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## Appeal Decisions

Site visit made on 10 October 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 February 2024**

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### **Appeal A Ref: APP/B3030/C/23/3315917**

#### **Land Known as Building South West of Walnut Cottage, Newark Road, Kilvington, NOTTINGHAM NG13 9PD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Anthony Hilton-Bailey against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 16 January 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, 'development' consisting of the erection of a building (as shown within photographs 1 & 2 and identified with an 'X' on the site plan and aerial photograph)'.
- The requirements of the notice are to: Demolish the development consisting of the erection of a building (as shown within photographs 1 & 2 and identified with an 'X' on the site plan and aerial photograph) and remove from the land all resultant waste and materials.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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### **Appeal B Ref: APP/B3030/W/22/3313346**

#### **Building South-West of Walnut Cottage, Newark Road, Kilvington, NOTTINGHAM NG13 9PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Anthony Hilton-Bailey against Newark & Sherwood District Council.
- The application Ref 22/01832/FUL, is dated 17 September 2022.
- The development proposed is Alterations to Agricultural Building.

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### **Appeal C Ref: APP/B3030/W/22/3313348**

#### **Building South-West of Walnut Cottage, Newark Road, Kilvington, NOTTINGHAM NG13 9PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Anthony Hilton-Bailey against the decision of Newark & Sherwood District Council.
- The application Ref 22/01168/FUL, dated 13 June 2022, was refused by notice dated 1 September 2022.
- The development proposed is Alteration and Conversion of Building for Use as Holiday Accommodation.

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**These decisions are issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersede**

**those issued on 8 December 2023.**

**Decisions**

1. **APPEAL A** - The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. **APPEAL B** - The appeal is allowed and planning permission is granted for a building for agricultural use at building southwest of Walnut Cottage, Newark Road, Nottingham, NG13 9PD in accordance with the terms of application Ref 22/01832/FUL, dated 17 September 2022, subject to the conditions set out in a Schedule attached to this Decision.
3. **APPEAL C** - The appeal is dismissed.

**Applications for costs**

4. An application for costs was made by Mr Anthony Hilton-Bailey against Newark & Sherwood District Council. This application is the subject of a separate Decision.

**Preliminary Matters**

5. Notwithstanding the minor differences in the address used for the site, as set out above there are 3 appeals. They relate to the same building. Appeal A is submitted against the enforcement notice. It includes grounds (a), (c), (f) and (g) as set out in s174(2) of the TCPA1990.
6. Appeal B relates to a planning application that was not determined by the Council within the prescribed period. The description appearing in the banner heading above is taken from the planning application form. However, following validation of the planning application, the Council sought agreement to amendment of the description to 'Retention of and Alterations to Building for Agricultural Use'. This was agreed by the appellant albeit reluctantly due to the different starting positions on the lawfulness of the existing building.
7. As retention is not an act of development, without prejudice to any party in the appeal, I have relied on the substantive description of the development as a 'building for agricultural use'. I have proceeded on that basis.
8. In Appeal B, the Council have subsequently issued a statement highlighting that it would have refused the application for planning permission on 2 grounds. I have had regard to this statement for the agricultural use of the building in framing the main issues in relation to that proposal.
9. Appeal C relates to a refusal of planning permission. The description appearing above is taken from the planning application form. Again, during the Council's consideration of the planning application the revised description of 'Retention of building for use as holiday accommodation' was reluctantly agreed. As above, without prejudice to any party in the appeal, I have relied on the substantive part of the description of the development as a 'building for use as holiday accommodation'.
10. In each appeal there are some discrepancies between the submitted plans and the development on the ground – notably the size of the rear facing apertures and/or the height of the rear eaves line of the building. For the avoidance of

doubt, I have determined Appeals B and C in accordance with the development shown on the plans submitted with the respective appeals.

11. In respect of Appeals A and B there is some dispute between the main parties as to the validity of the requirement in Policy DM8 of the Newark & Sherwood Local Development Framework Allocations and Development Management Development Plan Document [2013] (the LDF) to require explanation of the need for development associated with agricultural and forestry uses. It is the appellant's contention that the requirement in Policy DM8 is more onerous than the later Amended Core Strategy [2019] (the CS) or the National Planning Policy Framework (the Framework).
12. However, the policy specifically requiring a demonstration of need is one adopted after the installation of the first iteration of the Framework. Subsequent revisions haven't since precluded the ability of local planning authorities to seek supporting justification for agricultural or other forms of rural development. Furthermore, the policies in the LDC are cross referenced in Policy SP3 of the later 2019 CS. Therefore, I find Policy DM8 is entitled to substantial weight, and I have proceeded accordingly.
13. On 5 September 2023, the Government published a revised version of the Framework. However, the changes were limited to matters involving wind energy development only. Policies that are relevant to the above appeals have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revisions.

## **APPEAL A – The Enforcement Appeal**

### **Ground (c)**

14. An appeal on this ground is that the matters stated in the Notice do not constitute a breach of planning control. It is common ground between the main parties that planning permission Ref.09/00843/FUL (2009PP) was granted on 13 October 2009 for the erection of a shed for free ranging chickens. The appellant asserts that a material start was made some time during mid to late 2011. A date of 27 November 2011 is referenced by the appellant as the date of the concrete pour to form the foundation slab.
15. The foundation, reflecting the planform and position of the approved building, is visible in aerial photography provided by the Council dated 2013. The commencement of building operations within the timeframe of the 2009PP is not contested by the Council.
16. Furthermore, no issue was raised by the Council on approving details in relation to 3 pre-commencement conditions submitted prior to the expiry of the planning permission. The appellant's associated correspondence in relation to those matters, dated 7 and 14 September 2012, refer to development having commenced at that time.
17. However, despite the similarities in the position, scale and form of the building, estimated by the Council to have been constructed on the slab from July 2018 onwards, the development has not been completed in accordance with the detail shown on the plans approved and secured by Condition 2 of 2009PP.
18. The approved locations of ventilation ducts have domestic style uPVC double glazed units installed, some with privacy glazing. According to the appellant,

these were acquired some time in 2019. The main openings to the rear of the building have matching clear double-glazed sliding or hinged patio doors in lieu of roller shutters. A pedestrian doorway to the front of the building, also approved with a roller shutter, has a domestic style timber door incorporating a leaded window.

19. The appellant acknowledges that the treatment of the openings does not benefit from planning consent. It is thereby not contested that those works are development within the meaning of s55(1) of the TCPA 1990 and that they materially affect the external appearance of the building.
20. The differences are significant in that the ventilation of the building necessary for the keeping of poultry would not be provided. Furthermore, in conjunction with the kept appearance of the bordering lawned areas, stone gravelled forecourt and scale of the building, the use of modern door and window opening treatments causes the building to appear distinctly domestic in character.
21. Although the approved plans show external timber shiplap cladding, Condition 3 of the 2009PP required approval and implementation of external brickwork and roofing material. A similar roof tile has been incorporated, albeit a different colour to the approved detail. The appellant claims that approved external brickwork is yet to be implemented.
22. Internally, the ceiling has been boarded out with plaster board about timber stud work consistent with the layout of the building proposed under Appeal C. The ceiling incorporates domestic-style light fittings and, according to the Council, is insulated above. There is some dispute between the main parties that these are works associated with the proposed avian use of the building. The appellant asserts that such works were carried out in relation to temperature control in the interests of fowl welfare and was in accordance with the approved section plans and annotations. However, from the documentation and plans provided, it is unclear as to where this detail is specified.
23. The Council highlights that, when investigating the alleged breach, discussion with the appellant indicated that the building had been completed for domestic storage purposes. This is not contested by the appellant and is consistent with his assertion that the use of the building for housing free-range chickens would be unviable after an avian flu outbreak in 2014, and because of competition from nearby large-scale facilities - including one constructed by July 2018. Whilst not determinative, the construction of the building after an extended delay and beyond those events gives weight to the Council's argument that that the construction of the building was for purposes other than as a chicken shed.
24. Although the appellant submits that the building has only been constructed to a shell, he confirms that it has indeed been used for non-agricultural purposes in association with storage of equipment, material and feeds. This includes building materials associated with the conversion of a neighbouring building.
25. The storage use is evident in photographs taken by the Council's enforcement officer prior to the service of the Notice and was observed to be taking place at the time of my own site inspection. Furthermore, there is no claim or substantive evidence of a precise or unambiguous nature to demonstrate an agricultural use of the building has occurred as described by the 2009PP.

26. I note the appellant's contention that the installed internal drainage would only be suitable for the purposes of the chicken shed. At my site visit, only the junction gully point was visible. This was central on that part of the level slab linking the rear return sections. However, as the floor levels of the rearward projecting limbs are stepped lower than the linking section in contrast to the detail shown on the 2009PP plans, it is unclear how this arrangement would suitably provide for washdown water in conjunction with housing fowl. As a drainage solution for that purpose, it would appear largely impractical. Accordingly, I do not find this a compelling argument in support of the ground (c) appeal.
27. The lack of Building Regulations approval for the building is not a determinative matter. Approval under that separate regulatory regime could be sought retrospectively where required.
28. Although the constructed building undoubtedly has similarities to the external appearance of the development shown on the approved plans of 2009PP, and the initial phase of construction might have been consistent with development approved by it, when taking the above matters together, I find that, on the balance of probabilities and the evidence before me, the building does not comply with the terms and conditions of the 2009PP.
29. The building operation was not carried out fully in accordance with the 2009PP and is materially different. After *Sage v SSETR & Maidstone BC* [2003], the whole operation is unlawful. It is therefore a building without planning permission and constitutes a breach of planning control. Furthermore, it follows that the 2009PP has since lapsed. The appeal on ground (c) subsequently fails.

### **Ground (a) – the deemed application for planning permission**

30. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted.
31. The matter stated in the Notice is the erection of a building. The reasons for serving the Notice include reference to the development plan policies for the sustainable distribution of development and protecting the character and appearance of locations and landscapes. Accordingly, the main issues are:
- whether or not the building is sustainably sited in accordance with the Council's adopted spatial strategy, and
  - the effect of the development on the character and appearance of the locality.

### **Reasons**

#### *Locations*

32. The site is located in the open countryside. Overarching Spatial Policy SP3 of the CS seeks to support rural communities and the rural economy whilst protecting the countryside. Amongst other things, it directs new development to existing settlements and accessible locations where associated travel is minimised. In the open countryside development is strictly controlled to that requiring a rural setting.

33. Pursuant to my finding on ground (c), and that the allegation in the Notice is simply a building of no defined use, there is little justification for its siting in the open countryside.
34. The appellant contends that, by virtue of the provisions of s55(2)(e), the land and building could be used for agricultural purposes. However, the Land defined by the Notice includes another building approved<sup>1</sup> as a 'stable and vehicle shelter'. There is little to demonstrate that those uses are related to agriculture on the site. Accordingly, as the Notice building is not for stabling or a vehicle shelter, any use of the building subject of the Notice, including one for agriculture, would result in a material change of use of the Land as a mixed use of the site. It would therefore require planning permission for 'development' beyond that alleged in the Notice and is outside the ambit of the ground (a) appeal.
35. Section 75(3) of the TCPA 1990, states if no purpose for the building is specified, a permission shall be construed as including permission to use the building for the purpose for which it is designed. However, notwithstanding the original intention associated with the PP2009, the evidence in relation to the timing of the building's construction in conjunction with recognised non-viability as a chicken shed, the alternative construction of the building, the installed use, and efforts to seek alternative uses, cause any such design to be unclear.
36. In the circumstances, it is not for me to determine a use for the building. Even if I were to consider it as the chicken shed originally intended, the appellant's own case highlights that no need currently persists for that specified use. A locational requirement for storage use is also not shown. Accordingly, the locational test in Policy DM8 of the LDF is not met.
37. Having regard to the above limitations, the building would not find consistency with the Council's adopted spatial strategy and restriction to development in the open countryside. It thereby conflicts with Strategic Policy 3 in the CS and Policy DM8 of the LDF which seek the sustainable distribution of development.

#### *Character and appearance*

38. In the absence of explanation of need for the development the building has introduced built development on to a site previously described as unused grassland. Although the stable and vehicle shelter have since introduced other built form and surface infrastructure to the site, its character prior to the construction of the Notice building would otherwise be largely free from built development.
39. Notwithstanding that the site lies between existing frontage buildings and benefits from some boundary screening, the effect of the Notice building spanning a large proportion of the site's width will have significantly changed its character and appearance. The sense of openness and spaciousness between the existing residence and the holiday accommodation has been largely infilled.
40. In the context of the rural area and quality landscape, the undue introduction of the Notice building has eroded characteristic rural aspects of the locality. Although the design takes reference from the external appearance of some nearby buildings, the inclusion of domestic detailing by way of the uPVC

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<sup>1</sup> . Planning permission ref.13/00835/FUL

windows and doors, the domestic style front door, driveway and well-kept lawns are distinct from buildings designed in association with rural land uses.

41. For those reasons, I find the building fails to meet with the requirements in Core Policies 9 and 13 of the CS and Policy DM5 of the LDF as they require high quality sustainable design that reflects local distinctiveness and character, and protects valued landscapes.

### **Conclusion on ground (a)**

42. For the reasons given, I conclude that the appeal on ground (a) should be dismissed and the deemed application for planning permission refused.

### **Ground (f)**

43. To succeed on this ground the appellant must show that the steps required by the Notice to be taken exceed what is necessary to remedy the breach of planning control.
44. It is the appellant's position that the building could be altered to be consistent with the terms of the 2009PP. However, for the reasons provided under the ground (c) appeal, there is no fallback position to the planning permission. Although alteration of the existing building could cause it to reflect the appearance of that previously granted planning permission under 2009PP, that would not address the identified harm arising from the conflict with the Council's adopted spatial strategy. Moreover, it would not remedy the allegation in the Notice.
45. I note the appellant's contention that it is unclear from the Notice as to whether its purpose falls within s174(a) or (b) of the TCPA 1990, or both. Whilst there is no statutory requirement to explicitly reference the purposes as set out in s173(4), this is apparent from the Notice requirements. As the Notice relates only to operational development without planning permission, and the requirements are to remove it in its entirety without reference to its use, the purpose of the Notice can only reasonably be to remedy the breach.
46. For the reasons above, the appeal on ground (f) fails.

### **Ground (g)**

47. An appeal on this ground claims that any period specified in the Notice in accordance with section 173(9) falls short of what should reasonably be allowed. The specified period for compliance with the steps in the Notice is 6 months.
48. The appellant seeks the longer period of 12 months in order to make arrangements to either - alter the building to conform with DEFRA requirements since the outbreak of avian flu, or make appropriate arrangements for the demolition and recovery of materials. However, pursuant to my finding that the Notice should be upheld in its entirety, the circumstances described in relation to the building's use for the keeping of poultry would not arise.
49. In the alternative, I find the straightforward act of demolition and removal of associated waste could be readily achieved in the specified time to provide a suitable balance between expeditious resolution of the breach of planning control and the appellant's private interests. This would allow ample time for a

6-week notification of intention to demolish and to enable the recovery of materials in a manner such that they could be re-used or recycled.

50. A 12-month period for compliance as referenced in a report recommending expediency of enforcement action would be tantamount to a temporary planning permission. It would not be appropriate to impose such a timescale for development found to be harmful in planning terms. The appeal on ground (g) therefore fails.

### **Conclusion on Appeal A**

51. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the TCPA 1990 as amended.

### **APPEAL B – Agricultural building**

#### **Main issues**

52. The Council's appeal statement confirms that it would have refused planning permission for an agricultural building on the site. The main issues are whether or not the building is sustainably sited in accordance with the Council's adopted spatial strategy including having regard to the effect of the development on the character and appearance of the locality.

#### **Reasons**

53. In the open countryside development is strictly controlled under the terms of Spatial Policy 3 to that requiring a rural setting and subject to adopted policies in the LDF. In relation to agricultural development, Spatial Policy 3 supports appropriate agricultural development. This is consistent with Paragraph 84 of the revised Framework which is clear that planning decisions should enable the development of agricultural businesses in the interests of supporting a prosperous rural economy.
54. Policy DM8 of the LDF requires an explanation of need for the development, including its siting and scale in relation to the use it is intended to serve. Paragraph 7.37 of the supporting text explains that, as agricultural development is often large scale, it has potential for visual or environmental impacts. The aim of the policy is to minimise those effects in the best interests of the countryside and landscapes.
55. The supporting documentation details a business plan for specialist mushroom production on the site. A building of the size shown could support an agricultural operation where temperature, ventilation and lighting can be suitably controlled. Furthermore, the modest size of the building is shown sufficient to achieve a viable operation.
56. In the context of local agricultural development, the proposed building is not large scale. Although the Council indicates that the proposed use for mushroom growing would be subject to requirements under Environmental Permitting Regulations, environmental impacts would subsequently be largely limited to those associated with travel and biodiversity.
57. There is no dispute between the main parties that, given the former condition of the land and likely equivalent effect of a previously approved development,

there would be a limited impact on biodiversity. Furthermore, biodiversity enhancements could be incorporated and secured through planning condition. On this basis, I find no reason to disagree with the parties' positions on the matter.

58. In relation to transport, the site is remote from regular public transport routes and would largely be dependent on the use of private vehicles. However, this would not be an uncommon requirement in association with the agricultural uses of land and is recognised in Paragraph 85 of the Framework.
59. In support of the appeal, the appellant draws my attention to the fact that the site lies central to a number of local markets and outlets which could provide opportunities for produce sales alongside internet/postal sales further afield. As a small-scale development with limited staffing, with ready access to the necessary growing substrate in the locality, and capable of utilising established distribution networks, the likely traffic generation would be limited.
60. A desire to rely on local staff would assist in limiting travel. Even if staff lived remotely, the effect on local roads would be negligible. Traffic generation would unlikely be greater than that envisaged in association with the previous grant of planning permission for a chicken shed.
61. In terms of siting and design, in contrast to my assessment in the ground (a) appeal above, the starting point is that justification exists for the proposed building.
62. The site lies between existing buildings such that the sense of encroachment into otherwise open areas is limited. It forms part of a cluster with the existing residential buildings, the stable/shelter and domestic outbuildings. The planform is representative of some traditional farmstead arrangements still visible in the area.
63. The low overall height and extent of existing screening minimise its effect on the wider rural setting. As a building justified by its use, the proposed appearance as a functional rural building with references to the external finishes of the stable/shelter and some utility buildings nearby, it would sufficiently integrate with the group. Accordingly, I find it would be appropriately sited, be of a suitable scale for the intended purpose and have a minimal effect on the countryside and landscape character.
64. I acknowledge the Council's assertion that the appellant has failed to consider the availability of other premises for the intended enterprise. However, there is no prescriptive requirement in Policy DM8 of the LDF for him to do so.
65. For the above reasons, I find that the siting, design, scale and proposed appearance of the development would be acceptable. It would be consistent with the requirements in Core Policies 3 and 13 of the CS, Policies DM5 and DM8 of the LDF and the Framework as they seek to protect the character of the countryside and rural landscapes and achieve high standards of design that reflect local distinctiveness and character.

## **Other Matters**

66. I note the representations of third parties raising concerns as to the possible alternative intentions of the appellant. However, as conjecture that is unsupported by any substantive evidence, this is not a matter for the appeal.

## **Conditions**

67. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. A condition specifying the relevant drawings provides certainty. A condition requirement to carry out works to amend the existing building to comply with the approved plans is necessary given the retrospective nature of the permission. An associated sanction is necessary to be enforceable, however, the period for compliance is extended to 6 months to ensure a reasonable timeframe for completion of the works and removal of unauthorised works.
68. A condition limiting the use of the building is reasonable and necessary given an unauthorised use of the building is identified as currently taking place. Agreement of servicing times is reasonable given the proximity to residential accommodation; however, operational times cannot be imposed due to the nature of the proposed use. This requirement is deleted.
69. Detail of drainage is necessary in the interests of providing suitable drainage for the proposed use of the building. Requirements to secure site biodiversity enhancements are necessary to comply with the Framework. Restriction on external lighting is reasonable in the interests of biodiversity and protecting the rural area.

## **Conclusion on Appeal B**

70. For the reasons above, I conclude that Appeal B should be allowed. The requirements of the Notice will cease to have effect insofar as being inconsistent with the planning permission by virtue of s180 of the Act.

## **APPEAL C – Holiday accommodation**

### **Main Issues**

71. The main issues are:

- Whether or not the site provides a suitable location for holiday accommodation
- The effect of the proposed development on the character and appearance of the locality.

### **Reasons**

#### *Locations*

72. Core Policies 3 and 7 of the CS support sustainable forms of tourism development meeting identified needs in the interests of providing economic benefits in the district. In the open countryside development is strictly controlled such that tourism proposals must meet one of a number of exceptions set out in Core Policy 7 and Policy DM8 of the LDF. Sustainable tourist accommodation is supported where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, and can support local employment, community services and infrastructure.

73. The site is remote from settlements and service centres offering sustainable access to the goods and services that are generally utilised by mainstream tourists and visitors. Although the site lies within limited distances of some specialist facilities including a fishery, shooting ground and designated cycle routes, access to other facilities would be highly reliant on use of private motor vehicles.
74. There is no dispute between the main parties that public transport options in the locality are limited and infrequent. Furthermore, the distances and absence of footways and street lighting on routes to the nearest service centres and facilities would discourage walking or cycling for many, especially those not staying specifically for those active purposes.
75. The size of the building is designed for 8 visitors, although space could be made available for greater numbers. In accommodating larger groups, potentially including family and friend groups travelling independently, the number of vehicles necessary to conveniently access the site would generally be higher than smaller facilities. Use by corporate clients could extend that demand.
76. Equally, travel to tourist destinations in the area would also be largely dependent on the use of private motor vehicles. Although the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, in travel terms, the development would not be sustainably located and offer little encouragement or enhancement of sustainable travel modes.
77. In support of the development the appellant identifies that the proposal would cater for larger groups on a self-catering basis. This could meet an identified niche peak demand within the wider tourism market. However, such demand has not been demonstrated as locationally dependent. It is therefore a matter of limited weight in the appeal.
78. The development could provide additional facilities for dog and horse owners by accommodating them on site and allowing use of an adjacent field for dog walking. This could provide a wider offer than other facilities but is also not demonstrated as locationally dependent.
79. In support of the proposal the appellant refers me to the fact that planning permission was granted by the Council for holiday accommodation on the site at Kilvington Lakes on the opposite side of the road. Whilst there is little detail provided in relation to the circumstances of that decision, including any travel plan or similar requirements that might be associated with it, as a significantly larger scale development centred around provisions for outdoor activities to be provided on the site, there are clear differences in the nature of the proposal and scale of attendant economic benefits. In the substantial absence of detailed information, I am unable to draw relevant conclusions between the different schemes.
80. I note the claim that the planning application for the Kilvington Lakes site would provide for local community use such that the development could support it. However, there is also little information as to what that included, how it was secured, or, if and when those facilities would be made available. Although the appellant refers to the development on that site having started,

there is little to show that the permission will be delivered to give weight to that argument.

81. A grant of planning permission for the conversion of a former Women's Institute building adjacent to the site is distinct in that it provided a re-use of a redundant building. There would be no such rural regeneration benefit arising from the proposed scheme.
82. In the absence of demonstration that the development would meet any of the other exceptions to tourism proposals in the open countryside, as set out in Core Policy 7, I find the justification for the remote location of the holiday accommodation is absent. Accordingly, the development conflicts with Core Policies 3 and 7 of the CS, and Policy DM8 of the LDF as they seek strict control of development in the open countryside in the interests of achieving sustainable distributions of development.

#### *Character and appearance*

83. As with Appeal A and the finding that the existing structure is without planning permission, where there is no justification for the locational siting of the new development, the starting point is the previous largely undeveloped condition of the site.
84. The unjustified introduction of built form in the open countryside unduly undermines the open rural character of the site and its locality. Although the external appearance of the building takes some reference from the nearby rural buildings, the contradictory appearance of the utilitarian-styled building with domestic detailing and landscape setting fails to provide the high-quality design expected in Core Policy 9.
85. For those reasons, I find the introduction of unjustified development causes a significant adverse effect on the character and appearance of the site and wider landscape. It conflicts with the terms of Core Policies 9 and 13 of the CS and Policy DM5 of the LDF as they require design to reflect local distinctiveness and character and conserve the valued landscape.

#### **Other Matters**

86. A proposal for holiday accommodation would generate income and support employment opportunities in the locality. This would be through direct management and/or servicing. It would likely draw visitors into the area with associated economic benefits through visitor spend. This could be to a greater extent than that associated with day visitors. These are economic benefits in favour of the proposed development.
87. The development would not result in adverse effects on residential amenity, highway safety, heritage assets, flood risk and could be suitably drained. It could be constructed as accessible accommodation. However, as requirements of the development plan, these are not benefits in favour of the development.

#### **Planning balance and conclusion on Appeal C**

88. Some economic benefits would arise from the proposed holiday accommodation. However, in the absence of locational justification, such benefits would be at the cost of increasing non-sustainable modes of transport

resulting in environmental, social and economic disbenefits. It would also cause harm to the rural character of the locality.

89. Taking all of those matters together, I find the harm would outweigh the benefits. It would conflict with the development plan read as a whole and there are no material considerations to indicate a decision other than in accordance with it. For the reasons given, I conclude that Appeal C should not succeed.

*R Hitchcock*

INSPECTOR

**Schedule of Conditions to planning permission Ref. 22/01832/FUL**

- 1) The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and supporting documents, referenced:
  - PROPOSED PLOT PLAN
  - PROPOSED ELEVATIONS
  - EXISTING AND PROPOSED FLOOR PLAN
  - AMERISOLAR AS-6P30 PHOTOVOLTAIC MODULES SPECIFICATION.
- 2) Within 6 months of the date of this permission, the alterations to the existing building shown on the approved plans listed under Condition 1, shall be implemented in full. If the approved alterations are not implemented in full within 6 months, then the existing building shall be demolished in full and all materials resulting from the demolition shall be removed from the land.
- 3) The development hereby permitted shall be used for agricultural purposes only as defined by Section 336 of the Town and Country Planning Act 1990, as amended.
- 4) No part of the development hereby permitted shall be brought into use until details of the timings for deliveries and collections have been submitted to and agreed in writing by the Local Planning Authority. Development shall thereafter be carried out only in accordance with the approved details.
- 5) No part of the development hereby permitted shall be brought into use until details of foul drainage disposal, specifically to serve the mushroom growing business, have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 6) No part of the development hereby permitted shall be brought into use until details of ecological enhancement measures in the form of bat and bird boxes have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be thereafter carried out in accordance with the approved details and retained for the lifetime of the development.
- 7) No additional external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

END.

## Appendix 1

List of those who have appealed

| <b>Reference</b> | <b>Case Reference</b>  | <b>Appellant</b>         |
|------------------|------------------------|--------------------------|
| Appeal A         | APP/B3030/C/23/3315917 | Mr Anthony Hilton-Bailey |
| Appeal B         | APP/B3030/W/22/3313346 | Mr Anthony Hilton-Bailey |
| Appeal C         | APP/B3030/W/22/3313348 | Mr Anthony Hilton-Bailey |