
Appeal Decisions

Site visit made on 29 September 2020

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal A Ref: APP/P0119/C/19/3243412

Appeal B Ref: APP/P0119/C/19/3243413

Dodmoor Farm, Broad Lane, Westerleigh BS37 8QX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr J Rendle (Appeal A) and Ms L Parsons (Appeal B) against an enforcement notice issued by South Gloucestershire Council (the LPA).
- The enforcement notice was issued on 18 November 2019.
- The breach of planning control as alleged in the notice is, without planning permission, change of use from agriculture to a mixed use of agriculture, residential use, use as a caravan site and non-agricultural business use called 'Mutley Makeover' a full [dog] grooming service.
- The requirements of the notice are:
 1. Cease the residential occupation of the land.
 2. Cease the grooming service being operated from the land.
 3. Cease the non-agricultural business use of the land.
 4. Remove all caravans/mobile homes (shown in the approximate positions marked with an X on the attached plan and indicated on aerial photograph marked KP1) from the land together with canopies/porches associated with the caravans.
 5. Remove from the land all non-agricultural motor vehicles and all non-agricultural trailers associated with the non-agricultural use and use as a caravan site.
- The period for compliance with the requirements is six months.
- Appeal A is proceeding on the grounds set out in section 174(2)(c), (d), (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2)(c), (d) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are dismissed, and the enforcement notice is upheld with corrections and a variation as set out in the Formal Decisions below.

Appeal C Ref: APP/P0119/C/19/3243635

Appeal D Ref: APP/P0119/C/19/3243636

Dodmoor Farm, Broad Lane, Westerleigh BS37 8QX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr J A Johnson Jnr (Appeal C) and Ms T Weeks (Appeal D) against an enforcement notice issued by South Gloucestershire Council.
- The enforcement notice was issued on 18 November 2019.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a single storey dwellinghouse (in the approximate position marked X).
- The requirements of the notice are:
 1. Cease the residential occupation of the land.

2. Demolish the single storey dwellinghouse together with the concrete slab on which the building has been erected.
 3. Remove from the land the resulting debris, plant and equipment associated with accomplishing step (b) above.
- The period for compliance with the requirements is 6 months.
 - Appeal C is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal D is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are dismissed, and the enforcement notice is upheld with corrections and a variation as set out in the Formal Decisions below.

The Notice – Appeals A and B

1. The enforcement notice is directed at a material change of use. That being the case the allegation should also state a material change of use, as this is the act of development as defined by statute. This can be corrected as it would not give rise to injustice to the appellant or the LPA.
2. The inclusion of the words a 'non-agricultural business use called 'mutley makeover' in the allegation is specific to the business which operated at the time the notice was issued rather than the actual use of the land. I therefore find it necessary to correct the notice by deleting those words from the allegation so it reads, "*without planning permission, the material change of use from agriculture to a mixed use of agriculture, residential use, use as a caravan site and non-agricultural business use as a full [dog] grooming service.*" This would be no more onerous on the appellants and would not result in any injustice to the appellants or indeed the LPA. I can therefore correct the notice accordingly.
3. As a consequence, the requirements of the notice should follow on from the allegation. In respect of the first requirement, it should be corrected to say cease the residential use rather than residential occupation. The second requirement should read cease the non-agricultural business use as a full [dog] grooming service and the third to read cease the caravan site use. I consider such corrections would not result in injustice to the appellants or the LPA.
4. It is contended by the appellants that there has not been a material change of use of the land from agriculture to a mixed use of agriculture, residential use and use as a caravan site. This essentially amounts to a 'hidden' appeal on ground (b), that what is alleged to amount to the breach of planning control in the notice has not occurred as a matter of fact.
5. However, the evidence provided by the appellant to that effect is limited. The onus in such circumstances is on the appellant to provide evidence to demonstrate that is the case and the standard of proof is the balance of probabilities. The appellants state that the touring caravans were never occupied and what occurred was the storage of caravans. However, the presence of touring caravans on the land previously suggests that it appeared to the LPA at the date the notice was issued that the use of the land as a caravan site as part of a wider mixed use of the site had occurred. The appellant has failed to discharge the burden of proof which rests upon them in

this instance. In the absence of any substantive evidence to the contrary, I find that at the date the notice was issued, the mixed use alleged in the notice had occurred as a matter of fact. The 'hidden' appeal on ground (b) therefore fails.

The Notice – Appeals C and D

6. Section 2 of the notice which sets out the alleged breach indicates that the dwellinghouse is located in the approximate position marked 'X'. It does not say where or in what context the 'X' marking is. However, it is clear from a fair reading of the notice and the facts of the case that the 'X' on the plan which accompanies the notice is the location of the dwellinghouse subject of the alleged breach. I can therefore correct the notice to ensure the allegation refers to the approximate position marked 'X' on the plan attached to the notice. Such a correction would not result in injustice to the appellant or the LPA.
7. The first requirement of the notice is to cease the residential occupation of the land. However, the notice is targeted as operational development not material change of use. Such a requirement is therefore excessive, and I shall therefore vary the notice to delete it. I can do so without causing injustice to the appellants or the LPA.

Appeals A and B on ground (c)

8. An appeal on ground (c) is made on the basis that those matters stated in the enforcement notice which give rise to the alleged breach of planning control did not constitute a breach of planning control. The burden of proof rests on the appellants and the standard of proof is on the balance of probabilities.
9. It is necessary, therefore, for the appellants to demonstrate, on the balance of probabilities, that at the date the notice was issued the alleged material change of use did not constitute a breach of planning control because it either did not constitute development, or, it was development for which planning permission was not required, or it was development for which planning permission had already been granted.
10. The notice alleges a material change of use of the land to a mixed-use comprising agriculture, residential, caravan site and grooming service uses. The concept of a mixed use is two or more primary uses existing within the same planning unit or unit of occupation. One is not ancillary to the other.
11. The appellant accepts that the caravan site and grooming service uses are a breach of planning control. What is disputed is the residential use of the land. The residential use of the land is facilitated by the siting of a single-unit caravan on land close to Dodmoor Farm House and a twin-unit caravan on land north of the house. No argument on ground (c) is advanced in respect of the twin-unit caravan.
12. The appellant argues that the single-unit caravan lies within the curtilage of the dwellinghouse and thus, its siting is granted planning permission by virtue of Article 3(1) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO) as it is permitted development under Class E of Part 1 of Schedule 2. Class E sets out that a building, enclosure, swimming or other pool within the curtilage of a

- dwellinghouse or a container for use for domestic heating purposes are permitted development.
13. However, the stationing of a caravan ordinarily constitutes a use of land, rather than building operations. I saw from my site visit that the single-unit caravan remains mobile in the sense that it could be picked up intact and moved, suggesting a limited degree of permanence. Moreover, whilst it had connections to services these could easily be disconnected. It appeared that the caravan was resting on the ground under its own weight rather than there being any degree of attachment to the ground.
 14. Neither of the parties consider the twin-unit caravan amounts to building operations and on the evidence put before me and from my site visit observations, I have no reason to disagree.
 15. Therefore, having regard to relevant case law on the matter, the evidence leads me to conclude as a matter of fact and degree that the caravans do not amount to building operations. On that basis, they do not amount to permitted development under Class E of Part 1 of Schedule 2 of the GPDO and cannot benefit from the planning permission granted by Article 3(1) of that Order, regardless of whether or not they are sited within the curtilage of a dwellinghouse.
 16. In this instance, the evidence before me suggests that the siting of the caravans on the land for residential purposes amounts to a use of the land. In order to ascertain whether the residential use of the land does not amount to a breach of planning control because it does not constitute development, it is necessary to establish whether a material change of use of the land on which the caravans are sited has occurred.
 17. Both parties have indicated where they believe the curtilage of Dodmoor Farm to be. However, curtilage is not a use of land. An aerial photograph from 2005 provided by the LPA appears to indicate there was no delineation between the farmhouse and the field to the north and west which is said to have been in agricultural use. An aerial image from 2006 shows the beginnings of the delineation of an area of land to the north and west of the farmhouse through longer grass and the introduction of some form of boundary treatment. Both the single-unit and twin-unit caravans are sited on this area.
 18. However, there is no evidence from the photographs or indeed from any other source that this land was lawfully used as residential garden at any point. The fact that it lies adjacent to the farmhouse and was delineated from the agricultural field to the west is not itself sufficient to demonstrate that it was used as residential garden. Moreover, a response to the LPA's Planning Contravention Notice issued on 17 October 2019 indicates the lawful use of the land is agriculture.
 19. It appears therefore, in the absence of sufficiently precise and unambiguous evidence from the appellant, that on the balance of probabilities there has been a material change of use of that part of the land on which the caravans are sited from agriculture to residential.
 20. Such a material change of use amounts to development for the purposes of section 55 of the 1990 Act. In the absence of any evidence of planning

permission being granted for that development (either expressly or by the GPDO) then it follows that the siting of the caravans for residential use amounts to a breach of planning control.

21. In any event, the concept of a mixed use is one of several primary uses on a single planning unit. Case law has established that where there is a single mixed use it is not open to the LPA to decouple elements of it. The use of the land is the single mixed use with all its component activities. There is no dispute that the land subject of the notice constitutes a single planning unit. Therefore, the material change of use of the land to the mixed use referred to in the notice amounts to development. In the absence of planning permission for that development it follows that the matters stated in the notice amount to a breach of planning control as defined in section 171A(1)(a) of the 1990 Act.
22. The appeals on ground (c) therefore fail.

Appeals A and B on ground (d)

23. Whilst the appeal forms do not indicate that the appeals were to proceed on ground (d), the appellants' statement nevertheless indicates that an appeal on ground (d) is sought. In an appeal on ground (d), it is necessary for the appellants to demonstrate, on the balance of probabilities, that at the date the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control.
24. Section 171B(1) of the 1990 Act sets out the relevant time period for taking enforcement action. In the case of a breach involving a material change of use it is ten years.
25. The appellant only seeks to pursue the appeal on ground (d) on the basis that the twin-unit caravan has been in place for a period of 10 or more years. However, for the development to be immune from enforcement action, it is necessary for the appellant to demonstrate that the use of the land materially changed to a use as a mixed use comprising agriculture, residential use, use as a caravan site and non-agricultural dog grooming service on or before 18 November 2009 and the mixed use continued for ten years thereafter.
26. It is not therefore appropriate to de-couple elements of the mixed use in order to consider whether or not it was too late to take enforcement action against any part of it. All the constituent primary uses of the mixed use alleged must have occurred for a continuous period of 10 years or more, prior to the issue of the notice.
27. A response from the appellant in Appeal C in respect of a Planning Contravention Notice served by the LPA on 7 October 2019 indicates that the non-agricultural dog-grooming use did not commence until 17 July 2019, just four months before the enforcement notice was issued. Likewise, there is no evidence from any of the aerial photographs of the use of the northern part of the land as a caravan site having occurred prior to 18 November 2009.
28. As such, the appeals on ground (d) fail.

Appeal A on ground (a)

Main Issues

29. Whilst there are distinct elements to the mixed use alleged in the notice, the breach of planning control is the mixed use composed of all those elements. Consequently, in accordance with section 174(2)(a) of the 1990 Act, I must consider this appeal on ground (a) on the basis of the effect on the mixed use in its entirety rather than the individual elements of it since that is the breach of planning control which constitutes the matters stated in the notice.
30. The main issues are:
- whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 (the Framework) and any relevant development plan policies, including the effect of the development on the openness of the Green Belt;
 - whether there is an essential need for a rural worker to live permanently at or near to their place of work in the countryside;
 - whether the appeal site is an appropriate location for residential and non-agricultural business use having regard to reliance on private car;
 - whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development and the effect on openness

31. Policy CS5 of the South Gloucestershire Local Plan Core Strategy 2006-2027 (2013) (the CS) states that development in the Green Belt will need to accord with the provisions of the Framework or any relevant CS policies. CS Policy CS34 seeks to protect the Green Belt from inappropriate development.
32. Policy PSP7 of the South Gloucestershire Local Plan Policies, Sites and Places Plan (adopted November 2017) (the PPSP) states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated that clearly outweigh the harm to the Green Belt, and any other harm.
33. These policies are consistent with paragraph 143 of the Framework which states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 145 and 146 of the Framework set out certain forms of development which do not amount to inappropriate development. The Courts¹ have confirmed that they are a closed list and any development which does not fall within those exceptions amounts to inappropriate development.
34. Paragraph 146(e) states that material changes of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
35. Paragraph 133 of the Framework makes clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently

¹ *Fordent Holdings Ltd v SSCLG & Cheshire West and Chester Council* [2013]

open; the essential characteristics of Green Belts are their openness and their permanence. The Courts have held that the concept of openness can have both a spatial and visual aspect. Likewise, the purpose of a development can play a role in its impact on openness. Recent case law has confirmed that the matters relevant to openness in any particular case are a matter of planning judgement.

36. The caravan site element of the breach is said to have comprised touring caravans located within the field at the northern end of the Land. The non-agricultural dog grooming business was facilitated by a single-unit caravan located at the southern end of the site close to the access gates. The residential use is facilitated by a twin-unit and a single-unit caravan in the vicinity of the farm house.
37. Whilst I note the caravans in respect of the caravan site and non-agricultural dog grooming business have now been removed, what matters in respect of the appeal on ground (a) is the development which existed at the date the notice was issued.
38. The visual impact of the caravans would have been limited to some degree given the trees and hedgerows which bound the field in which they were located. I also recognise that planting could screen the caravans. Nevertheless, they would still appear as man-made elements in an otherwise open landscape and new planting would take time to establish. Those at the southern end of the site are, and would have been, clearly visible from Broad Lane. Moreover, in spatial terms the use of the land results in the introduction of features of permanent appearance in the form of caravans into land which otherwise would have been free of such features. The residential use also results in the introduction of residential paraphernalia.
39. As a result, I find that the development will have an adverse effect on the openness of the Green Belt. Whilst the extent of that impact would be limited and therefore limited harm would occur, case law has nevertheless established that openness cannot be preserved if there is a finding that there would be an adverse impact on it of any kind. On that basis, the development will fail to preserve the openness of the Green Belt. As a consequence, the development does not fall to be considered as an exception under paragraph 146 of the Framework.
40. I conclude, therefore, that the development is inappropriate development in the Green Belt and, by definition, harmful to it. It therefore conflicts with CS Policies CS5 and CS3, PPSP Policy PSP7 and the provisions of the Framework. In addition, whilst the harm to openness is limited, the development will nevertheless fail to preserve the openness of the Green Belt, in conflict with Paragraph 133 of the Framework.

Essential Need

41. Policy PSP41 of the PPSP states that, outside of the defined settlement boundaries, the erection of dwellings for permanent workers in agriculture will be acceptable where it can be demonstrated that the dwelling is required to satisfy a clearly established functional need to live at the place of work; that the business has been established for at least three years and has been profitable for at least one of them as well as being financially sound and there

is a clear prospect it will remain so; that the need could not be fulfilled by another existing dwelling or building capable of conversion on the unit; and, is satisfactorily sited.

42. Paragraph 79 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside except for in certain circumstances such as where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.
43. The Planning Practice Guidance (the Guidance)² sets out several considerations which may be relevant when applying paragraph 79 of the Framework. The relevant considerations in this instance are: evidence of the necessity for a rural worker to live at or in close proximity to their place of work to ensure the effect operation of an agricultural enterprise, for instance where farm animals or agricultural processes require on-site attention 24 hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products; the degree to which there is confidence that the enterprise will remain viable for the foreseeable future; whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process; whether the need could be met through improvements to existing accommodation on the site; and, in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.
44. Dodmoor Farm supports a hay and haylage business incorporating feed for horses and cattle. Dodmoor Farm House is occupied by the now retired Mr Johnson Snr. Following his retirement, in 2014 the management of the farm passed onto his son, Mr Johnson Jnr. It is indicated that Mr Johnson Jnr had spent time previously obtaining experience in cattle farming so that cattle could be introduced to Dodmoor Farm once his management commenced. It is said that a beef sales business owned solely by Mr Johnson Jnr now operates at the farm alongside the hay and haylage business.
45. I have been provided with a 10-year business plan for the farm up to 2024 which sets out objectives for the cattle enterprise to increase to 70 cows and calves. In further detail it indicates the aim is to grow the herd to approximately 40 cattle in 2020 and 60 in 2021. However, it is indicated in the appellant's final comments of 6 April 2020 that there are presently only 14 cattle on the site which is some way short of the business plan aims.
46. The projections in the business plan indicate that sales from cattle will not begin to materialise until 2021 and it is only in 2022 that the cattle enterprise will overtake the hay and haylage business as the farms primary source of revenue. Whilst I have no reason to doubt Mr Johnson Jnr's and his family's ability or experience in being able to make a success of the enterprise, it is apparent that the cattle enterprise is in its infancy. As such, there is little before me which demonstrates that the enterprise is likely to endure in the long term.

² Paragraph: 010 Reference ID: 67-010-20190722

47. Moreover, no evidence has been advanced by the appellant that either Mr Rendle himself or the farmhand who occupies the single-unit mobile home are required to be on-site 24 hours a day, every day of the year in order to ensure the adequate functioning of the farming enterprise. Indeed, I note it is said that the appellant Mr Rendle also has a job elsewhere. Whilst it is said he assists with the business on a daily basis, those tasks are said to be either on the land or with accountancy work. I see no reason why it is essential for a person undertaking accountancy work to be on site to do so.
48. There is no evidence before me that Mr Rendle or the farmhand need to be on site outside of regular work hours or indeed whether there would be adverse effects to the business if they were not present at all times. Indeed, I note the business plan indicates that calves are supplied to the farm, which are then aged to maturity before being sold on for meat. This indicates that no calving is carried out at Dodmoor Farm which negates a need for a permanent on-site present to tend to cows or calves during such periods to avoid illness, injury or even loss of cattle. As a result, it has not been sufficiently demonstrated that it is necessary for the workers to live at the appeal site in order for the enterprise to functional properly.
49. I conclude, therefore, that on the evidence before me there is not an essential need for a rural worker to live permanently at or near to their place of work in the countryside. As a consequence, the development is in conflict with PPSP Policy PSP41 as well as CS Policy CS5 which seeks to direct new development to urban areas and PPSP Policy PSP40 which indicates that residential development in the open countryside will only be acceptable for, inter alia, rural workers dwellings. It will also conflict with paragraph 79 of the Framework. I afford the harm that will arise significant weight.

Location

50. The appeal site lies in open countryside to the west of the village of Westerleigh, which I saw from my site visit contained very few facilities necessary to support the day-to-day requirements of residents. Neither party has provided evidence regarding where such facilities are located. It seems to me from my site visit that Yate and Chipping Sodbury several kilometres to the north-east of the site are the closest settlements which provide access to schools, shops and other everyday facilities.
51. In order to reach the necessary facilities to support everyday living, residents would need to cover long distances on foot or bicycle, in part on roads which are narrow, unlit and without pavements or indeed unlit, densely vegetated bridleways. It seems to me that such necessity would be a significant deterrent to residents using such forms of transportation, particularly during periods of darkness or inclement weather.
52. Moreover, whilst I saw from my site visit that there are bus stops on Westerleigh Road close to the junction with Broad Lane, I have not been provided with any evidence regarding the services on offer, the destinations which can be reached or the frequency of services. In any event, in order to access the bus stops, residents would need to negotiate the narrow road of Broad Lane without footpaths or lighting for more than 250m. Again, I consider it is unlikely that residents would do so in order to access bus services. Indeed, it would be an unreasonable expectation to place upon them.

To that end, it seems to me that residents would be almost entirely reliant on private car to access the necessary services and facilities for everyday living.

53. Likewise, for the same reasons, I consider it unlikely that customers of the non-agricultural dog grooming business will visit the site by sustainable transport modes. Particularly since customers may come from further afield and therefore have to make longer journeys than residents of the site would to access services and facilities.
54. I conclude, therefore, that the appeal site will not be an appropriate location for residential and non-agricultural business use having regard to reliance on private car. As such, the development will conflict with CS Policy CS8 which states that developments which are car dependent or promote unsustainable travel behaviour will not be supported and PPSP Policy PSP11 which states that development which generates a demand for travel will be acceptable where appropriate, safe, accessible, convenient and attractive access is provided for all mode trips arising to and from the proposal. I afford significant weight to the harm that will arise.

Other Considerations

55. The loss of a person's home would be an infringement of their rights under the Human Rights Act 1998 (HRA). The cessation of the residential element of the mixed use would amount to interference and would engage the right for respect for private and family life, home and correspondence set out in Article 8 of the HRA. This is a qualified right, whereby interference may be justified if in the public interest, applying the principle of proportionality.
56. The conflict with development plan policy and, in particular, the harm to the Green Belt, the harm to the open countryside which arises from the failure to demonstrate an essential need for a rural worker to live at the site and the lack of suitability of the location with regard to reliance on private car are serious objections to the development which could not be overcome by planning conditions. There is a need for restrictive policies to be applied to the Green Belt and these restrictions are an appropriate proportional response to that need. I am satisfied that this legitimate aim can only be safeguarded by the cessation of the unauthorised residential use.
57. I acknowledge that the consequence of dismissing the appeal would be that the appellants and their family, along with the farmhand said to be living in the single-unit caravan, would be required to vacate the accommodation. However, the notice provides a six-month compliance period which would allow residents time to find an alternative home. Moreover, there is no indication that those persons would necessarily be made homeless beyond that date.
58. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of this case. I shall consider whether the dismissal of the appeal would have a disproportionate effect on the Appellant and his family in the overall balancing exercise.
59. The development would also support the ongoing economic viability and aspirations for the farming business at the site. I afford such matters significant weight.

Whether there are very special circumstances

60. In accordance with paragraph 144 of the Framework, I afford substantial weight to the harm to the Green Belt by reason of inappropriateness and the limited harm that arises to the openness of the Green Belt. In addition, I afford significant weight to the harm resulting from the failure to demonstrate that there is an essential need for rural workers to live at their place of work in the countryside and significant weight to the harm arising from the failure of the appeal site to be a suitable location for new housing and non-agricultural business with regard to reliance on private car.
61. I have found that the development results in economic benefits to the appellant's farming enterprise to which I afford significant weight. Likewise, upholding the notice would result in the loss of the appellants and their family's home, as well as the accommodation currently said to be occupied by a farmhand.
62. However, the weight I afford such considerations does not clearly outweigh the totality of the weight I afford to the harm that will arise to the Green Belt and any other harm. As a consequence, the very special circumstances required to justify the proposal do not exist.
63. The harm I have identified above is of such weight that upholding the notice would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Other Matters

64. The appellants suggest that I consider allowing the storage of touring caravans on the land, subject to conditions. However, the 1990 Act only allows me to grant permission for the matters alleged to constitute a breach of planning control in the notice, either in whole or in part. It does not allow me to grant permission for something which does not form part of those matters. In this instance the alleged breach relates to a mixed-use including use of the land as a caravan site. It does not include use of the land for the storage of caravans. The use of the land for the storage of caravans would not therefore form part of the matters enforced against and it is not open to me to grant planning permission for such use under this ground (a) appeal.

Conclusions

65. For the reasons given above, the appeal on ground (a) is dismissed and the deemed application for planning permission is refused.

Appeal A and B on ground (g)

66. An appeal on ground (g) is made on the basis that the time period for compliance with the notice is too short.
67. The appellants do not seek to extend the time period for compliance in respect of the non-agricultural grooming business and caravan site elements of the mixed use which constitutes the breach. Indeed, I saw from my site visit that the caravans which facilitated both uses had been removed.

68. The appellant nevertheless indicates that the compliance period for the notice is extended for up to 12 months to allow the appellants to continue working the land and managing the livestock whilst they find alternative accommodation and arrange removal of the mobile homes. In contrast, the LPA argues that six months is a more than reasonable time period.
69. I agree with the appellant that six months seems an unduly short period time to allow them and the farmhand in the single unit mobile home to vacate the site and find alternative housing elsewhere, particularly in the present circumstances of the Covid-19 pandemic. Whilst reopening of some businesses and the housing market has occurred, circumstances in respect of restrictions, both on a national and regional scale, continue to be fluid, with restrictions being tightened and eased on a continuous basis as a response to the pandemic.
70. Moreover, given the individual circumstances here and the accommodation needs of the residents presently on the site, I believe the task of finding and moving to alternative accommodation is likely to take far longer than suggested by the LPA.
71. Taking into account the timeframes necessary for residents to vacate the site and for the removal of the mobile homes, I find a 12 month compliance period would appropriately balance the need for expediency in overcoming the planning harm whilst ensuring existing occupiers would not be unduly affected.
72. The appeal on ground (g) therefore succeeds.

Appeal C on ground (a)

Main Issues

73. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the development on the openness of the Green Belt;
- whether there is an essential need for a rural worker to live permanently at or near to their place of work in the countryside;
- whether the appeal site is an appropriate location for residential use having regard to reliance on private car; and,
- whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

74. Policy CS5 of the CS states that development in the Green Belt will need to accord with the provisions of the Framework or any relevant CS policies. CS Policy CS34 seeks to protect the Green Belt from inappropriate development. Policy PSP7 of the PPSP states that inappropriate development is harmful to the

Green Belt and will not be acceptable unless very special circumstances can be demonstrated that clearly outweigh the harm to the Green Belt, and any other harm.

75. These policies are consistent with paragraph 143 of the Framework which states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 145 and 146 of the Framework set out certain forms of development which do not amount to inappropriate development. They are a closed list and any development which does not fall within those exceptions amounts to inappropriate development.
76. Paragraph 145(a) states that buildings for agriculture do not amount to inappropriate development. However, dwellings for rural workers are for residential use. Consequently, they are not buildings for agriculture, even if they are intended to support such use. There is no evidence of the development falling in any other exception under paragraphs 145 or 146 of the Framework.
77. I conclude, therefore, that the development is inappropriate development in the Green Belt and, by definition, harmful to it. It therefore conflicts with CS Policies CS5 and CS3, PPSP Policy PSP7 and the provisions of the Framework.

Openness

78. Paragraph 133 of the Framework makes clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The concept of openness can have both spatial and visual aspect.
79. The impact of the dwelling in visual terms will be limited to an extent by the trees and vegetation which are prevalent in the area. However, views are still obtainable of the building from various vantage points, including the public right of way network in the area. Moreover, where it can be seen the dwelling appears as a distinctly man-made element of urban form, in contrast to the open and pastoral character of the surrounding landscape.
80. In spatial terms, the development introduces a significant element of built form on land which was largely free of such features. In that sense, it results in a significant loss of the sense of openness. As a result, I find that the development will have an adverse effect on the openness of the Green Belt.
81. I conclude, therefore, that the development will fail to preserve the openness of the Green Belt, in conflict with Paragraph 133 of the Framework.

Essential Need

82. Policy PSP41 of the PPSP states that, outside of the defined settlement boundaries, the erection of dwellings for permanent workers in agriculture will be acceptable where it can be demonstrated that the dwelling is required to satisfy a clearly established functional need to live at the place of work; that the business has been established for at least three years and has been profitable for at least one of them as well as being financial sound and there is a clear prospect it will remain so; that the need could not be fulfilled by

- another existing dwelling or building capable of conversion on the unit; and, is satisfactorily sited.
83. Paragraph 79 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside except for in certain circumstances such as where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.
84. The Guidance sets out several considerations which may be relevant when applying paragraph 79 of the Framework. I have set those considerations out in respect of Appeal A on ground (a) and in the interests of brevity see no reason to repeat them here.
85. I recognise that the agricultural operation has been active for many years and is profitable and can support Mr Johnson Jnr and a part-time farmhand. However, it is the aspect of the business which results in an essential need for a worker or workers to be on hand 24 hours a day, 7 days a week which is relevant here. On the evidence before me, I see no reason why the arable element of the farming enterprise would require a permanent on-site presence.
86. Dodmoor Farm is said to now be under the control of the appellant and the beef sales element of the business which is being taken forward is solely owned by him. I have been provided with the 10-year business plan for the farm up to 2024 which sets out objectives for the cattle enterprise to increase to 70 cows and calves. In further detail it indicates the aim is to grow the herd to approximately 40 cattle in 2020 and 60 in 2021. However, it is indicated in the appellant's final comments of 6 April 2020 that there are presently only 14 cattle on the site which is some way short of the business plan aims.
87. The projections in the business plan indicate that sales from cattle will not begin to materialise until 2021 and it is only in 2022 that the cattle enterprise will overtake the hay and haylage business as the farm's primary source of revenue. Whilst I have no reason to doubt Mr Johnson Jnr's ability or experience in being able to make a success of the enterprise, it is apparent that the cattle enterprise is very much in its infancy. As such, there is little before me which demonstrates that the cattle enterprise is likely to endure in the long term.
88. Moreover, no evidence has been advanced by the appellant that he is required to be on-site 24 hours a day, every day of the year in order to ensure the adequate function of the cattle enterprise. There is no evidence before me that the appellant needs to be on site outside of regular work hours or indeed whether there would be adverse effects to the business if he were not present at all times. The appeal statement indicates that with the re-introduction of cattle onto the farmstead it is essential the appellant is close to the cattle for their well-being during times of calving. However, the business plan indicates that calves are supplied to the farm, which are then aged to maturity before being sold on for meat. This indicates that no calving is carried out at Dodmoor Farm. In such circumstances this would negate a need for a permanent on-site presence to tend to cows or calves during such periods to avoid illness, injury or even loss of cattle. The evidence on this matter is not clear. Moreover, the present number of livestock on site is relatively low, and

it is difficult to see how, on the evidence before me, such numbers would justify a permanent on-site presence.

89. In addition, there is no evidence that alternative mechanisms to ensure the welfare of cattle have been explored such as CCTV or alarm systems. Consequently, whilst it may be desirable for the appellant to live on-site to support the farming business, it has not been sufficiently demonstrated that it is necessary for the appellant to live at the appeal site in order for the enterprise to function properly without consequent risks to the business.
90. I conclude, therefore, that on the evidence before me there is not an essential need for a rural worker to live permanently at or near to their place of work in the countryside. Thus, the development is in conflict with paragraph 79 of the Framework, PPSP Policy PSP41 and CS Policy CS5 which seeks to direct new development to urban areas as well as PPSP Policy PSP40 which states that residential development in the open countryside will only be acceptable for, inter alia, rural workers dwellings. I afford the harm that will arise significant weight.

Location

91. The appeal site lies in open countryside to the west of the village of Westerleigh, which I saw from my site visit contained very few facilities necessary to support the day-to-day requirements of residents. The appellant indicates that the site is not remote from adequate services and facilities. My attention has been drawn to the location of a Sainsbury's supermarket at Emmerson's Green a short distance from the site. I saw at my site visit that Yate and Chipping Sodbury several kilometres to the north-east of the site are the closest larger settlements which provide access to schools, shops and other everyday facilities.
92. I note that residents of Westerleigh will also be dependent on private car to a degree. I also note the intention to make the farm self-sufficient. However, in order to reach the services and facilities needed to support everyday life, residents of the appeal site would need to cover long distances on foot or bicycle, on roads which are in part narrow, unlit and without pavements. There would also be the option to utilise unlit, densely vegetated bridleways. It seems to me that those options would be a significant deterrent to residents travelling on foot or by bicycle, particularly during periods of darkness or inclement weather.
93. Furthermore, whilst I saw from my site visit that there are bus stops on Westerleigh Road close to the junction with Broad Lane, there is no evidence before me regarding the services they offer, or indeed the destinations which can be reached. In any event, in order to access the bus stops, residents of the appeal site would need to negotiate the narrow road of Broad Lane without footpaths or lighting for a significant distance. Again, it is unlikely they would do so in order to access bus services. Indeed, it would be unreasonable to expect them to do so. As a result, it seems to me that residents would be almost entirely reliant on private car to access the necessary services and facilities for everyday living.
94. I conclude, therefore, that the appeal site will not be an appropriate location for residential use having regard to reliance on private car. Consequently, the

development will conflict with CS Policy CS8 which states that developments which are car dependent or promote unsustainable travel behaviour will not be supported and PPSP Policy PSP11 which states that development which generates a demand for travel will be acceptable where appropriate, safe, accessible, convenient and attractive access is provided for all mode trips arising to and from the proposal. I afford significant weight to the harm that will arise.

Other Considerations

95. The loss of a person's home would be an infringement of their rights under the Human Rights Act 1998 (HRA). The demolition of the dwelling would amount to interference and would engage the right for respect for private and family life, home and correspondence set out in Article 8 of the HRA. This is a qualified right, whereby interference may be justified if in the public interest, applying the principle of proportionality.
96. The conflict with development plan policy and, in particular, the harm to the Green Belt, the harm to the open countryside which arises from the failure to demonstrate an essential need for a rural worker to live at the site and the lack of suitability of the location with regard to reliance on private car are serious objections to the development which could not be overcome by planning conditions. There is a need for restrictive policies to be applied to the Green Belt and these restrictions are an appropriate proportional response to that need. I am satisfied that this legitimate aim can only be safeguarded by the cessation of the unauthorised residential use.
97. I acknowledge that the consequence of dismissing the appeal would be that the appellant and their family would be required to vacate the accommodation. However, the notice provides a six-month compliance period which would allow residents time to find an alternative home. Moreover, there is no indication that those persons would necessarily be made homeless beyond that date.
98. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of this case. I shall consider whether the dismissal of the appeal would have a disproportionate effect on the appellant and his family in the overall balancing exercise.

Whether there are very special circumstances?

99. In accordance with paragraph 144 of the Framework, I afford substantial weight to the harm to the Green Belt by reason of inappropriateness and the harm that arises to the openness of the Green Belt. In addition, I afford significant weight to the harm resulting from the failure to demonstrate that there is an essential need for rural workers to live at their place of work in the countryside and significant weight to the harm arising from the failure of the appeal site to be a suitable location for new housing with regard to reliance on private car.
100. Upholding the notice would result in the loss of the appellant and their family's home. However, the weight I afford such considerations does not clearly outweigh the totality of the weight I afford to the harm that will arise to the Green Belt and any other harm. As a consequence, the very special circumstances required to justify the proposal do not exist.

101. The harm I have identified above is of such weight that upholding the notice would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Conclusions

102. For the reasons given above, the appeal on ground (a) does not succeed and I shall refuse planning permission on the deemed application.

Appeal C and D on ground (g)

103. An appeal on ground (g) is made on the basis that the time period for compliance specified in the notice is too short.
104. I agree with the appellant that six months seems an unduly short period time to allow them to vacate their home and find alternative housing elsewhere, particularly in the present circumstances of the Covid-19 pandemic. Given that circumstances in respect of restrictions, both on a national and regional scale, continue to be fluid, with restrictions being tightened and eased on a continuous basis as a response to the pandemic, there are likely to be more delays in sourcing suitable and available alternative accommodation than would usually be experienced.
105. Moreover, given the individual circumstances here and the accommodation needs of the appellants, it seems to me that finding and moving to alternative accommodation is likely to take far longer than the six months suggested by the LPA.
106. On that basis, I find a 12 month compliance period would appropriately balance the need for expediency in overcoming the planning harm whilst ensuring existing occupiers would not be unduly affected.
107. The appeal on ground (g) therefore succeeds.

Formal Decisions

Appeal A

108. It is directed that the enforcement notice is corrected by:
- inserting the words "the material" between the words "permission and change" in section 3 of the notice;
 - deleting the words "called Mutley Makeover" from section 3 of the notice;
 - inserting the words "as a" between the words "use" and "a full" in section 3 of the notice.
 - deleting the word "occupation" from section 5(1) of the notice;
 - inserting the word "use" between the words "residential" and "of" in section 5(1) of the notice;
 - insert the words "non-agricultural business use as a full [dog]" in between the words "the" and "grooming" in section 5(2) of the notice;

- deleting the words “non-agricultural business” from section 5(3) of the notice;
- inserting the words “caravan site” between the words “the” and “use” in section 5(3) of the notice;

109. And varied by:

- the deletion of six (6) months and the substitution of twelve (12) months from section 6 of the notice as the period for compliance.

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

Appeal B

111. It is directed that the enforcement notice is corrected by:

- inserting the word “material” between the words “permission and change” in section 3 of the notice;
- deleting the words “called Mutley Makeover” from section 3 of the notice;
- inserting the words “as a” between the words “use” and “a full” in section 3 of the notice.
- deleting the word “occupation” from section 5(1) of the notice;
- inserting the word “use” between the words “residential” and “of” in section 5(1) of the notice;
- insert the words “non-agricultural business use as a full [dog]” in between the words “the” and “grooming” in section 5(2) of the notice;
- deleting the words “non-agricultural business” from section 5(3) of the notice;
- inserting the words “caravan site” between the words “the” and “use” in section 5(3) of the notice;

112. And varied by:

- the deletion of six (6) months and the substitution of twelve (12) months from section 6 of the notice as the period for compliance.

113. Subject to the corrections and the variation, the appeal is dismissed and the enforcement notice is upheld.

Appeal C

114. It is directed that the enforcement notice is corrected by:

- inserting the words “on the plan attached to the notice” after the words “marked X” in section 3 of the notice.

115. And varied by:

- deleting the words “cease the residential occupation of the land” from section 5(a) of the notice;
- the deletion of six (6) months and the substitution of twelve (12) months from section 6 of the notice as the period for compliance.

116. Subject to the correction and the variations, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D

117. It is directed that the enforcement notice is corrected by:

- inserting the words “on the plan attached to the notice” after the words “marked X” in section 3 of the notice.

118. And varied by:

- deleting the words “cease the residential occupation of the land” from section 5(a) of the notice;
- the deletion of six (6) months and the substitution of twelve (12) months from section 6 of the notice as the period for compliance.

119. Subject to the correction and the variations, the enforcement notice is upheld.

J Whitfield

INSPECTOR