livery including assisted DIY livery, part livery, full livery, schooling, hacking, lessons, massage, grooming and clipping; 2. Cease the use of the barn marked with a red X as a tea room, kitchenette, wash room, office and lounge area; 3. Permanently remove from the barn marked with the red X all equipment, furniture and cupboards installed that make up, and are used in conjunction with, the tea room, kitchenette, wash room, office and lounge; 4. Demolish all buildings marked with a blue X and numbered 1, 2 and 3 in the appended photographs; 5. Permanently remove from land all materials resulting from compliance with step 4; 6. Dig up and remove the concrete hardstanding outlined in green; 7. Permanently remove from the land the metal container marked with a green X.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Appeal B: APP/T0355/C/19/3235815

Land at Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB.

- 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 Robert Johnson against an enforcement notice issued by Council of the Royal Borough of Windsor and Maidenhead.
- The enforcement notice, numbered 16/50097/ENF, was issued on 23 July 2019.
- The breach of planning control alleged in the notice is failure to comply with conditions Nos. 9 and 10 of a planning permission Ref 425597 granted on 4 December 1991.
- The development to which the permission relates is: Retention of internal access road and replacement of lean-to existing stables. The conditions in question are No. 9 which

states that: The haystore shall be used only for the storage of hay for purposes ancillary to the keeping of horses for recreational use. It shall not be used for any other purpose whatsoever, including any commercial or separate use; and No. 10 which states that: The surfaced open areas comprising the yard and parking areas shall be used for the purposes of access, manoeuvring, parking and loading in connection with the development. No storage shall take place other than inside the buildings. The notice alleges that the conditions have not been complied with in that the haystore is used as a tea room, kitchenette, office, washroom and rest room (Condition 9) and the surfaced 'open' areas have been used for the erection of buildings and open storage.

- The requirements of the notice are: (Condition 9) i. Cease the use of the haystore (marked with a red X) as a tearoom, kitchenette, washroom, office and lounge area; and ii. Permanently remove from the haystore all equipment, furniture and cupboards installed that comprise the tearoom, kitchenette, washroom, office and lounge; and (Condition 10) i. Remove the buildings (marked with blue X's) from the open areas that are enclosed within the green line; and ii. Remove the water storage tank and all other items, being stored in the open areas that are enclosed within the green line.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Decisions

Appeal A

1. 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 Act as amended for the development already carried out, namely the use of the land and buildings at Fairview Stables, Darlings Lane, Maidenhead, SL6 6PB, as shown on the plan attached to the notice, for a mixed use comprising of private stabling and commercial livery with ancillary activities including "assisted" DIY livery, part livery, full livery, schooling, hacking, lessons, massage, grooming, clipping; and the formation of hardstanding, the erection of buildings and the siting of a metal container to facilitate the material change in the use of the Land, subject to the conditions set out in the Schedule attached to this decision.

Appeal B

2. No further action is taken.

Appeal A – material change of use

Ground (c)

3. The ground of appeal is that the matters alleged do not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without the required planning permission. A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of a "material change of use", however, it is linked to the significance of a change and the resulting impact on the use of the land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case. The onus is squarely upon the appellant to show that, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control.

4. It is understood that the site, about 1.8 ha (4.5 ac) in extent, has been in use for the stabling and grazing of horses for many years. The formal planning history commenced in 1991 with a grant of planning permission for development described as "Retention of internal access road and replacement of lean-to to existing stables." This was subject to 13 conditions, including one restricting the use of the development approved to the keeping of horses for private recreational purposes and for no other use, including any commercial use. The number of stables was restricted, by condition, to 6. It is clear from the permission, notwithstanding the relatively narrow description of development, that it should be construed as applying to the site as a whole, which is the same as at present and constitutes the planning unit for the purposes of determining whether there has been any material change of use. The application plan, incorporated by condition, identified the entire site and the conditions, read as a whole, including the limit on the number of stables and the preclusion of commercial use, controlled relevant matters across the site.
5. Shortly after the 1991 permission the land was acquired by Sarah Prior, who has provided a statutory declaration for the purposes of the appeal. She occupied the site until 2006, keeping, and apparently breeding, native ponies. She described the use as a hobby. There is evidence of at least one stable being let for livery in 1995-96, but the fairly limited evidence of the use of the land in Sarah Prior's occupation indicates, on the balance of probability, that it was in accordance with the 1991 permission, being a use for the keeping of horses for private recreational purposes.
6. Sarah Prior re-located in 2006, but retained ownership of the land, letting it to Nicola Gillespie and a friend. Nicola Gillespie kept her own 2 horses there, and rented out 2 other stables on a DIY livery basis. The arrangements between Nicola Gillespie and the other stable users were described by her as a cooperative. Owners were responsible for their own horses and the rental due to Sarah Prior and any land maintenance costs were split equally. Ms Gillespie appears to have had management responsibility for the site. Under her management the land was being used for the stabling of up to 4 horses, all of which were looked after by their owners. The building use was the same as in 1991, a stable block and a haybarn mainly in use for hay storage, but with some basic facilities, a portaloo and tea-making.
7. The appellant took control of the site in December 2009, later completing the purchase. Ms Russnak-Johnson moved her own horse there and began managing the yard as a livery yard, offering a range of livery types and related services. At least one of the DIY livery tenants stayed on for some months, the arrangement being formalised by a livery agreement, as were all subsequent liveries. The livery yard element operates as a trade or business. Over time the haybarn was refurbished and put to other uses, and a separate hay storage building, two 3-stable mobile structures and a shipping container were erected or brought on and hardstanding extended. The maximum number of horses on the site was 9, but on average, Ms Russnak-Johnson estimates there have been 7 to 8 horses. She was a full-time worker and employed one or two others.
8. I must note that the term 'commercial' was examined at length in the Inquiry, but in a planning context the fact that a rent is paid for land is of little or no relevance to the characterisation of the use of the land, whether or not that

transaction can be termed as 'commercial'. What I understand the term was intended to convey in the context of the notice is that commercial livery is use for the purposes of a trade or business. Ultimately I felt it unnecessary to amend the notice since I consider that, read as a whole, the recipient understood from the notice what was alleged to be a breach of planning control.

9. Although it was suggested in evidence that the current use of the land is in accordance with, and therefore benefits from, the 1991 permission, this was not ultimately pursued, partly no doubt due to the notice the subject of Appeal B and the arguments raised there. For clarity, it is evident that there are two primary uses of the site, for private stabling/grazing and for a livery trade or business. The 1991 permission is for the former only, to which the current mixed use is materially different. As I have indicated above, I consider the use by Sarah Prior to have been in accordance with the 1991 permission. That leaves the appellant's case on this ground being that the current use is not materially different to the use in the period 2006-09, in effect that a new chapter in the planning history of the site has been established by the passage of time through immunity from enforcement action. That stands to be considered under ground (d), below, and it follows that the appeal does not succeed on this ground.

Ground (d)

10. For the appeal to succeed on this ground the appellant must show, on the balance of probabilities, that the mixed use commenced at least 10 years before the relevant date and was sustained for a 10 year period, such that it is immune from enforcement by virtue of section 171B(3) of the 1990 Act, and is therefore lawful by virtue of section 191(2)(a). The relevant date is normally the date of issue of the enforcement notice, but it is common ground that the appeal notice is a '2nd bite¹' notice, an earlier notice for substantially the same matters having been withdrawn. The first notice was issued on 1 February 2017, hence the use must have commenced by 1 February 2007, that is during the period Nicola Gillespie occupied the site.
11. Central to this ground is the appellant's contention that the DIY livery use of the 2 stables let out during Ms Gillespie's tenancy was not materially different, in matters relevant to planning, to the livery offered by the appellant, such that there was no change in the definable character of the use. Livery descriptions range from 'grass livery' to 'full livery'. All liveries seem to involve payment of some kind. At its most basic, DIY livery involves payment for the use of a stable and grazing, a step along from grass livery, the care and management of the horse being the responsibility of the owner. With full livery, the care of the horse is the responsibility of the livery provider. The appellant asserts that for planning purposes all livery uses are exactly the same, but at its simplest the taking of responsibility for a client's horse, at anything but the smallest scale, is very likely to require staff and staff facilities. Once employment is involved, economies of scale become relevant. Hence the offer of a full livery range and associated equestrian services is likely to be feasible only where the premises is of an appropriate size and provides a range of facilities.
12. The Council has characterised the use of the site under Ms Gillespie as being private stabling with ancillary DIY livery. An ancillary use would be one of a

¹ TCPA Section 171B(4)

minor, casual, or subordinate nature, which does not appear to me to be applicable in this case. However, the DIY livery conducted in the manner set out by Ms Gillespie is unlikely to have been materially different in planning terms from private stabling. By contrast, the introduction of the full range of livery services has been accompanied, and, on the balance of probabilities, necessarily facilitated by, additional buildings, facilities and on-site activity. I consider, as a matter of fact and degree, that the definable character of the use of the site since its acquisition in 2009-10 has been materially different to the prior use. The 10 years required for immunity from enforcement had not passed by the date of the first enforcement notice, hence the appeal could not succeed on this ground.

13. I note also that the site was used for the stationing of a mobile home for residential purposes for about a year in 2016. Although the appellant claimed the use was *de-minimus*, I consider that the introduction of residential use for such a significant period must have again materially changed the definable character of the use of the land, so that the unauthorised use instigated in 2009-10 had been materially interrupted and the clock re-set for the purposes of calculating any immunity period.
14. Although not strictly necessary in view of my conclusions that there has been a material change of use that is not immune from enforcement action, I shall briefly address the assertion that the stables and container brought onto the site are not operational development, since this has implications for my consideration of the appeal on ground (a). Looking first at the stables, it appears that these were initially moveable structures, fitted with metal skids. However, they are now firmly fixed to the ground, concrete floors having been poured internally. They are also connected to services.
15. The relevant tests for establishing whether a structure can be considered as a building for the purposes of the 1990 Act are well established². They relate to size, physical attachment to the land, and permanence. In terms of size, the stables, originally 2 separate structures but now joined, are large enough to be considered as a building. Having initially been moveable, and designed as such, they are not readily, if at all, transportable in their present state and can be considered to be affixed to the ground by reason of their concrete floors and attached services. There is no evidence that they can be moved around the appeal site, and it appears that they have never been moved, indicating a substantial degree of permanence. Considering all of these factors, I consider, as a matter of fact and degree, that the stables are buildings and not chattels placed on the land.
16. Similarly, the siting of shipping containers to be used for storage purposes would not normally be considered to be operational development, but in certain circumstances they can be considered to be buildings, the same tests apply. Again, in terms of size, this is a large structure which would require specialist equipment to move or transport, such that it is not readily transportable and could reasonably be considered to be affixed to the ground by reason of its own weight. Further, its installation required the provision of a base, which limits the extent to which it could be moved around on the site and indicates a significant degree of permanence. It does not appear to have been moved

² Cardiff Rating Authority v Guest Keen Baldwin Iron and Steel Co Ltd [1949] 1 KB 385 and Skerritts of Nottingham Ltd v SSETR (No.2) [2000] 2 PLR 102.

since it was installed. For these reasons I am satisfied that it comprises a building within the meaning of development.

17. Whether or not the stables and container may have acquired immunity from enforcement as operational development, a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, so that the land is restored to its condition before the breach took place. Since they represent such facilitating works, their removal can be required even if, considered in isolation, they might otherwise have become immune from enforcement.

Ground (a) and the deemed planning application

18. This ground is that planning permission should be granted for the development comprising the alleged breach of planning control, that is for the use of the land for mixed use comprising of private stabling and commercial livery with ancillary activities and operational development. The main issues are:

- Whether the development is inappropriate development in the Green Belt;
- Whether there is harm to the character of the area; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and if so, would this amount to the very special circumstances required to justify the proposal; and
- If the development is not inappropriate development in the Green Belt, whether it accords with the development plan read as a whole, and if not whether there are material considerations sufficient to outweigh the conflict with the development plan.

Policy

19. National Green Belt policy sets out a general presumption against inappropriate development, as set out in paragraphs 133 to 147 of the National Planning Policy Framework (NPPF). Inappropriate development should not be approved save in very special circumstances. Paragraph 146 provides that certain forms of development, including the material change of use of land, are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. The relevant development plan policies significantly predate the NPPF, but are broadly consistent with it.
20. The development plan includes the saved policies of the Royal Windsor and Maidenhead Local Plan (incorporating alterations) 2003 (the LP). LP Policy GB1 includes essential facilities for outdoor sport and recreation which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it as a category of development that can be approved without the need for very special circumstances. In requiring that facilities must be essential, it is more restrictive than NPPF paragraph 146, but the Council accepted that that was a reflection of Green Belt policy at the time and that the necessary consistency with up-to-date national policy means that relevant facilities should no longer be required to be essential. So far as redevelopment is concerned, LP Policy GB2 provides that permission will not be granted for development that would have a greater impact on the openness of the Green

Belt or the purposes of including land within it compared to the existing development. LP Policy GB6 is a permissive policy for the enlargement of equestrian developments. So far as relevant, it requires compliance with Policy GB2 and that it would not result in a harmful proliferation of commercial equestrian establishments within an area, a matter that is not at issue here. Policy DG1 aims to avoid harm to local character, among other things.

21. Policies SP5 and SP3 of the emerging Borough Local Plan (BLP) can also be given weight, albeit limited since the BLP has not progressed beyond the examination in public stage. Policy SP5 concerns development in the Green Belt, largely reflecting the NPPF but also setting out specific aims for equestrian development, including good design, clustering of development to minimise visual impact and avoiding harm to local character and landscape quality. Policy SP3 is a general policy encouraging high quality design that respects local character.

Inappropriate development

22. Equestrian use is generally considered to be a use for outdoor sport or recreation and is a use that would normally be associated with a rural environment. Material change in the use of land is not inappropriate development in the Green Belt provided that it preserves openness and does not conflict with the purposes of including land in the Green Belt, and indeed changes of use for outdoor sport is one of the examples given for changes of use that may not be inappropriate. That equestrian development is the subject of specific existing and emerging local plan Green Belt policies indicates that it is a use that is compatible with the Green Belt. The issue then is whether the appeal development preserves openness and accords with Green Belt purposes.
23. The change of use in this case is associated with some new built development, extended hardstanding, an additional stable block made up of the two initially mobile stable structures, now fixed to the ground and linked, a hay storage building and the shipping container. The new stable building has 4 working stables and another used for yard purposes, hence the overall stabling capacity on-site is 10. The block sits on part of the extended hardstanding and faces the original stable block, in a fairly standard stable yard layout, while the hay storage building directly abuts the original stables. The stable and hay storage buildings form a reasonably tight cluster with the pre-existing stable block and barn, with the shipping container a short distance to the west, abutting the site boundary.
24. Although openness at its simplest is an absence of built development, preserving Green Belt openness is not a preclusion on new buildings. The Green Belt is functioning countryside that, among other things, should serve the urban areas which it surrounds. Hence new built development that sits comfortably within the rural landscape and contributes to the beneficial functioning of the countryside can preserve openness. In this case, while the additional built development footprint associated with the change of use is in the order of 50%, the nature, modest scale and character of the buildings is appropriate to a rural location. The compact arrangement of the group of buildings also serves to avoid undue impact on Green Belt openness and ensures that the development remains unobtrusive. This layout is encouraged by emerging BLP Policy SP5 which expects new equestrian buildings to be located in or adjacent to an existing group of buildings. The shipping

container's siting is beyond the original (1991) development envelope, but it remains closely associated with the stable complex, both visually and functionally, and does not represent encroachment into the countryside. In coming to this view I acknowledge that the blue colour of the container increases its visual impact, but this can be easily remedied.

25. Increasing the stabling capacity from 6 to 10, along with the potential increase in on-site activity associated with the change in services on offer amounts to no more than a modest expansion of the established use, and one of a scale that I consider accords with the approach to equestrian development set out in LP Policy GB6 and emerging BLP Policy SP5. Taken as a whole I consider that the development preserves openness and does not conflict with any of the purposes of including land in the Green Belt. For these reasons I am satisfied that it is not inappropriate development in the Green Belt.

Character

26. Darlings Lane in the vicinity of the appeal site forms a boundary of sorts between the urban fringe and countryside, suburban residential development predominating on its eastern side, whereas the western side has a rural character with dispersed development being, in the main, recognisably associated with equestrian or agricultural use. In this context, while the cluster of buildings at Fairview Stables is more extensive than the neighbouring equestrian establishment, its character is not demonstrably different. The site is well screened by roadside hedgerows, and when viewed through the entrance to the neighbouring stables it does not appear incongruous or discordant. Insofar as the blue colour of the container might be jarring to some, there are few public viewpoints from which it can be seen and, as alluded to above, a simple remedy is to make the colour the subject of planning condition.
27. Overall, despite the increase in the extent of the stable complex, I consider that its character and appearance recognisably remains that of a small utilitarian equestrian facility that sits easily within the prevailing rural character on the western side of Darlings Lane. As such it accords with LP Policy DG1 and with emerging BLP Policy SP3.

Conclusion

28. The development preserves Green Belt openness and accords with the purposes of including land in the Green Belt, hence it is not inappropriate development. It is in keeping with the rural character to the west of Darlings Lane and I am satisfied that, subject to conditions, it accords with the development plan for the area, read as a whole. The appeal on this ground therefore succeeds, and I shall grant planning permission on the deemed application.
29. For the reasons set out above I shall make the colour of the container the subject of a condition to better integrate it into its surroundings, in the interests of local character. I shall also limit the number of stables and preclude open storage in the interests of Green Belt openness and purposes, though I shall exclude from this condition the use of roof water collection butts which I consider to be functionally appropriate and not harmful to Green Belt openness. Having regard to the suggested conditions, the use of any of the buildings for purposes other than uses ancillary to the permitted use would fall outside of

the terms of the permission in any case and so conditions restricting their use are not necessary. However, in a facility of the scale permitted there is potential for environmental harm and harm to residential amenity to arise from inappropriate storage and disposal of waste, hence a relevant condition is necessary, and without which there would be conflict with emerging BLP Policy SP5. Since the permission is retrospective, a form of condition which requires steps to be taken is necessary.

30. The grant of planning permission on the deemed application means that the enforcement notice will be quashed, so the appeals on grounds (f) and (g) do not fall to be considered.

Appeal B - conditions

31. The central argument made in this appeal, which concerns non-compliance with conditions attached to the 1991 planning permission, and which is not disputed, is that the 1991 permission no longer applies, a new chapter in the planning history having been established through immunity from enforcement of the current development. That is an argument I have rejected in Appeal A, so the appeal on ground (d) must fail. So far as the appeal on ground (a) is concerned, the deemed planning application derives its terms directly from the words of the allegation. That can only seek planning permission for the development permitted in 1991, but without complying with the conditions in breach. These concern the use of one building, the haystore erected in 1991, and the use of the surfaced open areas comprising the yard and parking areas.
32. It is difficult therefore to see how any planning permission that could be granted would be of benefit to the appellant, and indeed I have some doubt that I have the power to grant permission for the retention of the buildings under the deemed application. I would not be able to grant permission for the current mixed use, nor could I grant permission for a use of the haystore for anything that entailed a material change of use of the land. But in any case, since planning permission has already been granted on Appeal A for a different development, it would be utterly pointless to determine this ground (a) appeal. The Appeal A permission acts to nullify the effect of the Appeal B notice so far as the requirements are inconsistent with it, hence the notice is now of no practical effect in any case.
33. I shall therefore take no further action on this appeal. The enforcement notice will be in force, but it will have no practical effect. In the circumstances the Council may wish to consider withdrawing it.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Griffiths QC and Nicola
Strachan of Counsel

They called	
John Andrews	Planning Consultant
Phil Archer	Equestrian worker
Marjolein Russnak- Johnson	Co-owner
Rachel Stenning	Livery user
Judith Francis Norman	Livery owner

FOR THE LOCAL PLANNING AUTHORITY:

Francis Lawson and Asitha
Ranatunga, Of Counsel

Mr Ranatunga called	
Aaron Hitchen	Enforcement, RBWM
Olivia Wojniak	Reading Agricultural Consultants
Richard Latham	Neighbour
Victoria Goldberg	Planning, RBWM

INTERESTED PARTY:

Peter McArdle	Neighbour
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DOCUMENTS

- 1 Addendum to Claimant's Skeleton Argument, Case No. CO/2505/2018
- 2 McArdle submissions on 2016 planning application and Appeal A
- 3 2016 planning application ref. 16/01009/FULL
- 4 Ordnance Survey extract
- 5 Agreed conditions - by email dated 10/11/2020
- 6 Agreed site layout plan - Drawing No. 20/JAA/MRJ/1, by email dated 10/11/2020
- 7 Addendum to Defendant's Skeleton Argument, Case No. CO/2505/2018
- 8 Council's closing submissions
- 9 The Farm Business Specification Order 1987 SI 1987/1948
- 10 Appellant's closing submissions
- 11 Statement of Common Ground (draft)

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Schedule of Conditions

- 1) There shall be no more than 10 stables on the site.
- 2) All storage on the site shall be within the permitted buildings. No open storage shall take place on the land, including the storage of materials. This condition shall not preclude the use of roof water collection butts.
- 3) The use hereby permitted shall cease, the buildings identified as buildings 2, 3, 4, 5, and 6 on Drawing No. 20/JAA/MRJ/1 shall be demolished to ground level and all materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision details of (a) a scheme for repainting the container identified as building 6 on Drawing No. 20/JAA/MRJ/1 and (b) a scheme for the storage and disposal of waste from the site, shall have been submitted for the written approval of the local planning authority, and the schemes shall include a timetable for their implementation.
 - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the schemes or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
 - iv) The approved schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of each of the approved schemes specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.