



Appeal Decisions

Hearing held on 11 and 12 July 2023

Site visit made on 12 July 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24TH AUGUST 2023

Appeal A Ref: APP/C3620/C/22/3311636

The land known as Happy Acres, Russ Hill, Charlwood, HORLEY, RH6 0EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Leigh Phillips against an enforcement notice issued by Mole Valley District Council.
- The notice, labelled '(B)', was issued on 27 October 2022.
- The breach of planning control as alleged in the notice is: Without planning permission the erection of: 1. A sand school (marked 1 on the attached plan). 2. A stable building (marked 2 attached plan). 3. A kennel building (marked 3 on the attached plan). 4. A building (marked 4 on the attached plan). 5. An entrance gate, brick piers, brick walling and brick paved entrance way (marked 5 on the attached plan).
- The requirements of the notice are: I. Demolish and remove the sand school along with the metal king post and concrete retaining wall (marked 1 on the attached plan). II. Demolish the Stable building (marked 2 attached plan). III. Demolish the Kennel building (marked 3 on the attached plan). IV. Demolish the building (marked 4 on the attached plan). V. Reduce the height of the brick piers, brick walling and gate (marked 5 on the attached plan) to 1m in height so as to comply with Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. VI. Remove all resulting material and waste from the site following compliance with steps I, II, III, IV and V above.
- The period for compliance with the requirements is 9 months
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), and (g) of the Act. 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 Ref: APP/C3620/C/22/3311638

The land known as Happy Acres, Russ Hill, Charlwood, Horley RH6 0EL

- The appeal is made under section 174 of the Act. The appeal is made by Mr Leigh Phillips against an enforcement notice issued by Mole Valley District Council.
- The notice, labelled '(A)', was issued on 27 October 2022.
- The breach of planning control as alleged in the notice is: Without planning permission the erection of: a) An entrance gate, brick piers, brick walling, hard standing and brick paved entrance way. (marked A on the attached plan). b) The laying of hard standing (marked B and shaded in orange on the attached plan). c) The stationing of adjoined shipping containers adapted for office use (marked C on the attached plan). d) Metal King post and concrete panel walls forming an enclosure/compound, (marked D on the attached plan). e) A building, (marked E on the attached plan). f) Metal King post and concrete panel walls forming an enclosure/compound, marked F on the attached plan. g) The stationing of shipping containers, (marked G on the attached plan).
- The requirements of the notice are: I. Reduce the height of the brick piers, brick walling and gate (marked A on the attached plan) to 1m in height to comply with Schedule 2 Part 2 Class A of the Town and Country Planning General Permitted Development (England) Order 2015. II. Remove from the land the hard standing marked B on the attached plan. III. Remove from the land each of the adjoined shipping containers adapted for office use marked C on the attached plan. IV. Demolish the Metal King post, concrete panel enclosure/compound marked D on the attached plan. V. Demolish the

building marked E on the attached plan. VI. Demolish the metal king post and concrete panel enclosure/compound marked F on the attached plan. VII. Remove the three shipping containers marked G on the attached plan VIII. Remove all resulting material and waste from the site following compliance with steps I, II, III, IV, V, VI and VII above. IX. Restore the Land to its former condition prior to the breaches having taken place.

- The period for compliance with the requirements is 6 months
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), and (g) of the Act. 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.
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Summary of Decisions: The appeals succeed in part and permission for some of those parts is granted, but otherwise the appeals fail, and the enforcement notices are upheld as corrected and varied in the terms set out below in the Formal Decisions.

Application for Costs

1. The appellant withdrew their application for a partial award of costs against Mole Valley District Council at the end of the Hearing.

Preliminary Matters

2. The enforcement notices refer to different areas of land which form part of the property known as Happy Acres. They are identified by different plans attached to each notice. One of the enforcement notices is labelled '(A)' and the other is labelled '(B)'. Throughout this decision I shall refer to them as Notice A and Notice B according to those labels. The appeal against Notice B was lodged before the appeal against Notice A, and for this reason all appeal correspondence relating to Appeal A refers to Notice B and all appeal correspondence relating to Appeal B refers to Notice A. This is unfortunate, but I shall not change these labels to avoid making matters any more confusing.
3. Notice A refers to 7 alleged breaches of planning control labelled 'a' to 'g'; Notice B refers to 5 alleged breaches of planning control labelled '1' to '5'. I shall refer to these as Alleged Breaches A to G and 1 to 5 respectively.
4. Alleged Breach 1 is a sand school. Alleged Breach 2 is a stable building. Alleged Breach 3 is a kennel building. Alleged Breach 4 is an outbuilding erected to the south-west of the dwelling. Alleged Breach 5 is an entrance gate, brick piers, brick walling, and a brick paved entrance way in front of the dwelling. Alleged Breach A is an entrance gate, brick piers, brick walling, and a small area of hardstanding on a different part of Happy Acres, away from the dwelling to the north-east. Alleged Breach B is a large area of hardstanding. Alleged Breach C is adjoined shipping containers adapted for office use. Alleged Breach D is a metal king post and concrete panel walls forming an enclosure/compound described by the appellant as a muck pile. Alleged Breach E is a barn. Alleged Breach F is a metal king post and concrete panel walls forming an enclosure/compound described by the appellant as a turn out area to corral animals.

The Notices

5. Section 176(1) of the Act allows me to correct any defect, error or misdescription in the notices, or to vary the terms of the notices if I am satisfied that doing so will not cause injustice to any parties. There are errors in both of the notices, but they do not prevent any recipient of the notices from

- knowing what the alleged breaches of planning control are or what they are required to do to comply with the notices with reasonable certainty.
6. Each notice refers to development marked by letters and numbers on attached plans. The alleged breaches of planning control (with the exception of Alleged Breach B) are actually identified by approximate areas edged red which are labelled by the relevant numbers and letters on an attached aerial photograph. I shall correct the allegation in each notice accordingly. I shall correct the allegation in Notice A with regard to Alleged Breach B, so that it refers to the area shaded orange on the attached aerial photograph only. This would not cause injustice to any parties.
 7. The storage containers comprising Alleged Breach G have been removed from the land. The Council invited me to delete reference to this within Notice A. Doing so would not cause injustice to any parties.
 8. The alleged breaches in both notices are preceded by the text 'without planning permission the erection of...'. Hardstanding and a brick paved entranceway referred to in both notices have not been erected, and I shall therefore correct these parts of the notices to clarify that they relate to 'the construction of' each alleged breach.
 9. Notice A includes unnecessary text referring to Alleged Breach B as 'the laying of' hardstanding and Alleged Breach C as 'the stationing of' shipping containers. I shall delete the unnecessary text in both cases without causing injustice to any parties, in the interests of clarity.
 10. Alleged Breach C does not specify the number of shipping containers that it relates to. The red line labelled C on the attached aerial photograph only appears to cover the area where 2 shipping containers are located. Notice A does not state that the shipping containers that comprise Alleged Breach C are restricted to any particular number or area, but it refers to them being adjoined. As will be explained further below, there are 4 adjoined shipping containers in a row. I shall correct Notice A so that Alleged Breach C refers to 4 adjoined shipping containers in the approximate area edged in red and labelled C on the attached aerial photograph. This would not cause injustice to the appellant as it would simply clarify the number of shipping containers comprising the alleged breach, rather than increase the number of shipping containers the subject of the notice. It would not widen the scope of the notice.
 11. Alleged Breach A includes reference to a brick paved entrance way which does not exist on the land the subject of Notice A. I shall correct Notice A to remove reference to this, which will not cause injustice to any parties.
 12. Step I of Notice A and Step V of Notice B require the heights of brick piers, brick walling and gates to be reduced to 1 metre in height 'to comply with' Class A, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). It would be appropriate to vary these steps to allow either the demolition of the piers, walls and gates, or their reduction in height to no more than the maximum height specified in the GPDO, rather than to 1 metre in height specifically. This would not cause injustice to any parties.
 13. The final Step of Notice A requires the land to be restored to its former condition. There is no such requirement in Notice B and the Council confirmed

this was unintentional. This is an obvious error in Notice B, which I shall correct by inserting an additional step requiring the land the subject of that notice to be restored to its condition before the alleged breaches took place. This would not broaden the scope of the notice, which is set by the alleged breaches, even though doing so would be within my powers under section 176(1) of the Act. This variation of Notice B would not cause injustice to the appellant, as it would merely require the alleged breaches of planning control to be remedied, as is the purpose of the notice, consistent with section 173(4)(a) of the Act.

14. The Council suggested that all of the alleged breaches comprised a single act of development, which was unacceptable on account of the cumulative impact of that development, with regard to the main issues in the ground (a) appeals and the deemed applications for planning permission. For reasons I shall cover below, I do not consider that all of the alleged breaches comprised a single act of development. Each of the alleged breaches comprises an individual act of development, even if some were carried out at the same or similar times, and even if they are related to each other in various ways.
15. It appears that earthworks have taken place and other areas of hardstanding have been constructed across the land associated with Happy Acres, but these have not been referred to by either of the notices. This does not mean that those earthworks and other areas of hardstanding are now authorised under the provisions of section 173(11) of the Act because the notices are not in respect of all of those works. Although some of the alleged breaches may have been partially facilitated by those works, as they are not the subject of either notice it would cause injustice to the appellant to widen the scope of the notices to include reference to them. The lack of references to the earthworks and other areas of hardstanding within the notices does not leave any recipient unclear as to what they are required to do to comply with the notices.

Appeal B - Ground (b)

16. This ground of appeal relates only to Alleged Breach C. To succeed under this ground of appeal the appellant would need to demonstrate, on the balance of probability, that the alleged breach of planning control has not occurred. It is claimed that the shipping containers are a use of land rather than operational development and that Notice A is a nullity in this regard.
17. The containers were moved into the centre of the appeal site in March 2020 by an articulated crane lorry. Adaptations were made to them, including the installation of insulation, flooring and windows and doors, before they were then moved by another articulated crane lorry, approximately 1 year later, into their current positions. The appellant describes them as abutting each other, rather than being adjoined; however, I saw they were adjoined to one-another by water, waste and electricity connections during my site visit.
18. Regardless of whether the containers are operational development or have brought about a material change of use of the land, they exist, and Alleged Breach C has occurred.
19. The appeal under ground (b) must therefore fail.

Appeals A and B - Ground (c)

20. This ground of appeal relates only to Alleged Breaches 3, 4, 5, A, C, D, E, and F. To succeed under this ground of appeal the appellant would need to

demonstrate, on the balance of probability, that the alleged breaches of planning control are not in breach of planning control.

Appeal A

Alleged Breach 3

21. The kennel building is a single storey construction with timber clad walls and slate dual pitched roof. It comprises 5 kennels with caged doors on its front elevation, each with their own sleeping compartment at the rear. Its rear wall is cut into the land, alongside a boundary wall running the length of what is claimed to be the south-western extent of the curtilage of the dwelling. The appellant claims its rear elevation marks the edge of the curtilage of the dwelling and that the kennel building was authorised by Article 3 and Class E, Part 1 of Schedule 2 of the GPDO when it was erected.
22. Class E authorises the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse subject to limitations. The Council accepts that the building is required for a purpose incidental to the enjoyment of the dwellinghouse and there is no suggestion that it does not comply with the limitations set out at Paragraph E.1(a) to (d) and (f) to (k) of Class E. I see no reason to conclude otherwise on these matters. The issues in dispute are whether the kennel building is located wholly within the curtilage of the dwelling and whether its height complies with the limitations set out at Paragraph E.1(e).
23. Historic aerial photographs show a line of what were described as conifer trees previously arranged in a row to the south-west of the dwelling. Land to the south-west of the conifer trees appears to have formed part of agricultural land. It is claimed they marked the edge of the curtilage of the dwelling and that the kennel building has been erected in a position within the outer-most edge of the branches of those trees. It is claimed that as the land underneath the branches of the conifer trees would not have been in agricultural use due to it being shaded, it would be appropriate to take the outer-most edge of those trees as the boundary of the curtilage of the dwelling. All of those conifer trees have been removed.
24. Aside from a few historic photographs, there is limited evidence as to the extent of the curtilage of the dwelling when the kennel building was erected. On their own, the positions of historic treelines partially enclosing the dwelling are not determinative on the matter. What have been referred to as former agricultural buildings lie either side of the position of the historic conifer treeline. Historic photographs show areas of long, unkempt grass alongside areas of neatly mown grass to the north-east of the conifer treeline. The dwelling is a modestly sized bungalow which is unlikely to be intimately associated with the full extent of the land to the north-east of the position of the historic row of conifer trees.
25. On the limited evidence available, it would appear that at least part of the land to the north-east of the position of the historic conifer treeline would have been intimately associated with the dwelling so as to have formed part and parcel of the building. I am therefore satisfied that the conifer treeline historically formed at least part of the south-western boundary of the curtilage of the dwelling. Land to the south-west of that conifer treeline would have been outside the curtilage.

26. Figure 1 of the Council's appeal statement purports to show a 2011 aerial photograph of part of Happy Acres with an overlay of Ordnance Survey (OS) mapping data marking the edges of buildings and boundaries. It is clear that this aerial photograph was taken before the alleged breaches of planning control commenced. It shows the former layout of the appeal site, including various buildings, trees, and garden areas. What has been referred to as a former agricultural building is shown located to the south-west of the historic conifer treeline.
27. Figure 1 shows a measurement taken by the Council between that former agricultural building and the historic conifer treeline. The Council has relied on the OS data overlay for this measurement, which shows that building was 16.884 metres to the south-west of the historic conifer treeline.
28. A similar exercise has been undertaken in Figure 2 of the Council's statement, where a measurement has been taken between the same building and a boundary wall which currently exists in line with the rear wall of the kennel building. That measurement is shown to be 12.119 metres. The Council claims this shows the kennel building has been erected approximately 4.7 metres outside the position of the historic conifer treeline.
29. It was pointed out that the OS data is not entirely accurate, with overlays in Figure 2 on the opposite side of the road, at a property annotated 'Sunny View', not correlating accurately with building footprints. There are limits to the accuracy of the OS data referred to by the Council, but the measurement provided in Figure 1 appears to closely relate to the historic conifer treeline and the former agricultural building. Likewise, in Figure 2, the measurement provided appears to closely relate to the boundary wall consistent with the rear wall of the kennel building and the former agricultural building.
30. The former agricultural building outside the curtilage has not moved, but the distance between it and the boundary wall currently in situ, as shown in Figure 2, appears to be somewhat shorter than the distance between the same building and the historic conifer treeline in Figure 1. The variance in distance may not be as great as 4.7 metres, but the boundary wall and kennel building certainly appear to have been erected in positions closer to the former agricultural building than the position of the historic conifer treeline. This would remain the case if I was to take the edge of the curtilage from the outer-most edge of the historic conifer treeline.
31. The onus is on the appellant to demonstrate, on the balance of probabilities, that the kennel building has been erected within the curtilage of the dwelling. Little evidence has been submitted to support the appellant's view that the rear wall of the kennel building marks the boundary of the curtilage of the dwelling. On the evidence presented, I consider it more likely than not that at least part of the kennel building has been erected outside the curtilage of the dwelling.
32. Even if the rear wall of the kennel building and boundary wall mark the edge of the curtilage of the dwelling, the height of the building would be limited to 2.5 metres by Paragraph E.1(e)(ii). The height measurements agreed by the main parties during the site visit were 2.3 metres to its front eaves and 3.6 metres to its ridge, taken from the excavated land level adjacent to the building. A measurement of 1.35 metres to its rear eaves was provided from what the appellant claimed was the original adjacent land level. I am therefore unconvinced that Paragraph E.1(e)(ii) would be complied with, in any case.

33. The kennel building constitutes development which requires planning permission, and it has not been demonstrated on the balance of probabilities that planning permission exists for that development. It is therefore in breach of planning control.

Alleged Breach 4

34. The outbuilding located to the south-west of the dwelling is unfinished, but it comprises 2 rooms at ground level with significant space within its roof. It has a dual-pitched roof of an odd design, with a flat section between pitches either side. It is intended for one half of the building to be used for the parking of horse-drawn carriages and domestic vehicles and for the other half to be used as a snooker/play room. It is claimed to comprise 'permitted development' authorised by Article 3 and Class E, Part 1 of Schedule 2 of the GPDO.
35. The outbuilding is substantial in size. It appears comparable in volume to the dwelling. It is of such significant size that it could not reasonably be used for purposes incidental to the enjoyment of that dwelling, which is a modestly proportioned bungalow. This remains the case, even when taking the space demands of the appellant's carriage driving hobby into account.
36. The appellant constructed the outbuilding having been advised of the provisions of Class E and therefore sought to take care to limit its height to no more than 4 metres and to position it no less than 2 metres from the boundary of the curtilage of the dwelling. However, as set out above, I am unconvinced that the boundary wall, which the outbuilding is 2 metres from, marks the position of the curtilage of the dwelling.
37. The main parties agreed during the site visit that the outbuilding has a maximum height of 4.1 metres. That measurement was taken from a point which was claimed to be consistent with the original ground level. I find that difficult to accept as it was a significant height above the land level directly adjacent to the outbuilding. The building has a height in excess of 4.1 metres above the adjacent ground level. As it measures over 4 metres in height, it does not accord with Paragraph E.1(e)(i) of Class E.
38. The main parties also agreed that it was a single storey building, as there was no internal access to the roof space, which was not served by any windows. However, the roof space provides a large and tall area which is physically separated from the ground floor by an intervening ceiling and could easily provide usable floorspace. It has the appearance of a 2-storey building on account of its substantial roofspace and the odd design of its roof and gables. The outbuilding cannot reasonably be described as a single storey building. It is a 2-storey building, which fails to accord with Paragraph E.1(d) of Class E.
39. The outbuilding constitutes development which requires planning permission, and it has not been demonstrated on the balance of probabilities that planning permission exists for that development. It is therefore in breach of planning control.

Alleged Breach 5

40. The entrance gate, brick piers, brick walls, and brick paved entranceway in Notice B comprise a single building operation at the entrance to the driveway serving the dwelling. The walls curve into the appeal site, away from the road. It is claimed that the gate, piers, and walls benefit from being 'permitted

development' under the provisions of Article 3 and Class A, Part 2 of Schedule 2 of the GPDO. No arguments have been presented in respect of the brick paved entranceway.

41. Class A authorises the erection of gates and walls, including piers, adjacent to a highway used by vehicular traffic where they do not exceed 1 metre above ground level, or 2 metres above ground level in any other case. The main parties agree that the gate, piers, and walls exceed 1 metre above ground level, but the appellant claims they are not adjacent to the highway, which is used by vehicular traffic.
42. There is no clarification in relevant legislation as to what 'adjacent' means. It is a matter of fact and degree to be assessed in individual cases as to whether a means of enclosure is adjacent to a highway used by vehicular traffic or not.
43. The layout of the gate, piers and walls is such that they measure a minimum of 2.4 metres and a maximum of 6.9 metres from the edge of the highway. They are clearly seen from the road and are separated from it by granite setts and shingle areas. They have a very close relationship to the highway, providing a small amount of space for a vehicle to pull off into before entering the drive behind the gate.
44. They are seen and experienced as development adjacent to the highway. As they exceed 1 metre in height, even when measured from the raised land levels either side which are claimed to mark the original land levels, they do not comprise 'permitted development'.
45. The Council has granted planning permission MO/2022/0890 for development described as 'demolition of existing bungalow and erection of a replacement part single, part two storey detached dwelling, to include new driveway'. Condition 2 of that planning permission requires the development to be carried out and completed in accordance with a list of plan numbers. None of those plans refer to or show the gate, piers, walls, or brick paved entranceway.
46. I have been referred to Drawing No. 009 Revision No. 02 dated 13 September 2022¹, which is a proposed site location plan showing the gate, piers and wall in minimal detail, but this is not listed in condition 2. Furthermore, as these features are not mentioned in the description of the development approved, the evidence does not indicate any part of Alleged Breach 5 is authorised by planning permission MO/2022/0890.
47. I have been referred to a decision made by another Inspector² relating to a fence erected outside the curtilage of a listed building, which was found to be 'permitted development'. On the limited information presented, there appear to be significant differences between that case and Alleged Breach 5. I have only been provided with very brief details of that decision which do not convince me Alleged Breach 5 accords with the provisions of Class A.
48. The entrance gate, brick piers, brick walls, and brick paved entranceway constitute development which requires planning permission, and it has not been demonstrated on the balance of probabilities that planning permission exists for that development. They are therefore in breach of planning control.

¹ The appellant's Appendix 9

² 'Stroud 27/7/2010 DCS No 100-068-273'

Appeal B

Alleged Breach A

49. The entrance gate, brick piers, and brick walls in Notice A comprise a single building operation behind a pre-existing entrance point to what was an open field to the north-east of the dwelling. The walls have been constructed in an 'L' shape, with a short arm projecting towards the highway. It is claimed that the gate, piers, and walls benefit from being 'permitted development' under the provisions of Article 3 and Class A, Part 2 of Schedule 2 of the GPDO, for the same reasons referred to above in respect of Alleged Breach 5. No arguments have been presented in respect of the hardstanding.
50. The gate, piers, and walls form a barrier between the highway and what has been referred to as an agricultural yard. An area of hardstanding between the highway and the gate, piers, and walls is skirted by split-rail fencing and some recent planting. The main parties agreed that the gate, piers, and walls are a minimum of 5.5 metres and a maximum of 12.3 metres from the edge of the highway, which is used by vehicular traffic.
51. The gate, piers, and walls are visually prominent in views from the highway, despite being separated from the road by an area of hardstanding which is used for the parking of vehicles. That hardstanding also provides waiting and turning space for large vehicles, including tractors, lorries, horseboxes, and trailers when entering and exiting the appeal site.
52. I have been provided with limited evidence to support the appellant's claim that the gate, piers and walls are permitted development. Although they have been erected some way behind where a hedge and 5-bar gates previously existed, those features have been removed as part of the works. The split-rail fencing and planting which is now between the alleged breach and the road are low-level insignificant features.
53. The gate, piers, and walls have a close relationship with the highway and create a waiting/turning space for vehicles entering this part of Happy Acres from the road. They are seen and experienced as adjacent to the highway following the removal of pre-existing hedging and gates which formed part of those works. The intervening planting and split-rail fencing do not prevent the alleged breach from being adjacent to the highway. Based on everything I have read and seen, I consider the gate, piers, and walls are adjacent to a highway used by vehicular traffic. As they exceed 1 metre in height they do not comprise 'permitted development'.
54. The entrance gate, brick piers, brick walls, and hardstanding constitute development which requires planning permission, and it has not been demonstrated on the balance of probabilities that planning permission exists for that development. They are therefore in breach of planning control.

Alleged Breach C

55. As explained in my reasoning relating to the appeal under ground (b), the shipping containers are adjoined together and were moved into their current positions at some point in 2022, having been physically altered internally and externally on-site. They are served by water and electricity connections.

56. The appellant explained that initially, the containers comprised office and leisure/welfare space for people carrying out building works at Happy Acres during the COVID-19 pandemic. This allowed up to 50 contractors to work at the same time and form 'safe bubbles'. More recently, they have been used as storage space, by a business, as a farm office, and to provide kitchen and bathroom facilities for a farmhand and visiting veterinarians³. One of the containers measures 30 feet in length and the other 3 measure 40 feet in length. While the 2 containers that provide office, kitchen, and bathroom facilities are intended to be retained, the other 2 shipping containers are currently up for sale. One of those is empty and the other is used for storage.
57. Section 57 of the Act states that planning permission is required for the carrying out of any development of land, subject to provisions set out therein. Section 55(1) of the Act provides the meaning of 'development' which includes the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change of use of any buildings or other land.
58. Section 336 of the Act provides the definition of 'building' as including any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. Caselaw⁴ has identified 3 primary factors as decisive of what is a building, for the purposes of section 55 of the Act: size, permanence, and physical attachment.
59. In this particular case, all of the containers are of substantial size, necessitating a crane lorry to be moved into position before and after various internal and external physical alterations were made to them. Two of them have remained unmoved for approximately 2 years and there is no known period for when they may be moved. They rest on top of blocks, at least some of which appear to have been set in concrete, under their own significant weight and appear to be connected to one another by electrical wiring, trunking, and water and waste pipes. Overall, they are significant features in the landscape and have resulted in a physical change in the characteristics of the land. They act as buildings, which is obvious from their external appearance. It is therefore not the case that the shipping containers are being stored on the land.
60. Taking the relevant caselaw into account, the containers are of sufficient size, have sufficient degrees of permanence, and have the necessary physical attachment to the land as to comprise buildings for the purposes of the Act. Their sitting on the land has comprised building operations, or 'operational development', requiring planning permission. As no planning permission exists for that development, the containers are in breach of planning control.
61. I have been referred to an appeal decision⁵ relating to 'storage/shipping containers' at a different site. In that case, another Inspector found that those containers did not comprise operational development and that the enforcement notice in that appeal was defective. I have not been provided with the full details of those containers, but the decision refers to different circumstances compared to those in this case. The differences between the permanence, form, and physical attachment of those unaltered containers compared to the

³ Associated with animals kept at the appeal sites, including 15 goats, 4 horses, 1 pony, 1 dog, and 6 chickens

⁴ Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd [1949] 1QB 385, Skerritts of Nottingham Ltd v SSETR (No.2) [2000] 2 PLR 102

⁵ APP/C5690/C/21/3275173

altered containers at Happy Acres do not lead me to the same conclusions in this particular case as that other Inspector in a different case.

Alleged Breach D

62. Metal king post and concrete panel walls have been erected to create an enclosed muck store. It has been erected alongside other development. The Council has claimed that the other development, notably hardstanding, is interlinked with the metal king post and concrete panel walls and that they were all carried out as a single building operation. There is little evidence to support this view and photographs show the post and concrete panel walls in place before much of the surrounding hardstanding was carried out.
63. It appears unlikely that the erection of the muck store was entirely reliant on the hardstanding or otherwise intrinsically linked with the other breaches alleged in Notice A and Notice B. It is associated with other alleged breaches relating to the keeping of animals, but they are not physically related or entirely dependent on each other. The muck store appears to have followed substantial earthworks across the appeal sites, but those have not been referred to in the notices. It is therefore appropriate to assess the muck store as a single act of development for the purposes of the appeal under ground (c).
64. The posts and walls create a means of enclosure which is not adjacent to a highway used by vehicular traffic. The main parties agree that the walls do not exceed 2 metres in height. As it does not exceed 2 metres above ground level it comprises development permitted by Article 3 and Class A, Part 2 of Schedule 2 of the GPDO. Alleged Breach D is not in breach of planning control.

Alleged Breach E

65. The appellant's planning agent confirmed during the Hearing that the barn requires planning permission. I see no reason to disagree. It is a substantial building for which planning permission was previously sought in advance of its construction. It comprises development which requires planning permission and as no planning permission exists it is in breach of planning control.

Alleged Breach F

66. Metal king post and concrete panel walls have been erected at a low height to create an enclosure used for the holding of animals. As with Alleged Breach D, it was a single act of development following the levelling of a wider area of land. It is a means of enclosure erected in accordance with Class A, Part 2 of Schedule 2 of the GPDO. Alleged Breach F is not in breach of planning control.

Conclusion on Ground (c)

Appeal A

67. Alleged Breaches 3, 4, and 5 comprise development which requires planning permission. As that development does not benefit from any form of planning permission, it is in breach of planning control.
68. The ground (c) appeal must therefore fail.

Appeal B

69. Alleged Breaches A, C, and E comprise development which requires planning permission. As that development does not benefit from any form of planning permission, it is in breach of planning control.
70. Alleged Breaches D and F comprise development which benefits from planning permission granted by Article 3 and Class A, Part 2 of Schedule 2 of the GPDO and are not in breach of planning control.
71. The ground (c) appeal therefore succeeds in part, insofar as it relates to the metal king post and concrete panel walls forming enclosures/compounds. There is no need for me to consider the ground (a) appeal in those regards. The ground (c) appeal fails in all other respects.

Appeals A and B - Ground (a) and the deemed application for planning permission

72. The notices do not require the removal of the brick paved entranceway and hardstanding forming parts of Alleged Breaches 5 and A. The Council confirmed this was intentional. Unconditional planning permission shall therefore be treated as having been granted for those parts of Alleged Breaches 5 and A in accordance with section 173(11) of the Act.
73. The ground (a) appeal therefore relates to the sand school, stable building, kennel building, outbuilding, gates, piers, walls, hardstanding, and barn forming Alleged Breaches 1 to 5 and A, B, and E. Taking all matters raised into account, the main issues relevant to the ground (a) appeals and the deemed applications for planning permission are:
- Whether the breaches of planning control are inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - If any of the breaches of planning control are inappropriate development, their effect on the openness of the Green Belt;
 - The effect of the breaches of planning control on the character and appearance of the area;
 - The effect of the breaches of planning control on biodiversity, including protected species, with particular regard to great crested newts and reptiles; and
 - If any of the breaches of planning control are inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Whether Inappropriate

74. Happy Acres comprises a large parcel of land made up of sloping fields which wrap around the dwelling and its curtilage. All of this land is located within the Green Belt. The third criterion of Policy CS 1 of the Mole Valley Core Strategy (2009) (CS) states that development should be considered in light of the

provisions of former Planning Policy Guidance 2. This provided the Government's planning guidance in respect of Green Belts prior to the publication of the Framework. This part of Policy CS 1 is therefore consistent with the Framework and I assign it substantial weight.

75. The 5 purposes Green Belts serve are set out at paragraph 138 of the Framework and include assisting in safeguarding the countryside from encroachment. Paragraphs 147 and 148 advise that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
76. Paragraph 149 advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions include buildings for agriculture and the provision of appropriate facilities for outdoor sport/recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 150 adds that engineering operations are also not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
77. The sand school includes fencing and a retaining wall which enclose it, and therefore constitutes a building⁶. The Council is of the opinion that the sand school and stables comprise appropriate facilities for outdoor sport/recreation, preserve the openness of the Green Belt, and do not conflict with the purposes of including land within it. They appear to be similar in size to other examples granted planning permission by the Council in the local area⁷, cut into the sloping site, close to the dwelling, and form minor features in the landscape. I therefore see no reason to form a different view on this matter.
78. The kennel building, outbuilding, gates, piers, and walls do not fall within any of the descriptions set out at paragraphs 149 and 150 of the Framework. The kennel building is not a building for agriculture, even if it is currently used by a working dog and if it may be used in future by 3 additional working dogs. This is because the appellant was clear in stating the purpose of the kennels was to house dogs in a manner which was incidental to the enjoyment of the dwelling. The gates, piers, and walls do not comprise engineering operations as they fall within the definition of a building.
79. The hardstanding referred to as Alleged Breach B comprises road planings to what was described as an approximate depth of 8 inches and covers what is claimed to be the minimum area necessary to ensure safe manoeuvring of vehicles and animals associated with agricultural and equestrian activities. Although it covers a large area, the hardstanding preserves the openness of the Green Belt in a spatial and a visual sense on account of its low profile and its low-intensity use in association with typical countryside activities. It represents a small spread of development in the rural landscape, but its association with the movement of agricultural and equestrian vehicles and animals means it does not conflict with the purposes served by the Green Belt, including safeguarding the countryside from encroachment. The hardstanding falls within the exception to inappropriate development provided at paragraph 150(b) of the Framework.

⁶ Applying the definition provided at section 336 of the Act

⁷ The Council's refs: MO/91/0569, MO/2001/0979, MO/2004/0577, MO/2007/1041

80. The main parties both describe Alleged Breach E as an agricultural building. It is used for the storage of machinery to harvest hay from land at Happy Acres and elsewhere, and to store hay and straw for horses, a pony, and goats kept at Happy Acres. Although it is used for the storage of hay for equestrian purposes, its primary function in the context of paragraph 149(a) of the Framework appears to be for agricultural purposes associated with hay and straw making and storage. I am therefore satisfied that Alleged Breach E is a building for agriculture and is not inappropriate development in the Green Belt.
81. To summarise on the first main issue, the sand school, stable building, hardstanding and barn are not inappropriate development in the Green Belt; The kennel building, outbuilding, gates, piers, and walls are inappropriate development in the Green Belt. There is no need for me to assess the impact of the sand school, stable building, hardstanding, and barn on the openness of the Green Belt as they are not inappropriate development in the Green Belt.

Openness

82. Paragraph 137 of the Framework states: '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'. Openness is an essential characteristic of the Green Belt, which has spatial and visual aspects.
83. The kennel building has the form and appearance of a modest domestic outbuilding. It is large for a kennel building, but not unreasonably large to house up to 4 dogs and have space for an isolation pen in this rural area. Being cut into the slope of this part of the appeal site, directly alongside the stable building, its pitched roof is a minor feature in views from across the fields to the south. It forms part of a row of buildings with the stables, but this is seen in the context of a domestic/equestrian setting in views from the north and east. It therefore has a very low adverse impact upon the openness of the Green Belt in a visual and a spatial sense.
84. The outbuilding to the side of the dwelling is seen and experienced as a substantial building of significant height from within and outside the appeal site. Views from outside Happy Acres are limited by boundary planting and changes in land levels, but in all available views it is a large, clearly noticeable domestic feature which detracts from the open surroundings and low-scale dwelling and nearby structures. It has a significant adverse impact on the openness of the Green Belt visually and spatially.
85. The gates, piers, and walls have replaced small sections of hedgerow and are lower in height than the adjacent planting that remains to form the boundary between Happy Acres and the road. Their overall impact on the openness of the Green Belt is limited on account of them being seen in the context of the road and nearby dwellings. In a visual and a spatial sense, they have a low adverse impact on the openness of the Green Belt.

Character and Appearance

86. Happy Acres is a large plot of land in the open countryside bounded by trees and hedging. Land levels rise gently to the south-west, leading up to the top of Russ Hill. The area is sparsely developed by a mix of mainly residential and agricultural buildings, typical for its rural setting.

87. Photographs taken before the development took place show the land at Happy Acres was largely undeveloped, save for the dwelling and a few nearby small domestic and/or agricultural buildings. A considerable change in the character and appearance of the land since has been brought about by the scale of development, especially the outbuilding, barn, gates, piers, and walls.
88. The gates, piers, and walls have replaced modest gates opening onto the rural highway. They are distinct urban features along the road, and although they reflect the style and materials of other boundary treatment further up Russ Hill, they contribute to the further erosion of the pleasant undeveloped characteristics of the country road. Tall brick boundary treatment is not a notable or attractive feature of Russ Hill and the other examples I have been referred to are similarly harmful to the character and appearance of the area. Those other examples do not set the tone for the area or otherwise define the character and appearance of the area.
89. The barn has the appearance of a large utilitarian structure, as is often the case with modern agricultural buildings. Although its use is not clearly appreciable from the wider area, it is the sort of development normally found in the countryside when used for agricultural purposes. An agricultural use requiring a building of such size in this location would justify its appearance, where it has been sited close to the highway in the corner of open fields.
90. The outbuilding is an odd feature in all available views on account of its roof design and excessive scale in comparison to other domestic buildings. Even when seen from higher land levels to the south-west, where part of its ground floor is below the run of the sloping land, it is a disruptive feature which dominates other buildings, including the dwelling. It has a significant harmful urbanising impact on the rural character and appearance of the area.
91. The sand school, stable building, and kennel building are more modest features in the landscape. The stable and kennel buildings are large single storey buildings, but they have been cut into the sloping site. The sand school has also been cut into the land, relying on a retaining wall along its south-eastern elevation. All that can be seen of the kennels, stables and sand school in long views from the south and west are the building's slate pitched roofs and post and rail fencing surrounding the sand school. As equestrian facilities and kennels close to the dwelling, albeit outside the curtilage of the dwelling, they are typical features for the countryside landscape. The stables and sand school appear to be comparable in scale to the other local examples authorised by the Council referred to above.
92. The impact of the hardstanding on the character and appearance of the area is limited to some extent by the adjacent gate, piers, walls, shipping containers, and barn, which are far more obvious forms of development at this end of Happy Acres. The hardstanding is claimed to be necessary to allow the area to function as an agricultural/equestrian yard, which requires sufficient space for large vehicles and horse-drawn carriages to manoeuvre in an area which is prone to water-logging. It appears excessive for those purposes, extending beyond vehicle/animal movement areas in front of the barn and right up to the shipping containers. This is appreciable from few viewpoints outside the appeal site on account of boundary treatment, although vehicles using the hardstanding are a more visible impact.

93. A public footpath runs along the south-eastern boundary of the fields which form part of Happy Acres. That footpath is at a lower land level and behind thick boundary planting. Views of development at Happy Acres from the footpath are largely restricted. Even in those restricted views, the outbuilding and the barn are seen as prominent buildings in glimpses through gaps in boundary planting across the sloping landscape.
94. The gates, piers, walls, outbuilding, and hardstanding therefore harm the character and appearance of the area. The level of harm caused by the gates, piers, walls, and outbuilding individually is significant, as they are all highly noticeable uncharacteristic urban forms of development which degrade the formerly pleasant undeveloped nature of this part of the countryside. The level of harm caused by the hardstanding is low, as part of it is necessary for the movement of vehicles and animals associated with agricultural and equestrian activities which are expected activities in this countryside location.
95. Planting around all of the development could soften its appearance, and a limited amount of planting has already been provided in front of the gate, piers, and walls referred to by Notice A. I am confident that acceptable planting schemes could be put forward in respect of the gate, piers, walls and hardstanding in Notice A to overcome their adverse impacts on the character and appearance of the area. This would be possible on account of the large space between them and the highway, even if some areas of hardstanding and existing planting would need to be removed. Details of such a scheme could be secured by a condition.
96. The same cannot be said for the gate, piers and walls next to the house, in Notice B, due to the lack of space between them and the highway. Planting elsewhere would not sufficiently mitigate the harm the outbuilding causes to the character and appearance of the area on account of its substantial size and positioning close to the highway.
97. The outbuilding, gate, piers, and walls in Notice B are therefore contrary to Policy CS 14 of the CS and Saved Policies ENV4, ENV22, ENV23, and ENV25 of the Mole Valley Local Plan (2000) (LP). These require, amongst other matters, the scale and design of development to be suitable for its setting, which should conserve and not detract from the character of the local landscape in rural areas. The outbuilding is also contrary to Saved Policy RUD9 of the LP, which states planning permission will normally be granted for garages and other ancillary domestic buildings in the countryside provided they are not excessive in size and do not constitute a dominant feature, amongst other matters.
98. For the reasons set out above, the gate, piers, walls, and hardstanding in Notice A, and the sand school, stable building and kennel building in Notice B accord with the above policies on account of their design and scale being appropriate for their functions and locations, subject to conditions relating to planting and external lighting. The sand school and stable building also accord with Saved Policy REC14 of the LP, which states planning permission will be granted for non-commercial horse related development adjacent to the curtilage of a dwelling provided it is small scale and its location, scale and materials are in keeping with the character and appearance of the area, amongst other matters.
99. All of the above-mentioned policies are broadly consistent with the Framework, including its aim to achieve well-designed places where development should be

sympathetic to local character. Although Policy CS 14 is titled 'Townscape, Urban Design and the Historic Environment', it is clear when reading that policy in full, including its supporting text, that it is also relevant to development in rural areas where there is no townscape.

Biodiversity

100. A Preliminary Ecological Appraisal Survey⁸ (PEAS) was carried out in relation to part of the land the subject of Notice A, prior to some development being carried out. The PEAS formed part of planning applications⁹ which sought consent for the erection of a barn and a small area of hardstanding. Those applications were refused by the Council, but the barn and a much larger area of hardstanding were subsequently constructed without planning permission.
101. The PEAS recommended that further presence/likely-absence surveys in respect of reptiles and eDNA tests on nearby ponds in respect of great crested newts should have been undertaken to obtain planning permission or comply with legislation for other consent. Those surveys and tests were not carried out before any of the development was undertaken. A Great Crested Newt Survey Report¹⁰ (the GCN Report) was later submitted with the planning application for a replacement dwelling on part of the land the subject of Notice B.
102. Great crested newts are defined as a European protected species by the Conservation of Habitats and Species Regulations 2017. Great crested newts and native species of reptiles are protected by the Wildlife and Countryside Act 1981 and the Natural Environment and Rural Communities Act 2006.
103. The PEAS explains that most of the land the subject of Notice A mainly comprised semi-improved grass to create hay meadow habitat. This would have been of value to reptiles and would have been suitable terrestrial habitat for great crested newts, with 5 known ponds within 500 metres of that land.
104. The appellant explained that prior to commencing works on the barn and hardstanding, the hay meadow was cut low which would have precluded it from being a suitable habitat for the protected species mentioned above. A newt barrier was also installed, and the area was searched for protected species. An Ecological Precautionary Working Method Statement¹¹ (EPWMS) was said to have been followed.
105. The appellant claims to have installed the newt barrier himself following advice received from the author of the GCN Report, who is a suitably qualified ecologist. The area covered by the barn and hardstanding was then searched for protected species by the appellant, a farmhand, and the contractors who erected the barn. While development was being carried out, the newt barrier was routinely checked. Holes dug during the construction process were not left uncovered and were also checked for protected species. It is claimed that no protected species were found before or during these works, which were carried out over early February 2021.
106. There is no documentary evidence to support these claims, although I noted part of what has been described as a newt barrier in place along the eastern

⁸ Undated report by Arbtech Consulting Ltd relating to survey visit on 18 May 2020

⁹ The Council's refs: MO/2020/0653 and MO/2020/1868

¹⁰ By Sylvatica Ecology Ltd, dated 13 June 2022

¹¹ Page 11 of the Planning Statement and Ecological Precautionary Working Method Statement dated October 2020 by Kernon Countryside Consultants Limited

boundary of the land the subject of Notice A to the south of the hardstanding. No suitably qualified ecologists were directly involved in the installation of the newt barrier or the searching of the land for any protected species. I also have concerns over the level of detail in the EPWMS claimed to have been followed, which does not appear to have been produced by or confirmed as appropriate by a suitably qualified ecologist.

107. It is evident that the recommendations of the PEAS were not followed prior to the commencement of development on the barn and hardstanding. The GCN Report relates to a different area of land which was described as consisting of 'a recently sown amenity grassland, bare ground, gravel and a sand school' in April/May 2022. This is very different to the habitat described by the PEAS, which existed prior to works commencing on the barn and hardstanding.
108. The GCN Report confirms the presence of great crested newts in 2 ponds within 500 metres of the appeal site over a year after development commenced on the barn and hardstanding. It recommends the drafting of a works mitigation and management plan prior to the commencement of development on the replacement dwelling.
109. The 2 ponds where a presence of great crested newts was subsequently found are located on the opposite side of the road from the appeal site. That does not mean the land affected by the barn and hardstanding would not have been suitable terrestrial habitat for great crested newts at the time development commenced. The cutting of the grass low, as may have been normal agricultural practice, would not have ensured no protected species were harmed during development.
110. Even if the appellant did install newt barriers around the whole of the area affected, undertake a search for protected species, and follow the EPWMS as described, I am reluctant to accept those actions were sufficient to avoid likely harm to protected species. This is because those actions were not overseen by a suitably qualified ecologist and there is no evidence that a suitably qualified ecologist would endorse them or the EPWMS.
111. The PEAS describes the area of land where the gate, piers and walls in Notice A have been constructed as hardstanding surrounded by bare ground and species poor hedges. The Council has not claimed that the erection of the gate, piers and walls was likely to have harmed protected species and I have no evidence to suggest otherwise.
112. Much of the development in Notice B has been carried out on land within the curtilage of the dwelling at Happy Acres. Land within the curtilage of the dwelling would not have been the same as that described in the PEAS and it is unclear whether it would have been suitable habitat for protected species. It is also unclear whether all of the land immediately surrounding that curtilage comprised suitable habitat for protected species. The Council has not claimed that any of the development in Notice B was likely to have caused harm to protected species. I do not have any evidence to suggest otherwise on account of the different circumstances applicable to the land affected in Notice B compared to the land affected in Notice A.
113. The evidence indicates that the construction of the barn and hardstanding are likely to have caused harm to great crested newts and reptiles, contrary to Policy CS 15 of the CS and Saved Policy ENV15 of the LP. Policy CS 15 requires

the protection and enhancement of biodiversity in accordance with legislation and guidance, amongst other matters. Saved Policy ENV15 states that where development is likely to result in harm to a protected species or its habitat a thorough site investigation will need to be carried out, and that development which would materially harm a protected species or its habitat will not be permitted. These are consistent with the Framework, section 15 of which explains that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

114. The appellant has suggested that compensatory measures could be undertaken to create biodiversity net gains, but very limited details of what those measures could include have been put forward. A list of generic biodiversity enhancements have been mentioned, including the potential provision of various planting, re-grassing, log piles, bat boxes, bird boxes, bee bricks, and engagement in countryside stewardship schemes.
115. There is no dispute that these could have positive impacts on biodiversity at Happy Acres, but there are no details before me as to how and where all of these measures could be provided, and there is no detailed analysis of whether they would provide appropriate compensation for the likely harm caused to protected species by the barn and hardstanding and any loss of habitat. As such, a condition attached to a grant of planning permission for the barn or hardstanding requiring further details in these regards would not provide the necessary certainty that the likely harm they have caused to protected species would be appropriately compensated for.
116. I have also been referred to a pond at Happy Acres which has been enlarged and long grass has been allowed to grow around it. The PEAS refers to those enlargement works as having removed all plants and reduced water quality and invertebrate diversity to a rainwater-filled baseline. It has not been explained how this has or will enhance biodiversity in association with the development.
117. As the sand school, stable building, kennel building, outbuilding, gates, piers, and walls are not likely to have caused harm to protected species, the provision of planting and/or other biodiversity enhancements would be appropriate to ensure they comply with Policy CS 15. This could be secured by condition. They do not conflict with Saved Policy ENV15.

Other Considerations

118. Saved Policy RUD14 of the LP states that new agricultural buildings will be permitted where various criteria are met, including where they are reasonably necessary for the purposes of agriculture within the holding. The appellant has claimed that the barn is exactly the same as the agricultural barn for which planning permission was previously sought and that the hardstanding covers the minimum area necessary to allow safe movement of animals and agricultural/equestrian vehicles and machinery. The position of the barn is not exactly the same as that previously proposed, but otherwise the building appears to have the same layout, proportions and arrangement. The area of hardstanding is substantially larger than that previously proposed, which is claimed to be due to a mistake made by the architect when drawing plans.
119. When refusing planning application MO/2020/1868, the Council was satisfied that the barn would be reasonably required for agricultural purposes. That view

was based on an Agricultural Statement¹² which explained that grassland at Happy Acres needed to be managed and a building of the size proposed was necessary for storing hay and machinery which would allow hay and haylage to be harvested from the land and sold to local horse owners.

120. Circumstances have changed considerably since that Agricultural Statement was produced. The appellant now keeps horses and goats on the land and the area of land from which a hay crop can be taken has been reduced by the development undertaken and the animals which graze there. The appellant now brings hay and straw into the site for the horses and goats, and uses the barn to store hay, straw and machinery used to take a hay crop from land at Happy Acres and other land rented elsewhere.
121. Other than the verbal explanations provided during the Hearing, there are no detailed written assessments which demonstrate the barn is reasonably necessary for the purposes of agriculture within the holding, with regard to circumstances at Happy Acres when it was constructed. The appellant explained that agriculture is not his full-time job, and that a farmhand was employed. The keeping of 15 goats as part of a new enterprise to produce soap is an agricultural activity, but the keeping of 5 horses and a pony is an equestrian activity. Although I am satisfied that the barn is an agricultural building in the context of Green Belt policy, I am unconvinced on the evidence available that a building of such size is reasonably necessary for the harvesting and storage of hay and the keeping of 15 goats at the holding. I therefore find conflict with Saved Policy RUD14.
122. The appellant has a range of horse drawn carriages, some of which are large, ornate and/or of high value. His hobby, since purchasing Happy Acres, involves carriages being pulled by a single file line of 4 horses. This was described as a heritage sport which helps the art and history of carriage driving to be maintained, often through events held by Royal families. Although the hardstanding is used in part for the arrangement and loading of horses to pull carriages, this does not appear to be the only area that could take place. The need to store some of those carriages within the outbuilding provides a justification for the footprint of that building, but not its overall size and design. I therefore assign minimal weight in favour of the hardstanding and the outbuilding on account of how they support carriage driving.
123. Planning permission has been granted for a replacement dwelling at Happy Acres, which would be larger and set further back from the road than the bungalow which currently exists. I have been provided with the approved plans and decision notice for that development. All of my reasoning and conclusions on the main issues have been reached with this in mind, and the size, positioning and design of the approved replacement dwelling do not lead me to any different conclusions on those matters.
124. It was claimed that the COVID-19 pandemic prevented an ecologist from being directly involved at Happy Acres when development was under construction. I appreciate that various Government imposed lockdowns would have made it more difficult for consultants to attend the site, but I was also informed during the Hearing that up to 50 contractors were working across the site at the same time on some days. I also note that the PEAS was undertaken before many works commenced. It has not been claimed that it was essential

¹² Dated October 2020, by Kernon Countryside Consultants Limited

for any of the development to have been carried out without following the PEAS recommendations, or in the absence of appropriate ecological expert oversight. The appellant was aware of the Council's concerns in these regards, having been refused planning permission twice previously for the erection of a barn and a smaller area of hardstanding due to the likely harm they would have on protected species.

125. I have been referred to the security benefits of the gates, piers, walls, outbuilding, and barn, which allow agricultural, equestrian and domestic items to be stored within buildings and behind locked gates. Reference was made to the use of a hotel on Russ Hill to house people seeking asylum in the UK, who often walk past Happy Acres. I do not doubt the high value of such items and the risk of theft in this rural area. However, I am unconvinced that appropriate levels of security could not be provided through other, more appropriate boundary treatment or buildings. I therefore assign limited weight to these benefits in favour of that development.
126. It has been suggested that the area of hardstanding in Notice A could be reduced by adding a grass/soil mix over the top to create a greener appearance while retaining a firm sub-base to address water-logging. The appellant has also offered to undertake 'meaningful compensatory planting or biodiversity net gains' as part of the ground (f) appeal in respect of the barn. In the absence of reliable evidence to the contrary, I am unconvinced that these measures would be possible or sufficiently effective to address the harm the barn and the hardstanding has likely caused to protected species. It is also unlikely that any water-logging of this area prevents vehicle and machinery access to the rest of the land, considering the previous arrangement of field access points.
127. I note the comments made in support of the developments by a near neighbour, endorsed by several other local residents, which are the opposite of comments made by Charlwood Parish Council. This attracts limited weight in favour of the development.
128. Although the brick paved entrance way and hardstanding referred to by Alleged Breaches 5 and A have effectively been granted unconditional planning permission, this does not justify the retention of the gate, piers and walls in either notice.
129. It has been claimed that if the kennel building is required to be demolished, a matching building could be erected a short distance from its current position, within the agreed curtilage of the dwelling. That would appear to be correct. Such a replacement building, set away from the stables and exposed on all sides would be a more disruptive and unattractive feature in the landscape, which would also cause a greater level of visual harm to the openness of the Green Belt. I consider there to be a reasonable likelihood that the appellant would pursue such an option if the kennels were required to be demolished. This comprises very special circumstances that clearly outweigh the harm the kennels cause to the Green Belt by reason of inappropriateness and the very low impact they have on the openness of the Green Belt.
130. I am mindful that alternative security boundary treatment could be erected to replace that in Notice A slightly further back from the road under the provisions of the GPDO. Although the GPDO does not authorise harm to protected species, there is a reasonable likelihood that similar replacement

boundary treatment would be erected. A condition could require planting to address the harm the gate, piers and walls in Notice A cause to the character and appearance of the area, which would also bring some biodiversity benefit, all of which would not otherwise be secured. These other considerations comprise very special circumstances which clearly outweigh the harm that development causes to the Green Belt by reason of its inappropriateness and its low impact on the openness of the Green Belt.

131. It is extremely unlikely that replacements for the outbuilding, gate, piers, and walls in Notice B which would cause similar levels of harm to the character and appearance of the area and the openness of the Green Belt could be constructed under the provisions of the GPDO. I do not therefore find that very special circumstances exist which clearly outweigh the harm the outbuilding, gate, piers, and walls in Notice B cause to the Green Belt by reason of inappropriateness and the other harm I have identified.
132. I do not find that the other considerations weighing in favour of the barn and the hardstanding in Notice A or the outbuilding, gate, piers and walls in Notice B outweigh the harm I have identified in respect of that development.
133. I have been referred to Saved Policy RUD17 of the LP, which relates to farm diversification. It is unclear how this policy may be relevant to any of the breaches and I do not find that it weighs in favour or against any of the development.

Conditions

134. I have found that planning permission should be granted for the gate, piers, and walls in Notice A, and the sand school, stable building, and kennel building in Notice B subject to conditions. Policy CS 15 of the CS states that planting and other schemes that promote biodiversity will be expected as part of all development. Saved Policy ENV57 states that where planning permission is granted, consideration will be given to imposing conditions to limit the impact of illumination with regard to the character and appearance of the countryside. The PEAS also refers to external lighting having the potential to affect bats. I noted external light fittings attached to the sand school, stable building and kennel building during my site visit.
135. It would therefore be reasonable and necessary to attach a condition to the planning permission authorising the sand school, stable building and kennel building which requires the approval of a planting and biodiversity enhancement scheme and an external lighting scheme. This would be to promote biodiversity and to protect the character and appearance of the area and bats. The external lighting fittings presently affixed to the sand school, stable building, and kennel building would need to be assessed as part of the lighting scheme, or removed.
136. As the development has already been carried out, the condition will need to provide a reasonable period of time for such schemes to be submitted, approved and implemented to make the development acceptable. Failure to comply with that condition would need to require the demolition of the development to ensure it is enforceable. In this case, a period of 3 months from the date of this decision would be reasonable for the submission of those schemes. That condition would ensure that the development can be enforced against if the required details are not submitted within the specified period, or

if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with approved timetables.

137. The above-mentioned condition would not imply that any planting or external lighting would be appropriate, and it would not mean that any details refused by the Council would be automatically approved by the Secretary of State on appeal, as suggested by the Council. That would be a misinterpretation of the condition. To clarify, if a planting/lighting scheme is submitted, but subsequently refused by the Council, and then an appeal against that refusal is dismissed, the development would need to be demolished as it would no longer be possible to submit such a scheme in accordance with the condition as a period of more than 3 months would have elapsed.
138. It would also be reasonable and necessary to attach conditions requiring the stables and sand school to only be used for non-commercial equestrian purposes ancillary to the dwelling and for the kennels to only be used for purposes incidental to the enjoyment of the dwelling. This would prevent them from being used for more intensive purposes inappropriate in this countryside location within the Green Belt.
139. As the gate, piers and walls in Notice A currently cause harm to the character and appearance of the area, it would be reasonable and necessary to attach a condition requiring the submission of a planting and biodiversity enhancement scheme along the lines of that described above. Such a scheme may necessitate the removal of some of the areas of hardstanding in front of the gate, piers, and walls, as the extent of that hardstanding and its ability to accommodate planting is unclear.
140. No external lighting is affixed to the gate, piers, and walls. A condition prohibiting lighting on these would be reasonable and necessary to prevent harm to the character and appearance of the area and bats.
141. The Council has suggested that a condition should be attached to any planning permission relating to the gate, piers and walls in Notice A which prohibits the parking of vehicles or storage of equipment, goods or materials on the hardstanding in front of them. However, as set out at the beginning of this Decision, that hardstanding has intentionally been granted the equivalent of unconditional planning permission and I do not consider such a condition would be reasonable under those circumstances.

Conclusions on Ground (a) and the Deemed Application for Planning Permission

Appeal A

142. The sand school and stable building are not inappropriate development in the Green Belt, as conceded by the Council during the Hearing. Subject to the above-mentioned conditions they do not harm the character or appearance of the area, or biodiversity including protected species.
143. The kennel building is inappropriate development in the Green Belt which causes a very low level of harm to the openness of the Green Belt. I have found very special circumstances exist which clearly outweigh those harms. Subject to the above-mentioned conditions it would not harm the character or appearance of the area, or biodiversity including protected species.

144. The ground (a) appeal therefore succeeds in part insofar as it relates to the sand school, stable building, and kennel building and the deemed application for planning permission is granted for that development only.
145. The outbuilding, gate, piers and walls in Notice B are inappropriate development in the Green Belt which cause significant and low levels of harm to the openness of the Green Belt respectively. They also harm the character and appearance of the area, but do not harm biodiversity including protected species. For the reasons set out above, they are contrary to Policies CS 1 and CS 14 of the CS and Saved Policies ENV4, ENV22, ENV23 and ENV25 of the LP.
146. The outbuilding, gate, piers and walls in Notice B are contrary to the development plan taken as a whole and there are no material considerations which indicate that planning permission should be granted for them. The ground (a) appeals in these regards therefore fail and planning permission is refused for that development.

Appeal B

147. The gate, piers and walls in Notice B are inappropriate development in the Green Belt which causes a low level of harm to the openness of the Green Belt. I have found very special circumstances exist which clearly outweigh those harms. Subject to the above-mentioned conditions they would not harm the character or appearance of the area, or biodiversity including protected species.
148. The ground (a) appeal therefore succeeds in part insofar as it relates to the entrance gate, brick piers and brick walling in Notice A and the deemed application for planning permission is granted for that development only.
149. The barn and hardstanding are not inappropriate development in the Green Belt. The hardstanding causes harm to the character and appearance of the area which could be addressed by planting. The barn does not harm the character and appearance of the area. It is likely that they have caused harm to protected species and biodiversity individually. It has not been demonstrated that the barn is reasonably necessary for the purposes of agriculture within the holding. For the reasons set out above, they are contrary to Policy CS 15 of the CS and Saved Policies ENV15 and RUD14 of the LP.
150. The barn and the hardstanding are contrary to the development plan taken as a whole and there are no material considerations which indicate that planning permission should be granted for them. The ground (a) appeals in these regards fail and planning permission is refused for that development.

Appeals A and B - Ground (f)

151. This ground of appeal relates only to the outbuilding, barn and hardstanding. To be successful under this ground of appeal, the appellant would need to demonstrate that the steps required by the notices to be taken exceed what is necessary to remedy the breaches of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breaches.
152. Both of the notices require the demolition of the unauthorised development and their purpose is to remedy the breaches of planning control. They are not excessive to achieve those purposes. No lesser steps could achieve those purposes.

153. The appellant has suggested that the footprint of the outbuilding could be reduced and its roof pitch could be altered to make its appearance and scale more appropriate. The descriptions provided of possible amendments to the outbuilding during the Hearing lacked detail, but it is clear that these would not remedy the breach of planning control and achieve the purpose of the notice.
154. Aside from whether adding any grass/soil mix over the top of the hardstanding would be possible or effective to address its likely impact on protected species, this would not achieve the purposes of the notice.
155. The 'meaningful compensatory planting or biodiversity net gains' offered as part of the ground (f) appeal in respect of the barn have not been specified in detail, but they would not remedy the breach of planning control.
156. The appeals under ground (f) must therefore fail.

Appeals A and B - Ground (g)

157. Although the appellant has stated that this ground of appeal relates only to the barn in Notice A, a ground (g) appeal has also been lodged in respect of Notice B. As the ground (a) appeal succeeds in respect of the sand school, stable building, and kennel building in Notice B, I shall consider the ground (g) appeal in respect of the outbuilding, gate, piers and walls in Notice B as well as the barn in Notice A. To be successful under this ground of appeal the appellant would need to demonstrate that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
158. Section 6 of Notice A allows a period of 6 months for its requirements to be complied with. The appellant has requested that a period of 12 months is provided to allow sufficient time to securely store hay and machinery elsewhere. This may require other land and/or planning permission to be sought, all of which may take time outside of the appellant's control. Contractors to undertake the works may not be available within a 6 month period, and the appellant would need to obtain ecological advice to ensure protected species are not harmed during the process.
159. Although the appellant has not sought consent for a replacement building since the notice was served, he was entitled to have a reasonable expectation that the building may not need to be demolished. This was because he had sought professional advice and initiated the appeal process against the notice.
160. The barn is a substantial building and its structure is fairly basic and appears to have been erected over a short period. However, I see no reasonable objection to a period of 12 months being allowed for that building to be demolished, taking into account the need to seek ecological advice prior to carrying out those works and the need to make alternative arrangements for the storage of any hay, straw and/or machinery which may continue to be needed at Happy Acres. This may also impact the removal of the hardstanding around and under the barn. I shall therefore vary the period specified at section 6 of Notice A to allow 12 months for the barn to be demolished and for that land to be restored to its former condition.
161. Section 6 of Notice B allows a period of 9 months for its requirements to be complied with. This would be sufficient to remedy the breaches in that notice and I have not been provided with evidence to convince me otherwise. I shall not therefore vary the period specified at Section 6 of Notice B.

Conclusions on Ground (g)

Appeal A

162. The appeal under ground (g) fails.

Appeal B

163. The appeal under ground (g) succeeds.

Overall Conclusions

Appeal A

164. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission for the sand school, stable building, and kennel building in the approximate areas edged red and labelled 1, 2, and 3 on the aerial photograph attached to Notice B, but otherwise I will uphold Notice B with corrections and variations and refuse to grant planning permission in respect of the other parts of the matters stated in the notice. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

Appeal B

165. For the reasons given above I conclude that Appeal B should succeed in part only. I conclude on the balance of probabilities that the metal king post and concrete panel walls forming enclosures/compounds in the approximate areas edged in red and labelled D and F on the aerial photograph attached to Notice A do not represent a breach of planning control by reason of planning permission granted under Article 3 and Class A, Part 2 of Schedule 2 of the GPDO. I will grant planning permission for the entrance gate, brick piers and brick walling in the approximate area edged red and labelled A on the aerial photograph attached to Notice A, but otherwise I will uphold Notice A with corrections and variations and refuse to grant planning permission in respect of the other parts of the matters stated in the notice. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

Formal Decision - Appeal A (Notice B)

166. It is directed that the enforcement notice be corrected and varied by:

- i) Deleting the word 'the erection' at Section 3 of the enforcement notice and substituting the word 'construction';
- ii) Deleting the words '(marked 1 on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled 1 on the attached aerial photograph';
- iii) Deleting the words '(marked 2 on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled 2 on the attached aerial photograph';
- iv) Deleting the words '(marked 3 on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled 3 on the attached aerial photograph';

- v) Deleting the words '(marked 4 on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled 4 on the attached aerial photograph';
- vi) Deleting the words '(marked 5 on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled 5 on the attached aerial photograph';
- vii) Deleting the words '(marked 1 on the attached plan)', '(marked 2 on the attached plan)', '(marked 3 on the attached plan)', '(marked 4 on the attached plan)', and '(marked 5 on the attached plan)' at Section 5 of the enforcement notice;
- viii) Deleting Step V at Section 5 of the enforcement notice and substituting the words 'V. Either demolish the gate, piers and walls, or reduce their height to no more than 1 metre above ground level'; and
- ix) Inserting the words 'VII. Restore the Land to its condition before the breaches took place' after Step VI at Section 5 of the enforcement notice.

167. The appeals under grounds (c), (f), and (g) are dismissed. Subject to the corrections and variations the appeal is allowed on ground (a) insofar as it relates to the construction of a sand school, a stable building, and a kennel building. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the construction of a sand school, a stable building, and a kennel building in the approximate areas edged in red and labelled 1, 2, and 3 on the aerial photograph attached to Notice B on Land at Happy Acres, Russ Hill, Charlwood, Horley RH6 0EL subject to the conditions set out in Schedule A at the end of this Decision.

168. The appeal under ground (a) is dismissed in respect of the remaining part of the development for the construction of a building, an entrance gate, brick piers, brick walling and brick paved entrance way.

169. The enforcement notice is upheld as corrected and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the construction of a building, an entrance gate, brick piers, brick walling and brick paved entrance way in the approximate areas edged in red and labelled 4 and 5 on the aerial photograph attached to Notice B.

Formal Decision - Appeal B (Notice A)

170. It is directed that the enforcement notice be corrected and varied by:

- i) Deleting the word 'erection' at Section 3 of the enforcement notice and substituting the word 'construction';
- ii) Deleting the words 'hard standing and brick paved entrance way. (marked A on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'and hardstanding in the approximate area edged red and labelled A on the attached aerial photograph';

- iii) Deleting the words 'The laying of' at Section 3 of the enforcement notice;
 - iv) Deleting the words '(marked B and shaded in orange on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area shaded orange on the attached aerial photograph';
 - v) Deleting the words 'The stationing of adjoined shipping containers adapted for office use (marked C on the attached plan)' at Section 3 of the enforcement notice and substituting the words '4 adjoined shipping containers adapted for office use in the approximate area edged red and labelled C on the attached aerial photograph';
 - vi) Deleting the words 'd) Metal King post and concrete panel walls forming an enclosure/compound, (marked D on the attached plan)' at Section 3 of the enforcement notice;
 - vii) Deleting the words '(marked E on the attached plan)' at Section 3 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled E on the attached aerial photograph';
 - viii) Deleting the words 'f) Metal King post and concrete panel walls forming an enclosure/compound, marked F on the attached plan' at Section 3 of the enforcement notice;
 - ix) Deleting the words 'g) The stationing of shipping containers, (marked G on the attached plan)' at Section 3 of the enforcement notice;
 - x) Deleting Step I at Section 5 of the enforcement notice and substituting the words 'I. Either demolish the gate, piers and walls, or reduce their height to no more than 1 metre above ground level'; and
 - xi) Deleting Steps IV, VI, and VII at Section 5 of the enforcement notice;
 - xii) Deleting the words 'marked B on the attached plan' at Section 5 of the enforcement notice and substituting the words 'in the approximate area shaded orange on the attached aerial photograph';
 - xiii) Deleting the words 'marked C on the attached plan' at Section 5 of the enforcement notice;
 - xiv) Deleting the words 'marked E on the attached plan' at Section 5 of the enforcement notice and substituting the words 'in the approximate area edged red and labelled E on the attached aerial photograph';
 - xv) Deleting the words '6 Months after the notice takes effect' at Section 6 of the enforcement notice and substituting the words '12 months after this notice takes effect for Steps II, V, VIII, and IX, and 6 Months after this notice takes effect for Step III'.
171. The appeal under ground (b) is dismissed. The appeal under ground (c) succeeds in part insofar as it relates to the metal king post and concrete panel walls forming enclosures/compounds. The appeal under ground (c) is dismissed in respect of the remaining part of the development for the construction of an entrance gate, brick piers, brick walling and hardstanding, hardstanding, 4

adjoined shipping containers adapted for office use, and a building. The appeal under ground (f) is dismissed. The appeal under ground (g) succeeds.

172. Subject to the corrections and variations the appeal is allowed on ground (a) insofar as it relates to the construction of an entrance gate, brick piers, brick walling, and hardstanding. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the construction of an entrance gate, brick piers, brick walling, and hardstanding in the approximate area edged red and labelled A on the aerial photograph attached to Notice A on Land at Happy Acres, Russ Hill, Charlwood, Horley RH6 0EL subject to the conditions set out in Schedule B at the end of this Decision.
173. The appeal is dismissed in respect of the remaining part of the development for the construction of hardstanding, 4 adjoined shipping containers adapted for office use, and a building.
174. The enforcement notice is upheld as corrected and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the construction of hardstanding in the area shaded orange on the aerial photograph attached to Notice A, and 4 adjoined shipping containers adapted for office use and a building in the approximate areas edged red and labelled C and E on the aerial photograph attached to Notice A.

L Douglas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Phil Rowe	The appellant's agent
Leigh Phillips	The appellant
Louise Phillips	The appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Sue James	Planning Officer
Steve Thorpe	Planning Enquiries Officer

INTERESTED PARTY:

William Simons	Local resident
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DOCUMENTS SUBMITTED AT THE HEARING

- William Simons' statement
- Copies of Policy CS 15 of the CS and Saved Policies RUD9, REC14, REC15, ENV23, ENV25, and ENV57 of the LP

- Decision notice, officer report and plans relating to application for a certificate of lawful development reference MO/2021/2019
- Decision notice, officer report, plans and documents relating to application for planning permission reference MO/2022/0890
- Planning statement and ecological precautionary working method statement relating to 'agricultural building' at land at Happy Acres, dated October 2020 by Kernon Countryside Consultants Limited
- Great Crested Newt Survey Report relating to land at Happy Acres dated 13 June 2022 by Sylvatica Ecology Limited
- Preliminary Ecological Appraisal Survey relating to land at Happy Acres following a survey visit on 18 May 2020, by Arbtech Consulting Limited
- Email from Surrey Wildlife Trust to the Council with subject heading 'MO/2020/1847', dated 13 September 2021
- Consultation response from Surrey Wildlife Trust to the Council relating to planning application MO/2022/0890 dated 8 July 2022, their reference 5500-2/RH
- Email from Surrey Wildlife Trust to the Council with subject heading 'RE: Happy Acres, Russ Hill, Charlwood. MO/2020/1847. New dwelling', dated 23 December 2020
- Photographs of gates and walls in the local area provided by the appellant
- Aerial photograph with a public right of way along the southern boundary of land at Happy Acres marked

Schedule A – Conditions relating to APP/C3620/C/22/3311636 (Notice B)

- 1) The sand school, stable building and kennel building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 9 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: (a) a planting and biodiversity enhancement scheme shall have been submitted for the written approval of the local planning authority and the schemes shall include timetables for their implementation; and (b) a lighting scheme shall have been submitted for the written approval of the local planning authority and the schemes shall include timetables for their implementation.
 - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the planting and biodiversity enhancement scheme and/or the lighting scheme 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 planting and biodiversity enhancement scheme and/or lighting scheme shall have been approved by the Secretary of State.
 - iv) The approved planting and biodiversity enhancement scheme and lighting scheme shall have been carried out and completed and any existing external lighting which does not form part of the approved external lighting scheme shall have been removed, in accordance with the approved timetables.
 - v) Upon implementation of the approved planting and biodiversity enhancement scheme and lighting scheme specified in this condition,

those schemes shall thereafter be adhered to, maintained, and retained and no new external lighting shall be installed.

- vi) 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.
- 2) The sand school and stable building hereby permitted shall not be used at any time other than for non-commercial equestrian purposes ancillary to the residential use of the dwelling known as Happy Acres.
- 3) The kennel building hereby permitted shall not be used at any time other than for purposes incidental to the enjoyment of the dwelling known as Happy Acres.

Schedule B – Conditions relating to APP/C3620/C/22/3311638 (Notice A)

- 1) The entrance gate, brick piers and brick walling hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 6 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 a planting and biodiversity enhancement scheme shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the planting and biodiversity enhancement scheme 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 planting and biodiversity enhancement scheme shall have been approved by the Secretary of State.
 - iv) The approved planting and biodiversity enhancement scheme shall have been carried out and completed in accordance with the approved timetable.
 - v) Upon implementation of the approved planting and biodiversity enhancement scheme specified in this condition, that planting and biodiversity enhancement scheme shall thereafter be maintained and retained.
 - vi) 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.
- 2) No external lighting shall be affixed to the entrance gate, brick piers and brick walling hereby permitted.