
Appeal Decisions

Site visit made on 9 September 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04/01/2022

Appeal A Ref: APP/W1850/C/21/3269939

Land at New House Farm Barn, Grafton Lane, Grafton, Hereford HR2 8BL (OS Grid References 4959:3632)

- 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 1990 Act).
 - The appeal is made by Mr P Gethling-Lewis of Gamber Logistics Ltd. against an enforcement notice issued by Herefordshire Council.
 - The enforcement notice, numbered EN/2020/003145/ZZ, was issued on 26 January 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission unauthorised material change of use of the Land from Class E office use to a mixed use for Class E office use and to site a caravan for a residential purpose.
 - The requirements of the notice are:
 - (1) Permanently cease the residential occupation of the caravan and the Land; and
 - (2) Permanently remove the caravan from the Land; and
 - (3) Remove from the Land all building materials and rubble arising from compliance with requirements (1) and (2) above.
 - The periods for compliance with the requirements are 180 days from the date the notice takes effect for requirement (1); 210 days from the date the notice takes effect for requirement (2); and 270 days from the date the notice takes effect for requirement (3).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act.
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Appeal B Ref: APP/W1850/W/21/3269938

Land at New House Farm, Mobile Home at New House Farm, Grafton Lane, Grafton HR2 8BL

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
 - The appeal is made by Mr P Gethling-Lewis of Gamber Logistics Ltd. against the decision of Herefordshire Council.
 - The application Ref 201773, dated 8 June 2020, was refused by notice dated 25 September 2020.
 - The development proposed is: Retrospective planning permission for temporary use of mobile home as a residence for a field manager.
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Summary Decisions: Both Appeals are dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decisions.

Procedural Matters

1. There are two other appeals for a different site within the same wider New House Farm (NHF) complex. These appeals (reference

APP/W1850/C/21/3272421 and APP/W1850/W/21/3270767) will be the subject of a separate decision.

2. The allegation in the enforcement notice is of a mixed use of part of the NHF complex for 'Class E office use and to site a caravan for a residential purpose'. Whilst Appeal A has been made under ground (c), the appellant's case is only in respect of the residential use and is that this use is ancillary to all activities on the wider NHF complex. As such, it is his case that the breach of planning control alleged in the notice has not occurred. This is a matter that falls squarely to be considered under a ground (b) appeal. I advised the parties of my approach to the appellant's case in this regard. Having considered the comments I have received, I have no reason to find that injustice would be caused to any party by considering the appellant's ground (c) case under ground (b).
3. The unit used for residential accommodation is described as a caravan in the enforcement notice and a mobile home in the planning application. In the interests of consistency, I will refer to the unit as a caravan in this decision.
4. The revised National Planning Policy Framework was published after the appeals had been submitted and initial statements made. As such, the written comments of the parties were sought with regard to the National Planning Policy Framework dated 20 July 2021 (the Framework). All comments received have been taken into account in determining these appeals.

The Notice

5. The enforcement notice plan identifies a wider area outlined in red and a point on the plan marked with an 'x'. Part 2 of the notice identifies the land to which the notice relates (and, therefore, subject of the allegation) as being in the approximate location marked 'x'. As such, the notice alleges that the mixed use is only taking place on the 'x' point in the site. This is clearly not the Council's intention. The notice does not, therefore, correctly identify the area of land upon which the alleged use is taking place.
6. If it is the case that the notice is intended to relate to the whole of the land outlined in red, I am concerned that the allegation as put in the notice is not correct. The allegation is of a mixed use comprising a 'Class E office use and to site a caravan for a residential purpose'. At the site visit I noted a building within the same enclosed area that is used for the sale of gun cartridges, a use referred to in the evidence and for which the parties agree has the benefit of planning permission. However this use is not mentioned in the notice. Furthermore, there is reference in the allegation to Class E, which I assume is Class E of Part A, Article 3, Schedule 2 of The Town and Country Planning (Use Classes) Order 1987 as amended (the 1987 Order). The mixed use alleged is a *sui generis* use and does not, therefore, fall within any use class of the 1987 Order. Reference to Class E as part of the mixed use cannot, therefore, be correct.
7. Notwithstanding the above, I am concerned that the allegation of a mixed use is not correct in this case, particularly as I noted on site that the residential use is confined to the caravan. Similarly, the gun cartridge sales use was confined only to the timber building closest to the caravan, and the office use is only taking place in the converted barn. The remainder of the land outlined in red on the enforcement notice plan is open and mostly laid as a hard surface.

8. Having regard to the appellant's case under ground (b), I am not able to resolve my concerns with regard to the notice at this stage of my decision without also considering the ground (b) appeal. I will, therefore, conclude on these matters together as follows.

Ground (b)

9. The appeal on ground (b) is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred. The test of the evidence is on the balance of probability and the burden of proof is on the appellant.
10. It is the appellant's case that the residential use is ancillary to all activities on the wider NHF complex. For this to be correct, the residential use must be occurring within the same planning unit as the main use or uses to which it is ancillary. Indeed, settled caselaw has established that an activity carried on within a single planning unit cannot be incidental (or in this case ancillary) to activities carried on outside that unit (*Essex Water Co v SSE [1989] JPL 914*). In view of this, for me to conclude that the residential use is ancillary to all other uses on the NHF complex, I must find that the whole of the NHF complex is a single planning unit; that activities within the single planning unit form a mixed use; and that the residential use is not a primary use within this main mixed use, but part and parcel of that main mixed use.
11. A mixed use is one where two or more primary uses occur within a single planning unit, but where it is not possible to say that one is incidental or ancillary to the other or where, as a matter of fact and degree, the uses are not physically and/or functionally separated. With this in mind, I am told that Gamber Logistics Ltd. (referred to on the appeal form and in the header above) operate the various elements of its business either from NHF or on the complex. On site I was able to see much of the complex and the areas of the site used for the on-site activities referred to in the evidence, save for Christmas tree sales. As I observed them, each activity is distinct from others on the site and could not be described as being ancillary to other on-site uses; there was little functional connection between them. For this reason I consider each of the on-site uses to be primary uses of the site.
12. Whilst I note that the complex as a whole is accessed from a single point off Grafton Lane and that internal tracks provide vehicular and pedestrian access to various areas within the complex, each of the activities on NHF appeared to be confined to distinct areas. For example, the area occupied by the stables and yard is physically separated from the wider complex by fencing; access to it from the internal road is by a gate in the fencing. Similarly, the caravan site is confined to a defined parcel of land close to the large barn. Although it adjoins the laser clays shooting area, the two uses are functionally separate and I am told that the caravan site is self-contained; that there are no showers or toilet facilities elsewhere on NHF serving it.
13. My finding with regard to the separate nature of the uses is supported by the recent appeal decision for the change of use of part of NHF for the parking of vehicles¹, and for the change of use of the same site for vehicle parking, access, short term storage and Christmas tree sales². This decision does not

¹ Appeal reference APP/W1850/C/20/3260020.

² Appeal reference APP/W1850/W/20/3255562.

refer to a mixed use of the wider NHF complex, but treats the appeal site in that case as a planning unit of its own. Similarly, the other appeal referred to earlier in this decision³, made under section 78 of the 1990 Act, relates only to a laser clays shooting use, rather than a laser clays shooting use as part of the mixed use of NHF. Furthermore, the plans submitted with the application identify only a small parcel of land within the wider NHF complex as being subject of the development in that case, which is where I observed the laser clays shooting use taking place.

14. As for the area outlined in red on the enforcement notice plan, my attention has been drawn to the permission granted for this land. The permission was sought for an office use alone, rather than an office use as part of a mixed use of the whole NHF complex⁴. It may have been the case that the office use formed a single planning unit on this land at that time. However, it is more likely than not that the sub-division of this planning unit took place with the introduction of the gun cartridge sales use, subsequently permitted at appeal⁵. Again, in the decision⁶ the Inspector refers to the appeal site as being the building alone, and the use is described as 'a retail cartridge business', rather than this being part of a mixed use. On site I noted that both the gun cartridge sales use and the office use are contained within their separate buildings. The nature of these uses does not, in my judgement, make one ancillary or incidental to the other or any other use on the wider NHF complex. Although the red lined area is enclosed with fencing, the site was otherwise open and mostly laid as a hard surface for car parking (except, of course, for the land occupied by the caravan).
15. Notwithstanding this, the appellant states that the caravan is located within the same planning unit as the offices. Even if this were correct, this does not assist the appellant in demonstrating that the residential use is ancillary to uses that are outside of this planning unit. Furthermore, the appellant has not suggested that the residential use is ancillary only to the office use. Indeed, I have no reason to conclude that the residential use is part and parcel, or incidental to it.
16. Having regard to all of the above, as a matter of fact and degree I cannot conclude that the NHF complex, including the land identified on the enforcement notice plan, is a single planning unit that is in a mixed use. It is more likely than not that NHF is a collection of uses that each operate on individual planning units within the complex. I have been given no reason to conclude otherwise. Accordingly, regardless of the reasons for the residential use and the connections of the occupier of the caravan to the activities on NHF, I cannot conclude that the residential use is, on the balance of probability, ancillary to other uses at NHF. This does not, however, lead to a conclusion that the material change of use alleged in the enforcement notice has occurred.
17. The allegation in the notice is of a mixed use. I have noted above that the office use is confined to the converted barn, and gun cartridge sales use confined to the timber building. Similarly, I noted that the residential use is, on the whole, confined to the caravan and a small strip of land to the rear. It is, therefore, more likely than not that the residential use does not form a

³ Appeal reference APP/W1850/W/21/3270767.

⁴ The appellant's appendix APP 2b.

⁵ Appeal reference APP/W1850/W/20/3251878.

⁶ The appellant's appendix APP 3.

mixed use with these other uses and that, instead, the residential use occupies a planning unit of its own. The breach of planning control in this case is best described as a material change of use to a residential use facilitated by the siting of a caravan and its use for residential accommodation. The land that is the subject of this breach of planning control (and, therefore, the planning unit in this case) is more accurately identified as that outlined in red on the Council's amended enforcement notice plan⁷. In view of these conclusions, the ground (b) appeal must succeed, despite a finding that is not in agreement with the appellant's.

18. Turning to whether the allegation and the land to which the notice relates can be corrected and varied in the manner set out above, the powers transferred to Inspectors in this regard⁸ can only be exercised where the correction or variation would not cause any injustice to either party. With this in mind, I note that the parties' evidence has centred on the residential use and the grounds of appeal respond to this use. The appellant has suggested that injustice would be caused as the correction would preclude his ground (c) appeal and his case that the residential use is an ancillary use. Notwithstanding that this contention is a ground (b) rather than ground (c) matter, his case in this regard has been considered above. I have been given no other reason to conclude that correcting and varying the notice would cause injustice to any party. As such, I intend to vary part 2 and correct part 3 of the notice in the manner set out above. I also intend to correct requirement 5(1) in the interests of consistency.

The ground (a) appeal, the deemed application for planning permission and the appeal against the refusal of planning permission

Main Issues

19. Appeal A has been made on ground (a), which includes a deemed planning application for the development that is the subject of the enforcement notice (once corrected as intended for the reasons set out earlier in this decision). Whilst the description of this development differs slightly to the description of development that is the subject of Appeal B, I am satisfied that these applications seek permission for the existing residential use. I have, therefore, considered the appeals together, but distinguish between the two where appropriate.
20. Having regard to the Council's reason for refusal of the planning application and the substantive reasons for issuing the enforcement notice, the main issue in this case is whether or not there is a sustained essential functional need for the development.

Reasons

21. The appeals before me seek permission for a residential use, yet I have not been provided with the suite of development plan policies that set out the Council's strategy for such development within Herefordshire. I am only told that the development is in the open countryside and have been referred to Policy RA3 (Herefordshire's Countryside) and Policy RA4 (Agricultural, forestry

⁷ Dated and received from the Council on 9 November 2021.

⁸ Under section 176(1)(a) and 176(1)(b) of the 1990 Act - to correct any defect, error or misdescription in the enforcement notice or to vary the terms of the enforcement notice.

and rural enterprise dwellings) of the Hereford Local Plan Core Strategy 2011-2031 Adopted October 2015 (HLPCS).

22. Other than these policies, it is suggested that the Council concedes that the development fully accords with the development plan. However, the appellant has only referred to policies RA3 and RA4, which are clearly exceptions policies. They set out circumstances where development would be permitted in locations that would not otherwise accord with the Council's strategy for development. The appellant has not pointed to any other policies of the development plan permits the development in this case. Accordingly, I can only conclude that there is agreement that, unless found to comply with policies RA3 and RA4, the development does not accord with the development plan.
23. Although not referred to in the decision notice or the enforcement notice, I have been provided with Policy RA3 of the HLPCS, which makes provision for residential development outside of settlements, provided it satisfies one or more of the criteria set out in the Policy. This includes where it would meet an agricultural or forestry need, or where it is necessary to establish or grow a rural enterprise. Policy RA4 sets out the circumstances where permission would be granted for such dwellings. This includes where it can be demonstrated that there is a sustained essential functional need, and that the dwelling forms an essential part of a financially sustainable business.
24. I have already noted the numerous activities on the NHF complex and those that operate from NHF, but do not necessarily take place within the complex. There is no dispute that these activities operate as part of a financially sustainable business at NHF. In dispute is whether there is a sustained essential functional need for the residential use on the complex. Paragraph 4.8.30 of the supporting text of Policy RA4 assists in identifying circumstances where such need is demonstrated, this includes that there is a functional need for the occupier of the accommodation to be present at the business for the majority of the time. For non-agricultural rural enterprises, paragraph 4.8.29 advises that it should 'be established that the business could not exist without close and continual supervision, for example where a worker is required day and night for supervision, inspection or emergency responses'.
25. The occupier of the caravan is described as a field manager who is solely responsible for the management, supervision and security of the on-site business activities. It is suggested that the duties require close attendance throughout the day, including early weekday mornings through to Saturday afternoons, which is beyond the opening hours of the office building. I acknowledged that the nature of the numerous activities at NHF means that these uses may operate at various times through the day and at weekends. However, it is not suggested that the field manager's presence is required or needed for the various activities to operate. Neither has it been suggested that any of the activities at NHF demonstrate a requirement for a night-time presence for them to operate. Rather, for the most part, the evidence points to the security role provided by the field manager for activities at NHF.
26. On this point, I note the suggestion in the report from the West Mercia Police⁹ that most acquisitive crime occurs in daylight hours and that many of the recommendations relate to making the on-site security measures more visible during the day. In this regard, I saw that the office accommodates a number

⁹ Appendix 7 of the appellant's case for Appeal B.

of staff and that, during my visit, other people were working in various other locations on the complex, in the workshop and in the vehicle cleansing area. Having regard to the nature of the activities undertaken at the complex, there is likely to be a presence on the site during the working week, in addition to the field manager.

27. As for night-time and weekends, some of the activities on site mean that, aside from the field manager, there may be an on site presence outside of the working day (the caravan site, for example). However, I acknowledge the suggestion from West Mercia Police that occupation of the caravan is an excellent deterrent, particularly for the security of the gun cartridge sales building. I cannot make the suggested link between the essential functional need for the development and the appellant's duty to ensure that all gun cartridge sales are to those with a shotgun certificate, in accordance with the Shotgun Safety Code of Practice (2017). However, I acknowledge the need for security and safety of this and the clay shooting operation.
28. In this regard, whilst I note the reference to an incident of burglary on the adjoining farmhouse, I have not been made aware of any similar incidents at NHF. Nevertheless, West Mercia Police point to a number of security measures that it recommends for NHF, which are not limited to the on-site accommodation subject of these appeals. I have not been given any reason to conclude that the other measures suggested could not be implemented and would not provide a sufficient level of security. I am also mindful of the advice within paragraph 4.8.29 of the HLPCS, that 'security is not of itself sufficient to justify a dwelling but it may be a contributing factor in association with others'.
29. I note that Appeal B seeks a temporary permission and that a period of 3 years is suggested. I have had regard to the Planning Practice Guidance on the Use of Planning Conditions (the PPG) and note the circumstances suggested where a temporary permission may be appropriate. Whilst the appellant has indicated his desire to expand activities at NHF, I have no substantiated evidence that the planning circumstances will change at the end of the 3 years, such that there is justification for the development. I also have no reason to consider a trial run would be needed; the effects of the development are already apparent. I have no other reason to conclude that a temporary permission is warranted in this case.
30. Having regard to all of the above, I cannot conclude that there is a sustained essential functional need for the development in this case, even for a temporary period. The development does not, therefore, comply with HLPCS policies RA3 and RA4. As a consequence, it fails to accord with the development plan as a whole. The approach of the strategy, to only permit such development in the countryside when there are exceptional circumstances, is supported by the Framework, in particular its promotion of sustainable transport (Chapter 9) and support for rural housing that enhances or maintains the vitality of rural communities and meets an identified local need (paragraphs 78 and 79 respectively).
31. Both the decision and enforcement notice mention Policy CH1 (Protecting and enhancing the rural landscape) of the Callow and Haywood Neighbourhood Development Plan 2011-2031 Dated September 2016. This policy relates to landscape and design principles. Whilst it refers to HLPCS policies RA3 and RA4, it provides design and landscape policy for development that is in line

with these strategic policies. I cannot, therefore, see the relevance of this policy to the main issue in this case, particularly having regard to my conclusions on policies RA3 and RA4.

Other Matters

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. For the reasons set out above, the development subject of these appeals is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
33. The appellant suggests that the Council is unable to demonstrate that it has a 5 year supply of housing land, as required by paragraph 68 of the Framework. This is not disputed by the Council. For this reason, the appellant suggests that provisions of paragraph 11 d) and footnote 7 are engaged.
34. Footnote 7 identifies the policies within the Framework that provide a clear reason for refusing the development (the policies on Green Belt, for example). There is no suggestion that any of these policies apply in this case. Footnote 8 identifies examples of where the policies which are most important for determining the application are out-of-date. For applications involving the provision of housing, it informs that paragraph 11 d) is engaged where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
35. Although the development in this case is not a house but a residential use facilitated by a caravan, I have been given no reason to conclude that footnote 8 does not apply. Furthermore, I have not been provided with any other policies of the development plan that are most important for determining the appeal, but would not be considered out of date by reason of the Council's housing land supply position. Accordingly, I can only conclude that paragraph 11 d) is engaged. I must, therefore, weigh the benefits of the development proposed against its adverse impacts, assessing these against the policies in the Framework.
36. The appellant points to a reduction in car movements to and from the site as the occupier of the caravan avoids the need to commute for work. Whilst this may be the case, the occupiers of the site still require access to everyday services and facilities. I have not been provided with information that leads me to conclude that such access can be gained by sustainable transport modes. Indeed, I note that the site is some distance from Hereford, and that access to this settlement is along a typical rural lane that is without a footway or lighting in parts. It is, therefore, likely that the occupiers of the site are reliant on less sustainable transport modes for access to everyday services and facilities, which is in conflict with the environmental objectives of the Framework.
37. I note the appellant's contention that the development underpins the continued and planned expansion of this rural enterprise; in this regard I do not dismiss the role performed by the field manager across the NHF complex. However, I have insufficient evidence to demonstrate that preventing him from living at

the site would either hinder the operation of activities on NHF, or prevent them from expanding, such that the development complies with the social and economic objectives of the Framework, as suggested by the appellant.

38. The development may increase site security, but this carries limited weight, particularly as the evidence does not demonstrate that other recommended security measures could not be implemented and would not provide a sufficient level of security.
39. The appellant contends that the development is 'a productive use of development land and a mobile unit', and that for this reason it accords with the Framework. My attention has not, however, been drawn to the relevant part of the Framework that supports this claim. Furthermore, whilst I do not have any substantiated evidence that the caravan was already on site, I do not see that its use to provide the accommodation in question is a benefit.
40. A single unit of accommodation makes only a small contribution to the supply of housing in Hereford, but it is not in a location that is encouraged by the Framework. As I have already noted, the evidence does not point to the development meeting an identified local need, or enhancing or maintaining the vitality of the rural community.
41. The harm caused by the development is to the Council's strategy within the development plan, which does not permit this development in this location. However, as paragraph 11 d) is engaged in this case, I must reduce the weight I attribute to the harm that results from conflict with the development plan. Notwithstanding this, I have found that the development fails to accord with the Framework. Whilst I acknowledge that there are some limited benefits to the development, on balance I conclude that the adverse impacts of this development significantly and demonstrably outweigh these when assessed against the policies in the Framework taken as a whole.
42. I have had regard to all other matters raised, including the letters of support for the development. None of these alter my conclusions above.

Planning Balance and Conclusion

43. The determination of these appeals must be in accordance with the development plan unless material considerations indicate otherwise. All things considered, I have no reason to conclude that my determination of these appeals should be made otherwise than in accordance with the development plan when read as a whole. Accordingly, I conclude that planning permission ought not to be granted and that ground (a) of Appeal A and Appeal B should fail.

Ground (f)

44. Having regard to the requirements of the notice, its purpose must be to remedy the breach of planning control that has occurred. Accordingly, for the appeal to succeed on this ground I must be satisfied that the steps required to comply with the notice exceed what is necessary to the identified breach.
45. The appellant has suggested that, if the appeals fail with regard to the residential use, the caravan could be put to an alternative use that is ancillary to the office use; that the removal of the caravan would serve no useful purpose.

46. The caravan provides the accommodation to facilitate the residential use. It is, therefore, part of the breach of planning control. As the purpose of the notice is to remedy the breach of planning control, the alternative steps proposed by the appellant would not achieve this purpose.
47. Elsewhere in the appellant's evidence it is suggested that the caravan was pre-existing and that it was within the application site for the use of the converted barn as an office¹⁰. The plan provided in the appellant's appendix 2B as relevant to this application does not, however, show the caravan. A 2019 aerial photograph provided by an interested party shows the unit in question, but I have not been told whether this was taken before or after the residential use commenced. As I have no other evidence to substantiate the appellant's claim, I can only conclude that the caravan is part and parcel of the breach of planning control in this case and only on site for that use.
48. Whilst I acknowledge that Appeal A has been made under ground (a) and that a deemed planning application has been considered, I am only able to consider the merits of the development that is stated in the enforcement notice (once it has been corrected as intended). The alternatives suggested by the appellant, such as the retention of the caravan for another purpose, or its storage on the site do not form part of the development that is the subject of the deemed application. I cannot, therefore, consider these alternatives, even under this ground of appeal.
49. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach of planning control in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the steps required in the notice are reasonable and proportionate. For these reasons, the appeal under ground (f) should fail.

Ground (g)

50. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of some 6 months for the cessation of the residential occupation of the caravan and then a period of 7 and 8 months respectively to remove the caravan and any material.
51. The appellant suggests that a 12 month period is needed to vacate the caravan in light of the Covid-19 pandemic and a period of 15 months for compliance with the remaining steps.
52. Whilst I acknowledge that the occupier of the caravan would need to find a home elsewhere, the appellant has not suggested that there is a particular problem with, or shortage of, suitable alternative accommodation, or that the restrictions that are now in place would limit the occupier's ability to move from the caravan. Similarly, I have been given no reason to conclude that the caravan could not be removed, along with the material, in the periods specified. Six months is a substantial time frame and not an unreasonable period for alternative accommodation to be found.
53. As the appellant has not provided any substantiated evidence to show that the requirements of the notice cannot be complied with within the periods given, I

¹⁰ Application reference 182130.

have no reason to conclude that the periods specified in the notice fall short of what should reasonably be allowed. For this reason, the ground (g) appeal should fail.

Overall Conclusions

54. For the reasons given above, I conclude that, save for my findings with regard to ground (b), Appeal A and Appeal B should not succeed. I shall uphold the enforcement notice with corrections and a variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision – Appeal A

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

- The deletion in part 3 of the words 'unauthorised material change of use of the Land from Class E office use to a mixed use for Class E office use and to site a caravan for a residential purpose' and their replacement with the words 'a material change of use of the Land to a residential use facilitated by the siting of a caravan and its use for residential accommodation'; and
- The deletion in part 5(1) of the word 'occupation' and its replacement with the word 'use'.

56. It is directed that the enforcement notice is varied by:

- The deletion in part 2 of the words 'in the approximate location marked 'x''; and
- The substitution of the plan attached to the notice with the plan dated 9 November 2021, a copy of which is attached at the end of this decision.

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

Formal Decision – Appeal B

58. The appeal is dismissed.

J Moss

INSPECTOR



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated:04/01/2022

by J Moss BSc (Hons) DipTP MRTPI

Land at: Land at New House Farm Barn, Grafton Lane, Grafton, Hereford HR2 8BL

Reference: APP/W1850/C/21/3269939

Not to scale

