



Appeal Decisions

Inquiry Held on 8 to 10 May 2024

Site visit made on 10 May 2024

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal 1: APP/Q1825/C/23/3335990

Old Yarr, Blaze Lane, Astwood Bank, Redditch, Worcestershire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Julie Millard against an enforcement notice enforcement notice issued by Redditch Borough Council.
- The enforcement notice was issued on 30 November 2023
- The breach of planning control as alleged in the notice is:
 - i. the construction of a building shown coloured red on the plan attached at Appendix 4 of this notice ("Plan 2") described in application 22/01566/FUL as a residential dwelling ("the Dwelling")
 - ii. the construction of a building shown coloured yellow on Plan 2 described in application 22/01564/FUL as a horticultural store ("the Horticultural Store")
 - iii. the construction of a building coloured purple on Plan 2 described in application 22/01565/FUL as an agricultural store ("the Agricultural Store")
 - iv. the construction of building and hardstanding coloured orange on the Plan 2 described in application 22/00917/FUL as a garage for 5 vehicles and associated hardstanding ("the Garage")
 - v. the construction of building coloured dark green on Plan 2 described in application 22/00916/FUL as an agricultural/equine store ("the Equine Store")
 - vi. the construction of a building coloured pink on Plan 2 described in application 22/00929/FUL as a stable block ("the Stable Block")
 - vii. the construction of a structure coloured light blue on Plan 2 described in application 22/01567/FUL as a horse walker and the associated hardstanding ("the Horse Walker")
 - viii. The construction of a building coloured dark blue on Plan 2 contrary to the approved plans associated with ref: 2013/290/COU ("the Dark Blue Dwelling") and
 - ix. the construction of a building coloured light green on Plan 2 contrary to the approved plans associated with ref: 2013/292/COU ("the Light Green Dwelling")
- The requirements of the notice are:
 - (a)
 - I. Cease the use of the Dwelling
 - II. Cease the use of the Horticultural Store
 - III. Cease the Use of the Agricultural Store
 - IV. Cease the use of the Garage
 - V. Cease the use of the Equine Store
 - VI. Cease the Use of the Stable Block
 - VII. Cease the use of the Horse Walker
 - VIII. Cease the Use of the Dark Blue Building
 - IX. Cease the Use of the Light Green Building
 - (b)
 - I. Demolish the Dwelling

- II. Demolish the Horticultural Store
 - III. Demolish the Agricultural Store
 - IV. Demolish the Garage
 - V. Demolish the Equine Store
 - VI. Demolish the Stable Block
 - VII. Demolish the Horse Walker
 - VIII. Demolish the Dark Blue Dwelling
 - IX. Demolish the Light Green Building
 - (c) Permanently remove from the Land all items and debris resulting from compliance with requirements 5(a) and 5(b) above.
 - The periods for compliance with the requirements are:
 - 1. Requirements 5 (a) (i), (viii) and (ix) shall be carried out within 3 months of the date on which the notice takes effect.
 - 2. Requirements 5(a) (ii) to (vii) shall be carried out within 1 month of the date in which the notice takes effect.
 - 3. Requirements 5 (b) (i) to (ix) shall be carried out within 11 months of the date in which this notice takes effect.
 - 4. Requirement 5 (c) shall be carried out within 14 months of the date in which this notice takes effect.
 - The appeal is made on the grounds set out in section 174 (2) (a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991
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Appeal 2: APP/Q1825/W/23/3334159

Old Yarr, Blaze Lane, Astwood Bank, Worcestershire B96 6QA

- 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 Mrs Julie Millard against the decision of Redditch Borough Council.
 - The application Ref 22/01564/FUL, dated 7 December 2022, was refused by notice dated 1 June 2023.
 - The development proposed is described on the application form as retrospective application for a horticultural store.
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Appeal 3: APP/Q1825/W/23/3334186

Old Yarr, Blaze Lane, Astwood Bank, Worcestershire B96 6QA

- 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 Mrs Julie Millard against the decision of Redditch Borough Council.
 - The application Ref 22/01565/FUL, dated 7 December 2022, was refused by notice dated 1 June 2023.
 - The development proposed is described on the application form as retrospective application for an agricultural store.
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Appeal 4: APP/Q1825/W/23/3334206

Old Yarr, Blaze Lane, Astwood Bank, Worcestershire B96 6QA

- 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 Mrs Julie Millard against the decision of Redditch Borough Council.
 - The application Ref 22/01567/FUL, dated 7 December 2022, was refused by notice dated 1 June 2023.
 - The development proposed is described on the application form as retrospective application for a horse walker.
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Preliminary Matters

1. There is a typographical error in paragraph 3 vi of the Notice which refers to "the construction of a of building coloured pink". The second "of" can be deleted without causing injustice to either main party.
2. It is now agreed that "the Dwelling" known as The Bows was substantially completed in June 2018 and therefore this component of the development was immune from enforcement action prior to the issuing of the Notice by the Council. Therefore, the grounds of appeal do not need to be considered in this decision.
3. The appellant conceded the ground (a) appeal with respect to the Light Green Dwelling (known as Lakeside Barn) and therefore this does not require any further consideration in this decision.
4. The Council accept that the hardstanding associated with the garage benefits from permitted development rights and therefore there is no need for me to consider this matter.

Site and surroundings

5. The appeal site is situated north of Blaze Lane which is a narrow rural lane south west of Redditch which is approximately 2 miles away. The surrounding countryside is predominantly agricultural land which is served by a number of existing farms and there are also scattered residential properties in the locality. The wider site comprises two separate parcels of land; the smaller of which is across Blaze Lane is open pasture agricultural land comprising of two fields used for growing hay and grazing livestock. The larger parcel benefits from planning permission for equestrian use.
6. The larger parcel has two access points off Blaze Lane; one serving the main dwellings and the other serving various buildings, including those used for equestrian purposes. There are various recent planning permissions for the site including the installation of a manege, change of use to equestrian land, temporary planning permission for children's play equipment and for the siting of a mobile home and for the erection of a tractor store and manure clamps.
7. There are 4 residential properties on the site which are occupied by 4 generations of the same family. There are also 10 horses on the site which are used for competition in this country and further afield in Europe. The whole site is situated in the Green Belt.

Appeal 1 on ground (c)

8. The Council now accepts that the hardstanding associated with the Garage benefits from permitted development rights and so the appeal on ground (c) succeeds in relation to the hardstanding. Therefore, reference to it should be removed from the Notice.

Appeal 1 on Ground (d)

Light Green Dwelling (also known as Lakeside Barn)

9. The ground of appeal is that at the date when the Notice was issued, no enforcement action could be taken. To succeed it would be necessary to show that the building had been substantially completed four years before the notice was issued. There is a significant body of evidence that the property was substantially completed and occupied in September 2019, but the Council argues that a porch was constructed on the dwelling in September 2020 and therefore it cannot be said that it was substantially completed in November 2019.
10. Case law¹ has established that the right approach is to look at the totality of the works and then to consider holistically whether what was there on 30 November 2019 meant that it was substantially complete. This approach was subsequently reaffirmed by the Court of Appeal² which involved a barn which had been the subject of various works by the landowner who argued that he had intended the works to be repair rather than reconstruction – which was an argument dismissed by the Inspector. The Inspector's decision was upheld and the Court of Appeal cautioned against an investigation of the intentions of the developer at intervals in the relevant planning history and undue reliance on the actual use to which the structure had been put from time-to-time. The most important factor is for the Inspector to focus on the physical layout and appearance of the building itself.
11. The facts of the *Sage* case are very different from those before me now. In that case the building was unfinished and was unfit for habitation and important features such as staircases, internal walls and service fittings were missing. Lakeside Barn was fully finished and occupied in September 2019 and after a period of occupancy of approximately a year the appellant decided to add a porch to provide shelter for removing boots, prevent the ingress of rain and prevent damage to an intercom device. In my judgement it was clearly the appellant's original intention to occupy the property as originally substantially complete in November 2019. Indeed, it was fully completed, finished and being occupied as a dwellinghouse from before that time. The findings of *Sage* cannot take that away because the building was "*the totality of the operations which the person originally contemplated and intended to carry out*" (from *Sage*). There is no evidence or indeed reasonable argument otherwise. I understand that the porch was entirely missing but that does not detract from the fact that the residential property was fully completed and occupied for a period of more than four years before the Notice was issued. The porch was added after occupation but that does not mean that the residential property was not substantially complete and entirely ready for full occupation. It merely means that a relatively minor element was subsequently added to that dwelling.
12. Therefore, I conclude that the residential property identified as the Light Green Dwelling and known as Lakeside Barn was substantially complete more than four years before the Notice was issued and the appeal on ground (d) succeeds. In these circumstances the appeals submitted on grounds (a), (f) and (g) with respect to this property do not fall to be considered.

¹ *Sage v Secretary of State for Transport and the Regions* [2003] JPL 1299

² *Devine v Secretary of State for Levelling Up, Housing and Communities* [2023] EWCA Civ 601

Appeal 1 on ground (a)

Horticultural Store (Also linked s78 Appeal 2 APP/Q1825/W/23/3334159)

13. The appeals are that planning permission should be granted. The agreed main issues are:
- i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
 - ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
14. The appellant relies on this being an agricultural building for the purposes of paragraph 154a of the Framework. The store building is relatively small with a floor area of approximately 19 square metres. It is argued that its main user, Mr Brazier is not simply a gardener but as well as planting, maintaining beds and hedges, landscaping, mowing and general maintenance of garden and landscaped areas he also maintains fences and helps to mow grass in equestrian areas and agricultural fields. However, the evidence before me is that as a matter of fact and degree the building is used primarily for gardening work and it is used as a potting shed and for the gardener to take shelter during his breaks.
15. Some of the land on which he carries out tasks may be in agricultural use but that does not mean he is a farmer or is engaged in agriculture as defined in s225(1) of the Act. The use is mainly related to the domestic properties around Old Yarr. The building is of a high quality design that sits relatively comfortably in its surroundings, but that does not make it acceptable in this case. Therefore, as a new building in the Green Belt it is inappropriate development and no very special circumstances have been presented. Consequently, it conflicts with Policy 8 of the Borough of Redditch Local Plan No. 4 Adopted January 2017 (the LP) and the Framework. The appeals must fail.

Agricultural Store (Also linked s78 Appeal 3 APP/Q1825/W/23/3334186)

16. The agreed main issues are:
- i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
 - ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
17. The appellant again relies on the agricultural exception under paragraph 154a of the Framework. The store building is relatively small with a floor area of approximately 19 square metres. There is some evidence from Micheal John Lewis that he helps with property maintenance and repairing fences. He also maintains machinery and potters around the property. The agricultural store is used to store small tools and other bits and pieces for maintenance of the

agricultural machinery used for land and property maintenance purposes. If some of the fences in question surround agricultural fields that does not mean the building in question is being used for agricultural purposes. Agriculture relates to farming activities carried out by a farmer on an agricultural holding and it is also agreed that farming is involved in the commercial production of products to sell or use. However, the evidence before me is that as a matter of fact and degree the building is used primarily for gardening work and it is used as a potting shed and for shelter during breaks.

18. Some of the land on which he carries out tasks may be in agricultural use but that does not mean he is a farmer or is engaged in agriculture as defined in s225(1) of the Act. The use is mainly related to the domestic properties around Old Yarr. The building is of a high quality design that sits relatively comfortably in its surroundings, but that does not make it acceptable in this case. Therefore, it is inappropriate development in the Green Belt and no very special circumstances have been presented. Consequently, the agricultural store conflicts with Policy 8 of the LP and the Framework. The appeals must fail.

Garage

19. As stated above, the Council now accepts that the hardstanding is permitted development and therefore this section is concerned with the garage building alone. The agreed main issues are:
- i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
 - ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
20. The appellant accepts that the garage would be inappropriate development in the Green Belt and therefore needs to demonstrate that there are very special circumstances. Her case in this regard is based on a fallback position related to erecting a garage under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). To establish whether there is a reasonable fallback position I need to determine where the garage sits in terms of curtilage.
21. Firstly, the matter of curtilage is a matter of fact and degree for the decision maker and case law³ has identified that relevant factors for determining curtilage are summarised as physical layout of the building and structure, ownership past and present and their use or function, past or present. The occupants of Old Yarr and Lakeside Barn are co-owners of the site which includes the garage. Whilst the Council contends that because of physical layout the garage is in the curtilage of Old Yarr I dispute this conclusion. The garage does face Old Yarr and the driveway connecting the pool house, but the physical layout and particularly hardstanding areas, boundary walls and features indicate to me that there lacks an intimate relationship between the garage and Old Yarr.

³Burford v SCLG [2017] EWHC 1493 Admin

22. Lakeside Barn is much closer to the garage and there is access from the bedroom and rear utility room into the rear walled garden which leads to the hardstanding in front of the garage. However, it faces away from the garage and the main front entrance leads away from the garage onto a gravel driveway which has space for parking cars and other vehicles and is where the occupants of Lakeside Barn keep the vehicle they use on a day-to-day basis because it is more convenient to do so. The garage is also separated from the dwellinghouse by the access driveway leading to the pool room. In my judgment and as a matter of fact and degree the curtilage of Lakeside Barn is relatively small and is restricted to the walled garden to its rear and space to the front where vehicles are currently kept.
23. The confusion regarding curtilage is illustrated by the fact that when the appellant originally applied for planning permission for the garage they sought to link it with Old Yarr. It was suggested that upon close examination of the facts, they changed their mind. The details involved in this change are not clear and it seems to me that they realised their case may be stronger if they sought to link the garage with Lakeside Barn.
24. With respect to use and function, the occupants of Lakeside Barn use the garage for their car collection and effectively have exclusive use of the garage (although in certain circumstances they would not prevent other family members from using it, if needed).
25. Therefore, irrespective of whether the garage is required for incidental purposes, due to the physical layout of the site and its surroundings the garage falls outside the curtilage of Old Yarr and Lakeside Barn and therefore cannot benefit from permitted development rights pursuant to Class E. Consequently, there is no fallback position and the very special circumstances put forward by the appellant do not exist.
26. Therefore, the garage is inappropriate development for the purposes of the development plan and the Framework; and the harm by reason of inappropriateness is not outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it. Therefore, the garage conflicts with Policy 8 of the LP and the Framework and the appeal on ground (a) does not succeed.

Equine store

27. The agreed main issues are:
 - i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
 - ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
28. It is agreed that as a mixed use agricultural and equestrian store the development would need to meet both requirements set out in paragraphs 154 a) and b) for it to be not inappropriate development in the Green Belt. Firstly,

the building is used to store a range of machinery, tools and vehicles used on agricultural and equestrian land across the wider appeal site. However, as with the small horticultural store and agricultural store the activities associated with the items stored in the building are related to general management of the gardens, landscaped areas and wider site rather than agricultural or horticultural activities.

29. The evidence before me is that everything required for the equestrian activities carried out on the appeal site is kept in the stable block and the horse walker. I understand that the tractor stored in this building is used to draw the manege leveller, although the leveller is kept elsewhere. In my judgement the storage of the tractor used with other equipment to level the manege does not constitute an equestrian use. Even if it did, the appellant's representative agreed that the store would cause harm to the openness of the Green Belt because of its size and the fact that it is perceivable from some viewpoints on the local public rights of way network. Therefore, the development is inappropriate development in the Green Belt.
30. The construction of new buildings is inappropriate development in the Green Belt except for, among others, appropriate facilities for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Against the harm identified the appellant has submitted that there is planning benefit relating to equestrian use and an unspecified agricultural benefit.
31. The equestrian use of the site is a personal or private benefit relating primarily to the appellant's granddaughter's equestrian activities and aspirations which, although highly commendable, do not make it a consideration of great weight. Paragraph 150 of the Framework does indeed support the use of the Green Belt for opportunities for sport and recreation, but this seems to me to be targeting public facilities and access rather than private facilities and access. The opportunities presented to me in this appeal are very much restricted to one individual.
32. It is very clear that in planning terms the Green Belt attracts some of the highest levels of protection and the Government attaches great importance to it and consequently development should be strictly controlled in terms of it being not inappropriate or inappropriate but justified through clearly demonstrated very special circumstances. Therefore, I attribute limited weight to the personal circumstances demonstrated and little weight to the unattributed agricultural benefits of the store. These do not demonstrate very special circumstances which outweigh the substantial weight given to the harm by way of its inappropriateness.
33. In reaching my conclusions on this breach I have taken account of the *Boot*⁴ case and an Inspector's 2022 decision letter⁵ but have determined it on its own merits having regard to the very specific circumstances of the case and do not find that my conclusions conflict with the approaches taken and case law established, respectively.

⁴ R (Amanda Boot) v Elmbridge Borough Council [2017] EWHC 12 (Admin)

⁵ Ref. APP/K3605/W/21/3279782

34. I conclude that the development is inappropriate development for the purposes of the development plan and the Framework; and the harm by reason of inappropriateness, and any other harm, is not outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it. As such there is conflict with Policy 8 of the LP and the Framework and the appeal on ground (a) does not succeed.

Stable Block

35. The agreed main issues are:

- i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
- ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

36. Much of the wider appeal site has planning permission for equine use and there is also permission for a manege which is in regular use. There is no restriction on the number of horses and ponies that can be kept on the land and the evidence before me is that the British Horse Society's guide reference for keeping horses is 1 horse per hectare. In this case the equine area is approximately 10.11 and the number kept is below that guide. The appellant argues that the size of the stable block is guided by the number of horses and ponies and 10 are, in fact, kept within the stable block at present.

37. It is accepted that stables are not inappropriate facilities in connection with the authorised use of the land. Therefore, the main question here is whether the overall scale of the building preserves the openness of the Green Belt and does not conflict with purposes of including land within it.

38. I do not dispute the appellant's granddaughter's ability and success in equestrian activities and that to maintain and improve that standard the facilities available along with other factors need to be to very high standards. There is also no dispute that the quality of the animals kept and the facilities required to look after them properly, including healthcare treatment and diet, also need to be of the highest standards.

39. The stable building itself includes ten stables which conform to British Horse Society standards and other facilities such as a tack room, food storage, food preparation and ancillary space for staff. The appellant states that the size of the building is proportional to the use to which the land is currently being put. That may be the case, but the stable block is a particularly large building of approximately 447 square metres with a ridge height of approximately 9.2 metres. In addition, it has been built on the edge of the group of buildings around Old Yarr into an area of open countryside. It is highly visually prominent in the locality because of its overall bulk, massing and scale. The appellant has conceded that it is inappropriate development in the Green Belt given the harm to openness and conflict with its purposes but has sought to demonstrate very special circumstances.

40. The definitional harm to the Green Belt agreed by both main parties must carry substantial weight. The stable is built on the site of a previous demolished barn and should the enforcement notice be upheld this part of the Green Belt would be undeveloped and this must also attract substantial weight. The location of the building extends built development into the open countryside which conflicts with the overall purpose of the Green Belt to protect the countryside from encroachment. In my judgement this must also carry substantial weight. The Landscape and Visual Impact Assessment attributes minor negligible adverse effect from the stable building and I also attribute this moderate weight.
41. The Written Ministerial Statement Green Belt Protection and Intentional Unauthorised Development (the WMS) makes intentional unauthorised development a material consideration in the determination of planning applications and wider decision-making. The WMS also provides greater protection to the Green Belt in response to the Government's particular concern about harm that is caused by intentional unauthorised development. The appellant is aware of planning issues and the need for planning permission as she considered the development potential of the wider Old Yarr site and planning permission for various proposals including barn conversions to be of benefit when she purchased the site with her daughter. In addition, she employed an experienced builder who was also aware of planning issues to the extent that he advised on permitted development rights for the garage. Therefore, I do not think it is feasible that they did not understand that planning permission would be required for such a large stable building. In these circumstances the stable block is unintentional unauthorised development in the Green Belt to which I attach moderate weight.
42. The benefit of the stable block is restricted to the personal equestrian weight which is important to the appellant but is not a strong argument in the wider planning sense. If personal desire is capable of constituting very special circumstances that would be a particularly low bar being applied to an issue which the Government evidently takes very seriously and is seeking to protect. Against that benefit there is a suite of harms which are clearly not outweighed by that benefit. I have taken account of the authorised equestrian use of surrounding land but that does not give an automatic right to build what they want – particularly a building this big in the Green Belt. A personal permission would not mitigate the harm I have found in this case.
43. Therefore, I conclude that the development is inappropriate development for the purposes of the development plan and the Framework; and the harm by reason of inappropriateness, and any other harm, is not outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it. There is conflict with Policy 8 of the LP and the Framework and the appeal on ground (a) does not succeed.

Horse Walker and hardstanding (Also linked s78 Appeal 4 APP/Q1825/W/23/3334206)

44. Under ground (a) and for the linked s78 appeal the agreed main issues are:
- Whether the development is inappropriate development for the purposes of the development plan and the Framework; and

- ii. The effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - iii. The effect on the character and appearance of the area; and
 - iv. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
45. The appellant's case is that the horse walker and hardstanding is not inappropriate development in the Green Belt under paragraph 154(b) of the Framework because it relates to the provision for outdoor sport and recreation and it supports the equestrian use of the land. That may be the case, but the appellant also conceded that if it is perceivable by the public then it would harm openness. At my site visit I observed that the development is further into the countryside than all other developments the subject of the Notice and it is a relatively large structure measuring approximately 2.26 metres in height with a diameter of approximately 14 metres. As such it is perceivable from the nearby countryside and, because of its position and scale does not preserve the openness of the Green Belt. It cannot be said that it meets the requirements of 154(b). In addition, it was also conceded that the horse walker would conflict with the Green Belt purpose of protecting the countryside from encroachment. The structure is relatively lightweight and incorporates metal mesh, but it has a part-solid roof and is substantial in scale. As such I find that it is harmful to the character and appearance of the area and is in conflict with Policy 39 of the LP.
46. The appellant also contended that the horse walker is constructed on an existing concrete pad, but there is no evidence that, if the concrete pad was even there, it was lawful. It is much more likely that the concrete was constructed on the land as part of the horse walker development itself. If the concrete pad was there the horse walker would, in effect, be replacing a flat concrete area with a far more intrusive metal structure which has a far greater effect on the openness of the Green Belt, on the character and appearance of the area and therefore conflicts with the objective of protecting the countryside from encroachment. Therefore, I conclude that the development is inappropriate development in the Green Belt, is harmful to the openness of the Green Belt and the purposes of including land within it and is harmful to the character and appearance of the area. No very special circumstances have been submitted and therefore it conflicts with Policy 8 of the LP and the Framework and the appeal on ground (a) and linked s78 appeal do not succeed.
47. I have taken account of a previous appeal decision to which my attention has been drawn and another decision in Bromsgrove where it was concluded that a lightweight horse walker structure was found to be appropriate in the Green Belt. However, in the circumstances before me where the development clearly encroaches into the countryside and is harmful to the character and appearance of the area, I conclude that the horse walker and hardstanding is inappropriate development in the Green Belt and very special circumstances to outweigh the harm by reason of inappropriateness and any other harm is not clearly outweighed by other considerations so as to amount to very special circumstances.

Dark Blue dwelling

48. Under ground (a) the agreed main issues are:
- i. Whether the development is inappropriate development for the purposes of the development plan and the Framework; and
 - ii. If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
49. It is my understanding that the current occupants have lived in the dwelling since October 2017. The building is steel-framed and has been the subject of extensive works, including re-skinning the external walls and thereby extending its footprint, replacing all windows and doors, replacing the original asbestos roof with a tiled roof which involved raising the ridge to create a suitable pitch to fix tiles and building new courses of brick to both gable ends. During these works the property remained fully occupied as a dwellinghouse. The occupied area has not changed, the ground floor interior has not been altered, no new openings have been created and no new habitable space has been created, even though the roof space has been enlarged.
50. The Council argues that in all practical terms the appellant has started afresh. However, this is not a new building but instead constitutes the extension and alteration of a building and the key issue in determining whether or not it is inappropriate development in the Green Belt is whether it results in disproportionate additions over and above the size of the original building.
51. The overall footprint of the building has only changed marginally and the main change with respect to proportionality is the increase in the height of the ridge to facilitate the new tiled roof. As a matter of fact and degree and in my judgement the increase in height is not excessive, nor is it disproportionate in relation to what was there originally. In addition, raising the gable ends by adding new courses of bricks is not disproportionate, either but is a means of minimising the overall effect of increasing the ridge height on the character of the barn.
52. Before these works took place the building had retained some of its agricultural and rural character but that had been compromised to a degree by the design of window and door openings, for example. The alterations that have subsequently taken place have not changed that to a significant or unacceptable degree.
53. Consequently, I conclude that the development is not inappropriate in the Green Belt for the purposes of the development plan and the Framework and is therefore in accordance with Policy 8 of the LP and the Framework. The appeal on ground (a) is allowed. In these circumstances, grounds (f) and (g) do not need to be considered in relation to the 'Dark Blue' dwelling.

Appeal 1 on ground (f)

54. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)).

Garage

55. Since the notice requires the use of the garage to cease and it to be demolished the purpose is clearly to remedy the breach. Leaving any part of it in place would not achieve that purpose. In this respect the appeal on ground (f) fails. The appellant argues that the steps are excessive when a similar building could be built under permitted development rights. However, since I have found that the building does not fall within the curtilage of a residential property it is not clear how that could be the case. The appeal on ground (f) does not succeed.

Equine Store

56. Since the notice requires the use of the agricultural/equine store to cease and it to be demolished the purpose is clearly to remedy the breach. Leaving any part of it in place would not achieve that purpose. The appellant argues that the provision of such facilities would be expected within the use of the site. However, no lesser steps are suggested and the appeal on ground (f) does not succeed.

Stable Block

57. Since the notice requires the use of the stable block to cease and it to be demolished the purpose is clearly to remedy the breach. Leaving any part of it in place would not achieve that purpose. It is contended that stabling would be an acceptable facility in the Green Belt. As I have set out above, I have concluded that in this case the stable block is inappropriate development for the purposes of the development plan and the Framework; and the harm by reason of inappropriateness, and any other harm, is not outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it. In the absence of suggested lesser steps the appeal on ground (f) does not succeed.

Appeal 1 on ground (g)

58. The ground of appeal is that the time given to comply with the requirements is too short.

Garage

59. The one month given to cease the use of the garage would be sufficient to cease the use and eleven months is sufficient to demolish the building. The appellant's case is that one month is inadequate to clear the garage and make alternative arrangements. No suggested alternative period has been made and in any case the time periods given are adequate given that the cars could be stored outside as a stop gap until alternative garage space is found. The garage could quite easily be demolished in 11 months. Therefore, with respect to the garage the appeal on ground (g) does not succeed.

Equine store

60. The one month given to cease the use of the equine store would be sufficient to cease the use and eleven months is sufficient to demolish the building. The appellant's case is that the period of one month is inadequate given the ongoing lawful equine and agricultural use of the land which requires secure

storage facilities for equipment. No suggested alternative period has been made and in any case the time periods given are adequate in these circumstances. Therefore, with respect to the equine store the appeal on ground (g) does not succeed.

Stable block

61. The one month given to cease the use of the equine store would be sufficient to cease the use and eleven months is sufficient to demolish the building. The appellant's case is that the period of one month is inadequate given the horse welfare requirements and for alternative accommodation to be found for prestigious horses with a need for high quality facilities. No suggested alternative period has been made, but I consider that the period should be extended to ensure that adequate time is given to find alternative accommodation for the horses and in this respect, I consider six months would strike an appropriate balance and would not place a disproportionate burden on the appellant. The requirement to demolish the stable block within 11 months is a suitable period. Therefore, to this limited extent the appeal on ground (g) succeeds.

Horse walker and associated hardstanding

62. The one month given to cease the use of the horse walker and hardstanding would be sufficient to cease the use and eleven months is sufficient to demolish the building. The appellant's case is that the horse walker is imperative for the horses' welfare and ceasing its use within one month is inadequate to make alternative arrangements. No suggested alternative period has been made, but I consider that the period should be extended to ensure that adequate time is given to find alternative facilities for the horses and in this respect, I consider six months would strike an appropriate balance and would not place a disproportionate burden on the appellant. In addition, six months would align with the time period for the cessation of the use of the stable block. The requirement to demolish the horse walker and associated hardstanding within 11 months is a suitable time period. Therefore, to this limited extent the appeal on ground (g) succeeds.

Conditions

Dark Blue Dwelling

63. With respect to the Dark Blue Dwelling the appeal has succeeded on ground (a) and planning permission is granted for the development subject to conditions. A list of conditions has been submitted in the Statement of Common Ground which I have considered, and where necessary amended, in line with national policy and guidance.
64. Because the development has already been completed there is no need to attach a condition which requires the development to be carried out in accordance with a particular drawing. To ensure ecological and biodiversity matters are satisfactorily addressed I have attached conditions requiring the installation of a bird box, submission and implementation of an external lighting scheme and carrying out recommendations of a baseline ecology survey.

65. Each of the conditions is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met.

Unilateral Undertaking

66. A signed and completed Unilateral Undertaking has been submitted with two main purposes. Firstly, to not dispose the Residential Dwelling (known as The Bows) separate from the Main Dwelling (known as Old Yarr Farmhouse) other than in specified circumstances and not to permit nor allow them to be occupied other than by a Connected Party (family member, employee and/or a person who is a spouse, co-habitee or dependant of a person who is a family member or employee). Secondly, to lower the height of the Garage to 4 metres in accordance with the limitations of Class E Part 1 A Schedule 2 of the GPDO.
67. The first of these provisions does not relate to anything I have had to decide because Old Yarr itself has not been the subject of the enforcement notice or planning applications which have been appealed and agreement has also been reached that The Bows should also been deleted from the Notice. Therefore, because it has no relevance to the determination of matters in this appeal it is not necessary, directly related to or reasonable with respect to the appeal or applications before me. Should the current owners wish to restrict the sale of properties or plots within the wider Old Yarr estate then they can use other mechanisms other than through the planning process to achieve this.
68. Secondly, because I have found that the Garage falls outside the curtilage of Old Yarr and Lakeside Barn it cannot benefit from permitted development rights pursuant to Class E. Consequently, there is no fallback position and the provisions to reduce the height of the garage to 4 metres does not exist in this case. Therefore, the respective clauses in the Unilateral Agreement do not fall to be considered. I conclude that the Unilateral Undertaking should not be attached to the grant of planning permission pursuant to these appeals.

Decisions

Appeal A

69. I hereby direct that the enforcement notice is corrected by:
- a) The deletion from paragraph 3 vi of the second "of" in the first line; and varied by
 - b) The deletion from paragraph 3 of the Notice the words "i. the construction of a building shown coloured red on the plan attached at Appendix 4 of this notice ("Plan 2") described in application 22/01566/FUL as a residential dwelling ("the Dwelling");

- c) The deletion from Paragraph 3 iv. of the Notice the words "and hardstanding" and "and associated hardstanding";
 - d) The deletion from paragraph 5 (a) of the Notice the words "I. Cease the use of the Dwelling";
 - e) The deletion from paragraph 5 (b) of the Notice the words "I. Demolish the Dwelling";
 - f) The deletion from paragraph 6.1 of "(i)";
 - g) The deletion from paragraph 6.3 of "(i)";
 - h) The deletion from paragraph 6.2 of the words "5(a)(ii) to (vii) and the substitution therefor of the words "5(a)(ii) to (v); and
 - i) The addition after paragraph 6.4 of paragraph 6.5 which shall read "Requirements 5(b)(vi) and (vii) shall be carried out within 6 months of the date in which this notice takes effect.
70. Appeal 1 on ground (a) is allowed insofar as it relates to the Dark Blue Dwelling and subject to the conditions set out in the Schedule to this decision planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the Dark Blue Dwelling at Old Yarr, Blaze Lane, Astwood Bank, Redditch, Worcestershire. Appeal 1 is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the Horticultural Store, the Agricultural Store, the Garage, the Equine Store, the Stable Block and the Horse Walker and planning permission is refused in respect of the Horticultural Store, the Agricultural Store, the Garage, the Equine Store, the Stable Block and the Horse Walker on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal 2

71. The appeal is dismissed.

Appeal 3

72. The appeal is dismissed.

Appeal 4

73. The appeal is dismissed.

A A Phillips

INSPECTOR

Schedule of Conditions

1. Unless within 3 months of the date of this decision a scheme for exterior lighting of the building is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the occupation for residential purposes shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the occupation of the site for residential purposes shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
2. Unless 1 no Chillon Woodstone bird box is installed on the north-east gable apex of the building within 3 months of the date of this decision, the occupation of the building for residential purposes shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

Upon installation of 1 no Chillon Woodstone bird box specified in this condition, it shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits in this condition will be suspended until that legal challenge has been finally determined.
3. Unless recommendations contained within the Baseline Ecology Survey dated November 2022 undertaken by Elizabeth McKay are implemented within 3 months of the date of this decision, the occupation of the building for residential purposes shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Piers Riley-Smith of Counsel	Appointed by Mr Owen Dugmore of Anthony Collins Solicitors
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He called

David Kelly, Planning Officer, Redditch Borough Council

Toni Ainscough, Principal Officer, Worcestershire Regulatory Services

FOR THE APPELLANT:

John Barrett of Counsel	Appointed by Rosalind Andrews of HDR Law
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He called

Wayne Capewell

Julie Millard

Laura Long

Greg Collings, Partner of Planning, Fisher German

Joshua Long

DOCUMENTS EXCHANGED AT INQUIRY

1. Google Aerial photograph dated April 2021
2. Green Belt Protection and intentional unauthorised development:
Written statement – HLWS404
3. Planning Obligation by Unilateral Undertaking dated 10 May 2024