



Appeal Decisions

Site visit made on 2 May 2023

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal A Ref: APP/X1355/C/22/3305045

Appeal B Ref: APP/X1355/C/22/3305046

Land referred to as 'Five Acres', on the north Side of Nettlebed Lane, Wind Mill, Bishop Auckland, County Durham DL14 0PR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- Appeal A is made by Mrs Joanne Cliff and Appeal B is made by Mr John Paul Cliff against an enforcement notice issued by Durham County Council.
- The notice was issued on 8 July 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from agriculture to a mixed use for the keeping of equines and dogs and for a mixed storage use for equestrian equipment/materials, vehicles, trailers, carts or traps, caravans and associated equipment and recreational use facilitated by caravans, and incidental structures and works.
- The requirements of the notice are to
 - A - Discontinue the use of the Land, by:-
 - a) Permanently cease the use of the Land for the keeping of animals, including equines (other than for grazing animals) and dogs,
 - b) Permanently cease the use of the Land for storage purposes, including the storage of vehicles, trailers, caravans and associated equestrian and canine equipment,
 - c) Permanently cease the recreational use of the Land facilitated by caravans.
 - B - Restore the Land to its condition prior to development taking place by undertaking the following actions:
 - a) Permanently remove from the Land all equestrian equipment, tack, harnesses, carts, traps, trailers, and associated paraphernalia,
 - b) Permanently remove from the Land all dogs, canine items and equipment, kennels, feed, and associated paraphernalia
 - c) Permanently remove from the land all stored items and equipment including any domestic paraphernalia, generators, gas bottles, tools and equipment, furniture, appliances, external lighting,
 - d) Permanently remove from the Land all storage/shipping containers or vehicle bodies,
 - e) Permanently remove from the Land all caravans, cabins and portable toilets
 - f) Permanently remove from the Land all vehicles, trailers, (including any parts, tyres, scrap, tools and equipment),
 - g) Dismantle in their entirety and permanently remove from the Land the timber stable, storage building, and kennels including any hardstanding/ plinth constructed as part of the structure, removing the resultant materials, waste and building debris from the Land,
 - h) Dismantle and remove all the areas of hardstanding on the Land (excluding the concrete access) by removing all imported materials used in the surface and sub-base construction, and relieve compaction in areas affected by the works,
 - i) Remove from the Land the sewage treatment system/septic tank and all infrastructure,
 - j) Dismantle in their entirety the stone flanking walls at the entrance to the Land and permanently remove the building debris, name plaque and letterbox
 - k) Dismantle in its entirety and remove from the Land the roadside boundary boarded fencing, including concrete posts and dwarf wall (this is the section of

- roadside boundary to the right of the entrance gate running east shown for identification only between points A-B-C on the attached plan); and replace with a post and rail timber stockproof fence not exceeding 1.2m in height, set back 1m to correspond with the hedge replanting requirements in step i) below
- l) Dismantle in its entirety and remove from the Land the timber boarded fence and ranch style fencing erected to enclose the hardstanding/yard area,
 - m) Re-instate to meadow the areas of the Land affected by the operational works and re-instatement requirements detailed in the previous steps, with an application of topsoil and finished with an application of agricultural pasture grass seed mix to foster natural regeneration,
 - n) Plant a replacement hedge along the roadside boundary on the original alignment of the hedge to connect to the remaining section of roadside hedge and the field gate between points A-B-C shown on the plan attached – to the following specification:
 - (i) Shrub species should comprise of 60% Hawthorn (*Crataegus monogyna*), 20% Blackthorn (*Prunus spinosa*), 15% Hazel (*Corylus avellana*) / Holly (*Ilex aquifolium*), 5% Crab Apple (*Malus sylvestris*) / Guelder Rose (*Viburnum opulus*) / Dog Rose (*Rosa canina*). Shrubs should be 60-90 cm whips (bare roots or plugs) planted in a double staggered row of 5 plants per metre. The rows should be 25cm apart with the plants planted approximately 45cm apart. Shrubs must be protected with spiral guards and securely fixed with bamboo canes.
 - (ii) The plants will also need to be protected from stock in adjacent field by a stockproof fence placed 1m from the centreline of the hedgerow.
 - (iii) Weed control should be carried out prior to planting, with a 1 metre area around hedgerow being kept clear of weeds and grass for the first 2-3 years to reduce competition for moisture and nutrients. This should be done by chemical means or by hand weeding.
 - (iv) Hedgerow planting should take place in the first planting season following the notice taking effect (between November - March).
 - o) The hedgerow should thereafter be maintained for a period of 10 years following planting. Any trees or plants which die, fail to flourish or are removed within a period of 10 years of planting should be replaced in the next planting season with others of similar size and species.
- The periods for compliance with the requirements are:
 - Steps 5 A and 5 B a)-m) - Eight (8) weeks from the date on which this notice takes effect
 - Step 5 B n) – a period of six (6) months from the date on which this notice takes effect to enable planting to take place in the next planting season (months of November – March) following the notice taking effect.
 - Step 5 B o) – a period of 10 years from the date on which this notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: The appeals are dismissed, the enforcement notice is upheld with variations in the terms set out below in the Formal Decisions.

Appeal C Ref: APP/X1355/C/22/3305047

Appeal D Ref: APP/X1355/C/22/3305048

Land referred to as 'Five Acres', on the north side of Nettlebed Lane, Wind Mill, Bishop Auckland, County Durham DL14 0PR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- Appeal C is made by Mrs Joanne Cliff and Appeal D is made by Mr John Paul Cliff against an enforcement notice issued by Durham County Council.

- The notice was issued on 8 July 2022.
- The breach of planning control as alleged in the notice is without planning permission, the operational development consisting of the construction of areas of hardstanding, the formation, layout out and construction of a means of access to the highway, the erection of a timber 'stable' building with concrete plinth, erection of metal sheet clad storage building, erection of kennels, erection of stone flanking walls to entrance and erection of means of enclosure fences.
- The requirements of the notice are to
 - a) Dismantle in their entirety and permanently remove from the Land the timber stable, storage building, and kennels including any hardstanding/plinth constructed as part of the structure, removing the resultant materials, waste and building debris from the Land,
 - b) Permanently remove from the Land all storage/shipping containers or vehicle bodies,
 - c) Dismantle and remove all the areas of hardstanding on the Land (excluding the concrete access) by removing all imported materials used in the surface and sub-base construction; and relieve compaction in areas affected by the works,
 - d) Remove from the Land the sewage treatment system/septic tank and all infrastructure,
 - e) Dismantle in their entirety the stone flanking walls at the entrance to the Land and permanently remove the building debris, name plaque and letterbox,
 - f) Dismantle in its entirety and remove from the Land the roadside boundary boarded fencing, including concrete posts and dwarf wall (this is the section of roadside boundary to the right of the entrance gate running east shown for identification only between points A-B-C on the attached plan); and replace with a post and rail timber stockproof fence not exceeding 1.2m in height, set back 1m to correspond with the hedge replanting requirements in step i) below,
 - g) Dismantle in its entirety and remove from the Land the timber boarded fence and ranch style fencing erected to enclose the hardstanding/yard area,
 - h) Re-instate to meadow the areas of the Land where the development has been removed through the requirements in the previous steps, with an application of topsoil and finished with an application of agricultural pasture grass seed mix to foster natural regeneration,
 - i) Plant a replacement hedge along the roadside boundary on the original alignment of the hedge to connect to the remaining section of roadside hedge and the field gate between points A-B-C shown on the plan attached – to the following specification:
 - (i) Shrub species should comprise of 60% Hawthorn (*Crataegus monogyna*), 20% Blackthorn (*Prunus spinosa*), 15% Hazel (*Corylus avellana*) / Holly (*Ilex aquifolium*), 5% Crab Apple (*Malus sylvestris*) / Guelder Rose (*Viburnum opulus*) / Dog Rose (*Rosa canina*). Shrubs should be 60-90 cm whips (bare roots or plugs) planted in a double staggered row of 5 plants per metre. The rows should be 25cm apart with the plants planted approximately 45cm apart. Shrubs must be protected with spiral guards and securely fixed with bamboo canes.
 - (ii) The plants will also need to be protected from stock in adjacent field by a stockproof fence placed 1m from the centreline of the hedgerow. (iii) Weed control should be carried out prior to planting, with a 1 metre area around hedgerow being kept clear of weeds and grass for the first 2-3 years to reduce competition for moisture and nutrients. This should be done by chemical means or by hand weeding. (iv) Hedgerow planting should take place in the first planting season following the notice taking effect (between November - March).
 - j) The hedgerow should thereafter be maintained for a period of 10 years following planting. Any trees or plants which die, fail to flourish or are removed within a period of 10 years of planting should be replaced in the next planting season with others of similar size and species.

- The periods for compliance with the requirements are:
Steps 5 a)-h) - Eight (8) weeks from the date on which this notice takes effect
Step 5 i) – a period of six (6) months from the date on which this notice takes effect to enable planting to take place in the next planting season (months of November – March) following the notice taking effect.
Step 5 j) – a period of 10 years from the date on which this notice takes effect.
- Appeal C is proceeding on the grounds set out in section 174(2)(a), (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.
- Appeal D is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with variations in the terms set out below in the Formal Decisions.

Formal Decisions

Appeals A and B

1. It is directed that in respect of Appeals A and B the enforcement notice is varied by:

- i) The deletion of the words “10 years” and substituting the words “5 years” instead at **section 5B(o)**; and
- j) The deletion of section “6. *Time for Compliance*” and its contents in its entirety and substituting the following words:

‘6. TIME FOR COMPLIANCE

“Time for Compliance” means the period of time in which the steps required by Section 5 of this Notice are required to have been undertaken.

Steps 5 A(a) to (c) and 5 B(a) to (l) – Eight (8) weeks from the date on which this notice takes effect.

Step 5 B(m) and (n) – a period of eleven (11) months from the date on which this notice takes effect to enable planting to take place in the next planting season (months of November – March) following the notice taking effect.

Step 5 B(o) – a period of 5 years from the date on which this notice takes effect.’

2. Subject to the variation, Appeals A and B are dismissed, the enforcement notice is upheld and, with particular regard to Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals C and D

3. It is directed that in respect of Appeals C and D the enforcement notice is varied by:

- i) The deletion of the words “10 years” and substituting the words “5 years” instead at **section 5B(j)**; and
- j) The deletion of section ‘6. *TIME FOR COMPLIANCE*’ and its contents in its entirety and substitution with the following words:

'6. TIME FOR COMPLIANCE

Steps 5 a) to g) – Eight (8) weeks from the date on which this notice takes effect.

Steps h) and i) – a period of eleven (11) months from the date on which this notice takes effect to enable planting to take place in the next planting season (months of November – March) following the notice taking effect.

Step 5 j) – a period of 5 years from the date on which this notice takes effect.'

4. Subject to the variation, the appeals are dismissed, the enforcement notice is upheld and, with particular regard to Appeal C, planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

5. It should be noted that the Council in their Statement of Case refer to appeal reference APP/X1355/C/22/3305045 as Appeal A and appeal reference APP/X1355/C/22/3305047 as Appeal B. However, for the avoidance of doubt I refer throughout this decision to the appeals in the manner set out in the banner headings, above.
6. The plans that accompany each of the notices show the same site area, edged in black and hatched black. Both plans are annotated with the letters 'A', 'B' and 'C', the significance of which is set out in the requirements to each of the notices.
7. The Council previously considered an application for planning permission¹, submitted retrospectively, for the '*change of use of land to equestrian, erection of stables and tack room storage, hard and soft landscaping, boundary treatments and additional structures and associated works*' at the appeal site. That application was refused, and the decision was not appealed. The Council has confirmed that, in addition to its appeal submissions, it also wishes to draw upon the detailed reasoning set out in its officer report for that application in respect of these appeals.
8. Two notices were served. One (Appeals A and B), relates to an alleged material change of use, and the other (Appeals C and D) to alleged operational development. Both notices relate to the same area of land, all four appeals are made on the basis of grounds (f) and (g) whilst Appeals A and C also proceed on ground (a). However, the appellants have stated that certain elements of the alleged breaches of planning control have ceased or have been removed since the service of the notices. It was clear during my visit to the site, and confirmed by the parties during my visit to the site, that certain elements of the alleged breaches were no longer present within the appeal site.
9. The notice in respect of Appeals A and B refers to a material change of use of land from agriculture to the creation of a mixed use comprising of the keeping of equines and dogs, and a mixed storage use. Within the mixed storage use, a

¹ LPA Ref No: DM/21/03376/FPA

range of items and vehicles are referred to as being stored or sited within the appeal site. Whilst some of these have since been removed, the provisions of s174(2)(b) of the Act is worded in the past tense and thus it makes little difference whether the breach has stopped or not. Rather, the key question is whether the breach had occurred by the date of issue of the notice.

10. In setting out their cases in respect of ground (f) in all four appeals the appellants break down the requirements specified in the notice and respond to each in turn. Whilst I deal with the ground (f) appeals below, in relation to a number of the requirements it is argued that some of the elements cited in the notice's requirements are not, or were not, present at the site.
11. It is clear however, that a range of items and materials have been stored and present within the site for an extended period of time. It is also clear that some of those have changed over time, whilst others have not. Nevertheless, I am satisfied from the evidence presented to me that at the service of the notice the site was in use for a mixed use, which including a mixed storage use. That some of those items cited as part of the mixed storage use were removed after the service of the notice and are no longer present makes little difference. Whilst the appellants' arguments in relation to ground (f) introduce elements of a hidden ground (b) case – that the matters stated in the notice have not occurred – for the reasons I have set out above, I find that the hidden ground (b) appeals fail in relation to Appeals A and B.
12. There is also, within the appellants' ground (f) appeals in respect of appeals C and D, a potentially hidden ground (c) appeal. The appellants' make this case with specific reference to the notice's requirement (g) and that the removal of a timber boarded fence and ranch style fencing erected internally within the site amounts to over-enforcement as these would otherwise be permitted development².
13. The appellants do not dispute the need for, or extent of, the requirements set out at 5(e) or 5(f) regarding the removal of other means of enclosure from the site. However, whilst it is clear that those means of enclosure are adjacent to the highway, the internal fences referred to at 5(g) are not and the appellants argue that they are not therefore restricted by the lower height limits applicable where means of enclosure are adjacent to highways used by vehicles, and are thus permitted development provided they do not exceed 2 metres in height.
14. However, whilst means of enclosure within a field, provided they do not exceed the relevant heights may be permitted development and may not be unexpected, the means of enclosure in this instance fulfil a distinct function; that is to enclose the extent of the engineering operation and the laying of the area of hardstanding. They are therefore part and parcel of the alleged breaches of planning control in defining areas where mixed storage uses have occurred and by delineating particularly the engineering operation comprised by the laying of the road planings and crushed hardcore. The Council have not disputed the appellants' claim that the fencing does not exceed 2 metres in height.

² By virtue of Article 3, Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GDPO)

15. The appellants have referred me to a recent appeal decision³ where an Inspector took a different view with regard to the scope of permitted development rights regarding means of enclosure. However, other than the appeal decision letter I do not have the details of that particular case before me and I cannot therefore be certain that it provides a direct comparison with the appeals before me and the particular circumstances therein. As a consequence, the weight that I give this matter is limited.
16. Nevertheless, Article 3(5) of the Order states that planning permission granted under permitted development rights does not apply if, in connection with an existing use, that use is unlawful. The Council contend that that is the case in this instance.
17. The fences in question enclose the area of created hardstanding. They serve to mark out that area and to keep it separate and distinct from the wider areas of the site upon which the horses are turned out. In this respect, it seems to me that these means of enclosure have been created in connection with, and to facilitate the use of, the land for the mixed storage uses documented by the Council and delineate the area used for that storage from the fields beyond the enclosure but within the extent of the notice's red-line plan. Thus, it seems to me that the effect of Article 3(5) of the Order is to ensure that these means of enclosure fall within the scope of the notice and its requirements. Thus, the hidden ground (c) appeals fail and the extent of the requirements are considered below in respect of the ground (f) appeals for appeals C and D.
18. The Government published a new version of the National Planning Policy Framework (the Framework) on 19 December 2023. With the exception of paragraph numbering, the parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration and, consequently, it has not been necessary for me to seek the further comments of the main parties in this respect. I have determined the appeals on ground (a) accordingly.

The appeal site

19. The appeal site is comprised of three distinct, enclosed areas. The two largest areas are paddock field enclosures and combine to form almost the entirety of the land the subject of the notices. Enclosed to the west, north and east by a mix of post-and-wire fences and field hedges these are open pasture.
20. The third distinct area, also enclosed by a mix of fence types, is accessed directly from Nettlebed Lane and is effectively an enclosed compound inset within the two surrounding paddocks. This area is laid to loose hardstanding comprised of road planings and crushed hardcore. At the time of my visit to the site, present within this area were the damaged remains of the store / tack room and stable block buildings in the positions shown on a plan⁴ that accompanied the application for planning permission¹. Additionally, a van body was sited towards the front (east) corner of the site (not shown on the site plan referred to above but evident in the Council's photographic evidence⁵) whilst evidence of a concrete hardstand, in addition to that forming the apron at the

³ APP/X1355/C/22/3291375 (et al)

⁴ Drwg No: 01 – Planning-Proposed Details (incl site plan and elevations / floor plans of stable and store buildings

⁵ Appendix O

entrance to the site, was also visible in the general area of the kennel structure also shown on the previously submitted site plan.

21. Although some of the items referred to in the notices were not present at the time of my visit to the site, both parties were able to agree and confirm that the items referred to in the notice as having been stored on the site had in fact been stored on site. The locations that these items had been positioned, as also shown within the Council's photographic appendices, were also confirmed and noted.

The appeals on ground (a)

Main Issues

22. The Council's stated reasons for issuing both enforcement notices are the same for the alleged material change of use as they are for the alleged operational development. The main issues are consistent across both notices and all four appeals such that I have considered the appeals as one unless otherwise stated, and are therefore:

- Whether or not the appeal site is an appropriate location for the development alleged in the notice;
- The effects of the alleged development on the character and appearance of the appeal site and the surrounding countryside; and
- Highway safety.

Reasons

Location

23. County Durham Plan (CDP) Policy 10 sets out the Council's approach to development in the countryside. Development schemes will not be permitted in the countryside unless allowed for by specific CDP policies, or where a scheme relates to one (or more) of a number of exceptions set out within CDP Policy 10. CDP Policy 13 in turn sets out the Council's approach to equestrian development. Such schemes will, it is stated, be considered an appropriate countryside use and will be permitted, subject to a range of criteria set out subsequently being met.
24. No case has been put forward that the use of the appeal site falls within one of the main categories of exemption set out by CDP Policy 10. However, equestrian development is one of a range of relevant policies helpfully identified in a footnote to this policy.
25. To an extent and in isolation, I agree with the appellant's short and to the point statement that where, if not a location such as this in the countryside, horses may more appropriately be kept and grazed. However, that is not what is alleged by the notice or what it seeks to attack. Rather, it is the material change of use of the site to a mixed use, for the purposes described in the banner heading relating to Appeals A and B, above to which I must turn my attention.
26. There is no dispute as I see it between the parties that the range of items stored on the land had, at the time of the service of the notice, occurred or

were occurring. Nor has it been disputed that in addition to the stabling and grazing of horses, that dogs were also kennelled at the appeal site. Some of these elements of the alleged breach had, between the service of the notice and my visit to the site, been removed and the alleged uses therefore not able to be viewed. Nevertheless, whilst an equestrian use may well garner in-principle support from CDP Policies 10 and 13, that is not the matter at hand in this instance.

27. Thus, in addition to the keeping of horses and the use of the land for equine purposes, the mixed use alleged contains storage uses for which no argument has been presented with regard the support or exemptions offered by CDP Policy 10. Nor has a similar case been advanced in respect of the kennelling of dogs, or for the siting and storage of two touring caravans and the later substitution of one with a more substantial double-width caravan unit to facilitate a recreational use of the site. There is therefore no support for the appeal scheme from CDP Policy 10. Nor, as the material change of use alleged goes beyond just an equine use, does the principle of the appeal scheme garner support from CDP Policy 13.

Character and appearance

28. The appeal site lies next to Nettlebeds Lane, within an open and expansive countryside setting. It is also in a prominent roadside location, the roadside hedge providing some limited screening of the site's interior although as a consequence of the creation of the widened access gateway and other works, the visibility of the site's interior and its content varies.
29. Modest stables and loose boxes are not uncommon sights within a rural landscape setting. Indeed, CDP Policy 13 recognises as much, setting out an 'in-principle' support for equestrian uses in the open countryside. This support is, however, caveated.
30. In isolation, the stable building is unexceptional. It is modestly sized with two stalls and sited in a corner of the site. It is constructed of timber and is traditional in its appearance. Whilst it was exhibiting severe fire damage at the time of my visit to the site, its appearance (pre- or post- fire) does not cause particular harm to the character or appearance of the site or surrounding countryside.
31. However, CDP Policy 13(b) states that where proposals are for new buildings for equine uses, they should be located as part of, or close to, an existing group of buildings. Other than the metal storage building, which this notice also seeks to attack, that is not the case at the appeal site. The stable building is some distance away from the nearest houses to the east and northeast, none of which I am led to understand, are within the appellant's control.
32. The Council helpfully explains that CDP Policy 13(b)'s focus on the siting of new buildings is for landscape impact and welfare reasons. Given the distance of the building from the nearest properties, which are not within the appellant's control or occupation in any event, their capacity to provide direct equine welfare benefits are limited. Nor does the appeal site's relatively isolated location provide the stable building with an immediate context of being located within or near to other buildings.

33. Whilst there is some CDP support for equestrian uses in the open countryside, the stable building set out within the appeal scheme is not appropriately located in either a broad locational context or, more specifically, in terms of its position within the site or in relation to nearby buildings.
34. Whilst the stable building's modest scale and typically functional appearance minimises the extent of harm to the wider landscape that sporadic, standalone buildings in relatively isolated locations can have on landscape quality and character, the building's modest dimensions present other trade-offs. Thus, as a consequence, the dimensions of the two stalls provided within the building fall short, albeit only slightly so, of the guidelines and recommended standards set out in the Equine Industry Welfare Standards and British Horse Society Standards. Whilst this shortfall is limited, and on the basis that the two stalls would accommodate a total of two horses on the associated grazing land providing a generous amount of grazing land, it is nevertheless at odds with the guidance described above. As such, this leads me to conclude that the appeal scheme is contrary to CDP Policy 13(a) in that the stable building is not of an appropriate size for its intended use and that its location is such that it fails to garner support from CDP Policy 13(b). Whilst neither aspect is determinative in itself, together they add to my overall conclusion that the stable building is an inappropriate form of development in this location.
35. The metal storage barn is altogether larger, more prominent and more harmfully sited than the stable building. It is not, to my mind, of a design or appearance that is particularly common within the countryside. Rather, it strikes me as being more akin to a commercial-style lock-up on a down-at-heel urban industrial estate than the type of agricultural building to which the appellant alludes. Whilst its appearance has been further disfigured by recent fire damage, it is nevertheless utilitarian to the extent it is incongruously intrusive, whilst its siting within the site and its size, particularly but not limited to its height, are such that its presence is out of keeping with, and harmful to, the rural setting and character of the surrounding area. Nor, even if it had been used solely for equestrian purposes, would it benefit from the support, described above, offered by CDP Policy 13 because it would not be located close to, or as part of, an existing farmstead or other building grouping as sought by (b) of that policy.
36. The formation and laying out of such an extensive hardstanding goes significantly beyond what might reasonably be expected to facilitate the turning and loading / unloading of a horsebox or other similar equestrian vehicle. What has been laid is not therefore just hardstanding at a field or yard entrance. Rather, it is the creation of an entire compound covering the entirety of the area referred to by the notice. Together with the substantial stone entrance pillars and flanking walls, which have an unnecessarily and ornate, domestic appearance to them, at odds with the vernacular dry-stone walls found nearby, the combination of these factors results in an urbanising visual effect at odds with the prevailing character of the site and its surroundings.
37. Whilst I accept that what is left of the roadside hedge to the west of the site entrance effectively screens this surface-level feature from wider roadside views, a large area of hardstanding and flanking entrance walls and gate piers are incongruous and out of keeping with a rural setting such as that of the appeal site. Nor does the concrete post and timber panel fence assist in

mitigating the harmfully obtrusive nature of what has been carried out. It may be that the appellant has a longer-term intentions to replant a hedge along this stretch of the boundary, and indeed that is what the notices in part require albeit without the timber fence behind, but in the short term such planting would do little to soften the hard appearance and incongruous nature of such a fence in the immediate context of the appeal site's surroundings.

38. With regard to the wider use of the land, the principle of an equestrian use of the land would not necessarily cause harm to the character or appearance of the surrounding area. Nor, subject to a range of criteria recognised by CDP Policies 10 and 13, should a stable building or small store building for tack and other feed and equipment necessarily be inappropriate within a site, and in a location such as this. However, the variety of the items stored or present within the site over a lengthy period of time are not appropriate in this pleasant rural location.
39. Thus, variously, there have been portable toilet buildings and a changing mix of caravans, ostensibly it is claimed to provide welfare facilities but which have increased in size, stature and degree of permanence over the course of the Council's investigations. Added to these, the Council's photographic evidence also shows lorry chassis' present whilst a van body (also described as a steel storage container) remained present within the site at the time of my visit.
40. Collectively, this cornucopia of items has been present, to varying degrees and for varying lengths of time over an extended period sufficient to constitute a mixed storage use. Such items, either individually or collectively are unsightly and alien features within a pastoral setting as that of the appeal site. Whilst some are relatively modest in scale such that the roadside hedge affords a degree of screening, they are by no means completely hidden from view. The van body is clearly visible above the timber fence at the front of the site, and across the fields from other aspects, whilst other items stored on the land would have been visible through the site access opening.
41. Taken together therefore, the mixed storage use of the site and the various elements of operational development described in the notice combine to create, in essence, a storage compound more typical of an urban industrial estate than part of open fields in an open countryside location. The small stable block and grazing land do not mitigate the incongruous and intrusive nature of the cumulative effects of the use and the buildings and structures referred to. Nor do the presence of metal-clad buildings at nearby farms, as referred to by the appellant, mitigate the cumulative effects of the range of buildings, stored items and hard standing present at the appeal site.
42. Although some other aspects of the elements of storage alleged within the notice would be less visible than others, and indeed were no longer present at the time of my visit to the site, together they would further erode the otherwise pleasantly rural setting, and relatively isolated location, of the appeal site. The range of items cited within the notice are not satisfactorily commensurate with, or appropriate to, the type of rural stable and grazing set-up the appellant seeks to portray. As the Council's photographs amply demonstrate, the effect of such a mixed storage use and the presence of such disparate items results in an untidy clutter at odds with the open nature of the site and its surroundings.

43. Whilst it was not possible at the time of my visit to view all of the various items referred to, a comparison of the photographic evidence with the site as it was at my visit confirms that such a range of storage uses are harmfully incompatible with the site and its surroundings. As such, the material change of use and operational development cited in the notice fails to satisfy the provisions and requirements of CDP Policies 10, particularly in terms of harm to the character and appearance of the countryside, or 13 with regard to the stable building and its location within the site and wider countryside. Whilst it was evident that the storage building, particularly, had suffered fire damage, I am not persuaded that that building, and indeed other buildings, are justified on security grounds or that this should outweigh the harm to character and appearance that I have identified.
44. Further, the extent of the area of hardstanding and the range and mix of items stored at various times facilitated by, and within, that hard standing are inappropriate in this rural setting and harmful to the character and appearance of the site and surrounding area. So too, the harsh and intrusive mix of fencing styles and heights which are incongruous and intrusive in this location. Thus, in addition to conflict with CDP Policies 10 and 13, there is no support offered by CDP Policies 29, 39 and 40 which together seek to ensure high quality development that makes appropriate provision for natural features, trees and hedges within developments and to ensure that schemes contribute positively to, amongst other things, an area's character, landscape features and surroundings. For the reasons set out, the appeal scheme fails in these respects.

Highway safety

45. Prior to the alleged breaches of planning control set out in the notice, access to what is now the appeal site was previously taken via a single field-gate set within a roadside hedge. The gate itself was set broadly in line with the hedge on either side of it, on the inside of a gently sweeping section of Nettlebeds Lane.
46. In increasing the width of the access from Nettlebeds Lane, the appellant has constructed two substantial flanking stone walls, with stone piers at the roadside splay and at the recessed gates. The gates themselves would be recessed in the region of 5.8 metres from the carriageway which, whilst sufficient for most cars, would be likely to result in larger vehicles, or those towing trailers, to project into the carriageway or otherwise be parked awkwardly on it, whilst opening and closing the gates.
47. The pier on the western side of the access is positioned so that it is set slightly back from the roadside face of the hedge. As such, the pier itself is unlikely to be the limiting factor in the length of the visibility splay in a westerly direction. In an easterly direction, the hedge has been removed and, beyond to the stone pier, a timber panel fence set within concrete fence posts runs towards the site's eastern boundary. As a consequence, the splays as they exist are 2.1m (the x-distance) by 175m to the west, and 2.1m by 65m to the east.
48. The appellant's Highway Statement (HS) sets out observed speeds along the road and calculates that increased splays of 2.4m by 172m to the west and 2.4m by 118m to the east would be required. This would require the stone piers being moved back from their current position and, in the case of the

westerly splay, the cutting back of the hedge. The easterly splay would not be achievable, but the appellant has sought to justify this by citing the quiet nature of Nettlebeds Lane and the absence of recent accident records.

49. Nettlebeds Lane is subject to the national speed limit. However, whilst the x-distance cited by the appellant would normally be applicable to residential classification roads, on roads with speeds of 40mph or greater, I have noted the Council's comment that an increased x-distance of 4.5 metres would be expected. Together these requirements would entail the creation of even greater splays, with splays of 215m to the west and 160m to the east.
50. Nettlebeds Lane may well be lightly trafficked, which is a matter the Council do not dispute, and the use may well not generate significant or frequent vehicle movements. The absence of recorded personal injury road traffic collisions in the vicinity of the appeal site since the appellant's first keeping of horses at the appeal site has also been noted. However, the 85th percentile basis for calculating visibility splays is based on the speed of road users of that road, not the volume of traffic that uses it, whilst the absence of recorded traffic collisions does not, in itself, demonstrate a safe access.
51. Whilst the appellant notes longer splays with an increased 'x' distance could be accommodated by the removal of hedgerow and fencing on either side of the access junction, this would require the removal of further significant lengths of roadside hedge in a westerly direction, amount to a significant intervention to the landscaped fabric and setting of the appeal site and entail the use of land beyond the appellant's ownership. Even if I were to accept the shorter x-distance of 2.1 metres, it is likely that this would also result in the removal of a significant length of roadside hedge to the west of the access. For reasons I have explained above, this would cause further significant harm to the character and appearance of the appeal site and the surrounding area. As such, I am not persuaded that a suitable or appropriate point exists, or could be created, that would satisfactorily avoid harm to the character and appearance of the appeal site and the surrounding area whilst still achieving a safe and satisfactory access to the site.
52. CDP Policy 10 seeks, amongst other things, to ensure that development proposals in the countryside do not prejudice highway safety whilst CDP Policies 21, 39 and 40 set out the Council's approach to ensuring that proposals do not cause harm to the quality or character of the landscape and that existing hedgerows are retained where appropriate. For the reasons set out, it has not been demonstrated that satisfactory and safe access has been, or could be, created and that also avoids harm to the appearance, character and quality of the surrounding countryside landscape. As such the appeal scheme is contrary to CDP Policies 10, 21, 39 and 40 and also amounts to the unacceptable impact on highway safety that the Framework seeks to avoid.

An alternative scheme

53. The appellant raises the question in their submission that, if not in a rural countryside location with land available for grazing, where is appropriate for stabling and grazing for equines. To an extent, I agree. However, whilst it is conceivable that a small stable block, together with associated paddocks on adjacent land, may not necessarily be an inappropriate location for an equine use, I am not persuaded that the stable and equine elements of the appeal

scheme gain sufficient support from CDP Policies 10 and 13. Nor has not been demonstrated that the stable block as built was of an appropriate size and design for its intended use, having regard to the guidelines and standards cross-referenced within CDP Policy 13. I am not persuaded that additional screening vegetation in the form of hedge planting, the re-siting of the storage container, or the staining of the stable building would fully or satisfactorily mitigate the harm that I have identified above.

54. In the context of the notices, the retention of such could also reasonably be considered to be part of the matter enforced against for the purposes of the planning applications deemed (DPA) to have been made under the ground (a) appeals. However, such an alternative is only a vague notion and not one actively pursued by the appellant in the context of these appeals. Moreover, I am not satisfied that it would be possible to disentangle the various elements of the material change of use and the operational development aspects that the notice seeks to attack to arrive at a coherent alternative scheme for the purposes of a DPA that would be appropriate and align with the provisions of CDP Policies 10 or 13.

Conclusion on the ground (a) appeals

55. For the reasons set out, and having considered all other matters raised, the use of the appeal site for a mixed use of the keeping of equines and dogs and for mixed storage purposes including, but not necessarily limited to those items and pieces of equipment listed in the alleged breach, amounts to an inappropriate use of land in an otherwise pleasantly rural open countryside setting. As such, this element of the appeal schemes does not benefit from the support offered by CDP Policies 10 or 13 and there are no material considerations to justify otherwise. The keeping of goats, and indeed horses for agricultural and therefore non-recreational purposes, on the land would amount to an agricultural use and so are not matters before me in the context of these appeals. Whilst the grazing of horses for recreational purposes, and the operational development that might be expected to go with it in terms of stabling and storage facilities, may gain some support from the CDP, the appeal scheme before me does not, for reasons I have set out above.
56. Furthermore, the creation of areas of hardstanding, formation and laying out of a means of access to the highway, the construction of the stable building and storage building, kennels, means of enclosure and stone flanking walls to the entrance are incongruously inappropriate in this pleasant open countryside setting. For the reasons set out above, the appeal scheme does not gain support from the CDP Policies 10, 13, 29, 39 or 40, or the Framework, and there are no material considerations to indicate otherwise.

The appeals on ground (f)

Appeals A and B

57. There is, as the appellants suggest, some duplication between the requirements of the notice in respect of Appeals A and B (the material change of use) and Appeals C and D (the operational development). I agree that some of these elements set out in respect of Appeals A and B may more appropriately be covered by Appeals C and D and I will deal with the ground (f) appeals accordingly.

58. The purpose of the notice is to remedy the breach of planning control, and the steps set out seek to ensure the discontinuance of the use of the land in the alleged manner and to restore its condition accordingly. The appellants' arguments in respect of ground (f) for Appeals A and B is that it is felt that the steps required to comply with the notice are excessive. The reasons given are that some of the steps relate to the removal of operational development or that the various stored items have already been removed, thereby removing the need for the notice to seek their removal. However, the various elements of operational development have facilitated the material change of use alleged by the notice and as such the Council's approach in this respect is reasonable and proportionate.
59. Nevertheless, with regard to the requirements at 5A(a) to (c), (a) is a necessary step to ensure the remedying of the breach of planning control. This step does not require the cessation of the land for the grazing of goats and so the appellants' point in this respect is moot. The Council's photographic evidence demonstrates that the items referred to at (b) have indeed, at various points, been present and stored on the site. They may have since been removed, but the requirements are on-going so as to ensure continued compliance with the notice. So too, with regard to the recreational use facilitated by caravans, for which the Council's photographic evidence shows a changing roster of caravans and mobile home units of increasing size and scale which strike me as going far beyond what might otherwise be expected to provide welfare facilities.
60. With regard to the requirements set out at 5B(a) to (o) I am satisfied that it is appropriate for these to include the removal of the operational development, as also specified in the notice subject to appeals C and D. Given that the purpose of the notice is to remedy the breach of planning control, to require this by ceasing each unauthorised element of the mixed use, and the mixed storage use, including those elements of operational development that have facilitated and assisted in those uses would be in accordance with the Act. As with requirements 5A(a) to (c), some of the items set out in this section of the notice have since been removed from the site. However, in order to ensure complete compliance with the notice and to remedy the breach of planning control I am satisfied that these requirements are proportionate and do not exceed what is necessary to remedy that breach.
61. However, with regard to the requirements set out at 5B(o), a period of 10 years post-planting replacement is not adequately explained or justified by the Council, and comfortably exceeds a more usual 5 year period. As the notice sets in place a specific compliance period in respect of 5B(o) I have also considered this matter under the ground (g) appeals, below. Thus, in the interests of consistency I shall vary the wording of 5B(o) accordingly to refer to 5 years, and not the 10 years initially set out but the appeals on ground (f) otherwise fail.

Appeals C and D

62. As with appeals A and B, the purpose of the notice is to remedy the breach of planning control, and the steps set out seek to restore its condition accordingly.
63. For the reasons set out elsewhere, the appeals on ground (a) fail. As such, I cannot consider the planning merits of the various aspects of the operational

development. The stable building is not in this instance considered to be an appropriate form of development in this location and so its removal in the manner required by requirement 5(a) is consistent and proportionate to remedying the breach of planning control. So too, the removal of the now fire damaged storage building and the storage / shipping container used, it is stated, for the overnight shelter of goats.

64. Whilst the kennel structure was no longer present at the time of my visit, a requirement for its permanent removal would ensure the need for continuous compliance with the terms of the notice. The wider hardstanding area may have been reduced since its initial laying, but it is still an expansive area and excessive as a point of access to the restored appeal site. The requirement (5(c)) specifically excludes in any event the need to remove the concrete access surface and so an area of hardstand would remain that could provide a reasonably durable access point into the site.
65. I have no evidence before me either way with regard to the siting of a sewage treatment system or septic tank. The appellants reiterate that no such system has been installed, whilst the Council understand that one was installed in November 2020, albeit no further details have been supplied. I saw no evidence of any such system or installation at the time of my visit to the site. Nevertheless, the inclusion of such a requirement need not be excessive. If no such system is present then the notice's requirement has nothing to bite against. Alternatively, the continued presence of such a system would not be required for the lawful use of the land to which the notice requires it to be returned.
66. I have not been provided with details of the hedge species mix on either side of the appeal site's access point. However, the appellants confirm that the newly planted hedge to the east of the entrance does not match the Council's preferred specification. Whilst neither party have elaborated on the reasons behind their chosen specification, it has not been demonstrated on the balance of probability that the Council's specification is excessive in the context of the notice's requirement to remedy the breach of planning control.
67. As with appeals A and B, I shall vary the wording of (in this instance) requirement 5(j) to reflect my conclusions in respect of the appeals under ground (g), below.

The appeals on ground (g)

Appeals A and B

68. Step 5 A (a) to (c) set out the notice's substantive matters in respect of the alleged material change of use to the mixed use described in the notice. With particular regard to the keeping of animals, which the appellants state includes dogs and goats as well as horses, the appellants state that 8 weeks to permanently cease the use of the land for the keeping of animals is unreasonable as it would be necessary to secure alternative land. However, there were no kennels and thus no dogs on site at the time of my visit to the site, whilst the fire damaged buildings were not capable of accommodating equines at that time. Nor were there any other animals on site at the time of my visit.

69. Whilst I appreciate that making alternative arrangements for the stabling and keeping of equines, or the grazing of goats may take some time, I have not been presented with any compelling evidence that 8 weeks is too short a period to do so. Nor, given the clear absence of any animals at the appeal site during my visit to the site, has it proved impossible for the appellants to make alternative arrangements. Clearly the appellants have some access to alternative arrangements given the damage caused to the remaining structures by fire and the absence of any animals from the appeal site at the time of my visit to the site. I am not therefore persuaded that the ground (g) appeals should succeed in respect of steps 5 A(a) to (c).
70. Step 5 B(a) to (m) relate to the steps required to restore the land to its previous condition and to remove elements of the operational development that have facilitated and contributed to the material change of use alleged by the notice. The period for compliance with these steps is 8 weeks, whilst that relating to Step 5 B(n) is 6 months.
71. The appellants have indicated that they have no objection to the compliance period for steps B(a) to (n) being 6 months. Whilst this 6-month period already applies to B(n) as set out in the notice, for steps B(a) to (m) this amounts to an extension to the compliance period. However, no justification or explanation has been provided by the appellants for the increased period in respect of B(a) to (m).
72. Of these steps, B(a) to (f) essentially seek the permanent removal of a range of various items, some or all of which had, at the time of my visit to the site, already been removed. An 8 week period is sufficient to ensure the removal, where necessary, of any items that have returned since, and whilst the essential aim of the notice's requirements is to ensure the permanent removal and cessation of the mixed storage use, I see no reason why this period should be extended.
73. With regard to steps B(g) to (l), these are more extensive in their requirements and, as the appellants suggest, also refer to the dismantling and / or removal of operational development elements of Appeals C and D. However, as these elements are intrinsically linked to, and facilitate, the material change of use alleged in the notice (Appeals A and B) I do not consider it inappropriate for these appeals to deal with these matters. Nor, in the absence of any specific or compelling justification for a longer period, do I consider 8 weeks to be unreasonably short for the carrying out of these matters.
74. Finally, with regard to step B(m) and the requirement to reinstate the land affected by the operational works to meadow, these works seem more akin to, and aligned with, the requirements at step B(n). It is not clear why this requirement should be 8 weeks when the replacement hedge planting requirement allows a longer period of 6 months, especially so when the area to be returned to meadow is that which has had buildings, concrete footings and pads and extensive areas of hardcore hardstanding covering it. It therefore seems to me to be logical that the timeframe for this requirement aligns with that of B(n).
75. However, as Step 5B(n) specifies, reasonably, that planting should take place in the first planting season following the notice taking effect (between November and March) it also makes sense for me to ensure that the wording of

the requirement (5B(n)) and that of the compliance period set out at section 6 align. Whilst resisting the appellants' ground g appeals the Council do acknowledge that the compliance period should be varied to correspond with the next planting season after the notice takes effect.

76. I agree, as a period of 6 months would expire prior to the next planting season. Thus, in respect of step 5B(n) and, for reasons already set out, 5B(m), I shall vary the compliance period to a period of 11 months. This will allow the required works to be carried out within the first available planting season. The appeal on ground (g) succeeds in part in relation to step B(m) and I shall vary the notice accordingly.
77. Step 5 B(o) is an on-going requirement for the maintenance of the replanted hedgerow planting for a period of 10 years. This is, I am advised, a significantly longer period than the Council's standard landscaping condition. I have however also noted that the Council has also suggested a 10 year period in respect of the maintenance of landscape planting in their suggested conditions at section 7 of their combined Statement of Case for all four appeals.
78. The rationale for the longer period of time that the appellants are expected to maintain and, where necessary, replace the landscape planting is not explained by the Council. In the absence of such, I am sympathetic to the appellants' submission in this respect, and the longer period seems, in my judgement, to be unduly excessive and lengthy. In this respect, the ground (g) appeal in respect of Appeals A and B succeeds and I shall vary the notice accordingly so as to require a 5-year, rather than 10-year, period of maintenance and replanting.

Appeals C and D

79. The numbering of the requirements set out in the notice to which appeals C and D apply differs from that of the notice in appeals A and B. This is also reflected in the breakdown of the compliance periods relative to those steps, which are split into three distinct time periods.
80. As with the ground (g) appeals in respect of appeals A and B, the appellants confirm that a 6 month period of compliance in respect of steps (a) to (i) is reasonable. However, other than (i), that is not what the notice requires and the appellants have not provided further justification or explanation to support an extension from 8 weeks to 6 months for these steps.
81. For reasons set out above in relation to the ground (g) cases in respect of appeals A and B, it seems to me that steps (h) and (i) share similarities with each other in terms of their planting requirements and the benefits of carrying out planting during an appropriate planting season. As such, it is logical for both of these to have the same compliance period, and also to align with the variations that I have made in respect of appeals A and B. Thus, in relation to appeals C and D, I conclude that the notice should be varied to align with that of appeals A and B, and a period of 11 months be allowed. Such period would align with the entirety of the next planting season between November 2024 and March 2025 and I shall vary the notice accordingly. The appeals on ground (g) therefore succeed in this respect.

82. Finally, with regard to step 5 j), and as with appeals A and B in relation to the appeals on ground (g), a 10-year period would unnecessarily and without adequate justification exceed the more usual and reasonable maintenance period of 5 years. In this respect, the appeals on ground (g) succeed and I shall vary the notice accordingly.

Conclusion

83. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with variations and, with regard to appeals A and C, refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act (as amended).

G Robbie

INSPECTOR