



Appeal Decisions

Hearing held on 8 & 14 November 2024

Site visit made on 8 November 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal A Ref: APP/B3030/C/24/3337615

Land known as Mill Farm, Gonalston Lane, Hoveringham NG14 7JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Robert Collingham (COMBS FARM) Limited against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 18 December 2023.
- The breach of planning control as alleged in the notice is without planning permission, 'operational development' consisting of the erection of a building (identified with a blue 'X' on the site location plan, outlined in red on Plan 2 and shown within photographs 1 & 2).
- The requirements of the notice are to:
 - A. Demolish the building identified with an 'X' on the site location plan and shown within photographs 1 & 2.
 - B. Remove all resultant waste and materials from the land.
- The periods for compliance with the requirements are: A. 270 days after this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).

Appeal B Ref: APP/B3030/C/24/3337636

Land known as Mill Farm Gonalston Lane, Hoveringham NG14 7JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by ROBERT COLLINGHAM (COMBS FARM) LIMITED against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 18 December 2023.
- The breach of planning control as alleged in the notice is set out in Appendix 1.
- The requirements of the notice are set out in Appendix 1.
- The periods for compliance with the requirements are as set out in Appendix 1.
- The appeal 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 C Ref: APP/B3030/C/24/3337637

Land known as Mill Farm, Gonalston Lane, Hoveringham NG14 7JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by ROBERT COLLINGHAM (COMBS FARM) LIMITED against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 18 December 2023.
- The breach of planning control as alleged in the notice is without planning permission, 'operational development' consisting of the laying of hard core/ crushed stone to create new access tracks and pedestrian paths (identified outlined in red on 'aerial photograph' and shown within photograph 1).
- The requirements of the notice are to: Remove the crushed stone access track and pedestrian footpath and return the land to its former condition (as shown within 'aerial photograph').
- The period for compliance with the requirements is: 90 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been

brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal D Ref: APP/B3030/C/24/3337638

'Land' known as Mill Farm, Gonalston Lane, Hoveringham NG14 7JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by ROBERT COLLINGHAM (COMBS FARM) LIMITED against an enforcement notice issued by Newark & Sherwood District Council.
 - The notice was issued on 18 December 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, 'development' consisting of the material change of use of land and buildings from agricultural use to use for the holding of weddings and events.
 - The requirements of the notice are to:
 - A Cease the use of the land (and buildings) for use for the holding of weddings and events.
 - B Remove from all external elevation of buildings A, B and C (as outlined on Plan 2.) all external accretions including external lighting, projecting lanterns, associated wiring and cigarette boxes. All materials shall be removed from the land. Following their removal, any brickwork shall be made good,
 - C Paint all external doors black on buildings A, B and C (as outlined on Plan 2.).
 - The periods for compliance with the requirements are:
 - A. 270 days after this notice takes effect.
 - B. 90 days after this notice takes effect.
 - C. 120 days after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions:

Appeal A

1. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

Appeal B

2. It is directed that the enforcement notice is corrected and varied by:
 - the deletion of the word "remove" at section 5, bullet i), so that it reads 'All external rainwater goods and downpipes to be carefully removed and, following removal, any holes or damage to brickwork made good.'
 - and the deletion of compliance periods A to N and their substitution with "200 days after this notice takes effect" as the period for compliance.
3. Subject to the correction and variations above, the appeal is allowed insofar as it relates to the horizontal cladding, the glazed window opening and bricking up of an existing door opening, the fixing of rainwater goods and the creation of a hard surface comprising crushed stone and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for
 - Building A: The application of horizontal timber cladding (figure 5 within Appendix 1 of the enforcement notice), the installation of a glazed

window opening and the bricking up of an existing door opening (figure 6 within Appendix 1 of the enforcement notice) and the fixing of rainwater goods to the building.

- Building B: the fixing of rainwater goods to the building.
- Building C: the fixing of rainwater goods to the building.
- Courtyard: The creation of a hard surface comprising crush stone.

at Land known as Mill Farm Gonalston Lane, Hoveringham NG14 7JJ and subject to the following condition:

Condition 1: Within 3 months of the date of this decision, the horizontal timber cladding installed to the eastern elevation of Building A shall be painted black and thereafter retained as such.

The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the insertion of rooflight windows, the installation and creation of glazed openings and door, the erection of dwarf brick walls and the creation of a hard surface comprising of slabs and planning permission is refused in respect of:

- Building A: The insertion of 3 rooflight windows (figures 1 & 2 within Appendix 1 of the enforcement notice), the installation and creation of a glazed openings and door (figure 3 within Appendix 1 of the enforcement notice).
- Building B: The insertion of 2 rooflight windows (figure 9 within Appendix 1 of the enforcement notice, the erection of 'dwarf' brick walls within two of the openings to the front of the building (figure 10 within Appendix 1 of the enforcement notice).
- Building C: The insertion of 2 rooflight windows, the erection of a dwarf wall and capping to the eastern gable end of Building C (figure 11 within Appendix 1 of the enforcement notice).
- Courtyard: Erection of brick walls (including 'well' type construction) and a pole (figures 12 & 13 within Appendix 1 of the enforcement notice), the creation of a hard surface comprising of slabs.

at Land known as Mill Farm Gonalston Lane, Hoveringham NG14 7JJ on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeal C

4. The enforcement notice is quashed.

Appeal D

5. The enforcement notice is quashed.

Applications for costs

6. Applications for costs have been made by the appellant against Newark & Sherwood District Council in respect of appeals A, C and D. These applications are the subject of separate decisions.

Preliminary Matters

7. Appeal A: The appellant ticked ground (a) on their appeal form and advised that, in the event the Inspector feels permission needs to be granted, the storage barn represents appropriate development within the Green Belt as it is required in relation to agriculture and justification for the building was advanced as part of the submission for Prior Approval under reference 22/00142/AGR. The appellant has since confirmed that they no longer wish to proceed with ground (a) in respect of the appeal.
8. Since the appeal was submitted, the Government has published its revised National Planning Policy Framework (December 2024). Given the matters raised in Appeal B and the fact that I have quashed Appeals C and D, I am satisfied that there is no need to go back to the parties on this matter.

Appeal A: Erection of a building

Matters concerning the notice

9. Section 173(9) of the Act sets out that an enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
10. At section 5, the notice requires the building to be demolished, stated as (A) and at (B), all resultant waste and materials to be removed from the land. At section 6, the time for compliance for (A) is given as 270 days. However, there is no corresponding compliance period for (B). The Council advised this was a drafting error and that it would have imposed a longer period for compliance for step (B).
11. An enforcement notice which, on the face of it and without having to refer to evidence elsewhere, fails to specify a period for compliance as required by section 173(9) is a nullity and is therefore without legal effect. I raised with the parties whether, given the above, the notice is a nullity. The parties queried whether it would be possible to correct the notice to identify a compliance period for requirement (B), however, where the notice is a nullity, there is, in effect, no 'enforcement notice' and there is nothing to be corrected or subject to any ground of appeal set out under section 174(2) of the Act.
12. The enforcement notice fails to specify a period for compliance with respect to requirement (B) and therefore fails to comply with the requirements of section 173(9) of the Act. Consequently, it is a nullity.

Conclusion

13. I conclude that the notice is a nullity. In these circumstances, the appeal on the grounds set out in section 174(2)(b), (c) and (f) of the 1990 Act as amended do not fall to be considered.

Appeal B: Works to buildings A, B & C & the Courtyard

Matters concerning the notice

14. The Council attached Figure 8 to the enforcement notice, however, it is not included in the allegation, nor is there a requirement relating to Figure 8. The Council confirmed during the hearing that the works at Figure 8 are not attacked by the notice.
15. Under section 5 of the notice, sub paragraph i), after the words 'any holes or damage to brickwork made good', it says 'remove'. The Council confirmed during the hearing that this is a typo and that the word 'remove' can be deleted. I shall correct the notice accordingly.

Ground (a)

16. During my visit, I saw that a number of works have been carried out as required by the enforcement notice, including the removal of roof lights on the buildings, the installation of cart doors to the front of Building A, and the removal of the pole from the courtyard. The appellant does not seek planning permission for those works which have now been removed and so I shall not consider those matters further under the ground (a) appeal.

Main Issues

17. The main issue of the appeal is the effect of the development on the setting of the nearby listed building.

Reasons

18. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
19. The appeal buildings are in the grounds of the Grade II Listed Mill Farmhouse and adjoining Hoveringham Mill ('the listed buildings'). The significance of the buildings derive from the historic association with rural corn mill developments in the late 18th century, illustrative industrial and functional character, retention of historic fabric and machinery, historic plan form and layout, retention of internal décor and detailing and illustrative vernacular construction. The setting is provided by its rural isolated location alongside the beck, surrounding open agricultural fields and a group of disused barns to the south east, all of which make a positive contribution to the significance of the listed buildings.
20. The Council's Conservation Officer advises that the barns are unlikely to be considered curtilage listed due to distance and physical separation from the mill and farmhouse. From my inspection of the site, I agree with the Officer's

conclusions in this regard. Nevertheless, their historic form contributes positively to the setting and significance of the listed buildings. The barns retain historic features such as central cart door opening, stable doors and breather holes and are illustrative of traditional and vernacular construction of the 18th and 19th centuries and make a positive contribution to the setting of the listed buildings.

21. Policy CP14 of the Amended Core Strategy (2019)(the CS) seeks the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets. Policy DM5 of the Allocations and Development Management Development Plan Document (2013)(the DPD) seeks development which reflects the character of built form and policy DM9 of the DPD states that proposals affecting heritage assets and their settings should utilise appropriate detailing and materials, amongst other things.

Building A

22. Building A is a prominent building which can be clearly seen when travelling towards the listed mill and farmhouse. When I arrived at the site, I saw that the rooflights had been removed and cart doors have been erected in front of the glazing. The glazing is set back into the reveal and is only visible when the cart doors are open. Nevertheless, it is a feature which is not typically found in agricultural buildings and gives the building a domestic appearance, which diminishes the agricultural character of the barn and harms the setting of the listed buildings as a result, contrary to policies CP14 of the CS, and DM5 and DM9 of the DPD, the requirements of which are set out above.
23. The rainwater goods which have been installed on the building are stated to be copper, which have discoloured since their installation. The appellant states that rainwater goods were previously installed on the buildings. Indeed, rainwater goods are evident on figure 7 of the enforcement notice. The Conservation Officer commented during the hearing that when first installed, the rainwater goods appeared a bright colour, which was harmful but conceded that, through natural discolouration, they no longer harm the setting of the listed buildings.
24. The rainwater goods which have been installed do not appear a prominent feature and have been located so as to ensure design features of the buildings are not obscured. I therefore agree that the rainwater goods do not harm the setting of the listed buildings and find there is no conflict with policies CP14 of the CS, and DM5 and DM9 of the DPD, the requirements of which are set out above.
25. With respect to the horizontal timber cladding, the appellant confirmed this replaced a metal garage door, which was painted black. The appellant has provided a marketing photograph which shows what appears to be a black garage door *in situ*. It is also evident in the photograph 'Previous View of the Barns on Approach into the Site' included in the Committee report for application 23/01159/FUL.
26. The Conservation Officer confirmed during the hearing that their main objection was the colour of the cladding. The appellant confirmed that they would be happy to paint the cladding black and for a condition to be attached to any grant of permission to require it to be painted so. I consider that, subject to the

inclusion of a condition requiring the cladding to be painted black, there would be no harm to the setting of the listed buildings and no conflict with policies CP14 of the CS, and DM5 and DM9 of the DPD.

27. The enforcement notice attacks the installation of a glazed window and the bricking up of an existing door opening. The building has already been modified with the insertion of a window in this elevation, as well as the insertion of windows on the elevation facing away from the courtyard. At the time of my visit the window had been painted black and, given its modest size and position facing in toward the courtyard, it did not appear to detract from its functional identity as an agricultural building associated with the farmhouse and mill. Consequently, I find that the window does not harm the setting of the listed buildings and there is no conflict with policies CP14 of the CS, and DM5 and DM9 of the DPD.

Building B

28. The appellant has removed the rooflights and reinstated the roof. Dwarf brick walls have been erected within openings of Building B. The walls are recessed and have been constructed using brick which is sympathetic to brickwork used in the main construction of the buildings. Nevertheless, the dwarf walls are not features which are generally found in this type of agricultural building and in my view, they detract from its identity as an agricultural building and harm the setting of the listed buildings, contrary to policies CP14 of the CS, and DM5 and DM9 of the DPD.
29. As above, I find that the rainwater goods do not harm the setting of the listed buildings and find there is no conflict with policies CP14 of the CS, and DM5 and DM9 of the DPD.

Building C

30. The roof lights had been removed and the roof reinstated by the time of my visit.
31. To the eastern gable end of the building is a dwarf wall with capping, which has been erected. The wall appears an unusual feature which contrasts with the functional appearance of the building it is attached to. As a result, it detracts from its identity as an agricultural building and harms the setting of the listed buildings, contrary to policies CP14 of the CS, and DM5 and DM9 of the DPD, the requirements of which are set out above.
32. As above, I find that the rainwater goods do not harm the setting of the listed buildings and find there is no conflict with policies CP14 of the CS, and DM5 and DM9 of the DPD, the requirements of which are set out above.

Courtyard

33. Within the courtyard walls have been constructed, using a similar brick used in construction of the main buildings. However, the structures appear odd features which restrict access to the buildings beyond and gives the courtyard a cluttered appearance. This is uncharacteristic of this type of farm buildings of this period and is harmful to the setting of the listed building as a result and is contrary to policies CP14 of the CS, and DM5 and DM9 of the DPD, the requirements of which are set out above.

34. Within the courtyard is a hard surface, comprising crushed stone and slabs. The crushed stone used is similar to crushed stone which has been used elsewhere within the site. I consider it highly likely that some sort of hard surface would have previously been laid and within Figure 7, which shows the appeal site prior to the works, a hard surface is evident. Indeed, the appellant suggested during the hearing that the yard was previously laid with concrete. This is consistent with site photographs dated August 2021 included in the Committee report for application 23/01159/FUL.
35. The marketing photograph also shows what appears to be crushed stone around the buildings, albeit outside the courtyard area. Although the crushed stone is unlikely to be typical of material which would have historically been used, it does not appear overly engineered and does not harm the setting of the listed building as a result.
36. The slabs which have been laid run around the periphery of the courtyard, providing pedestrian access between the different buildings. Such surfacing is not typically used in association with farm buildings. Although one of the courtyard buildings comprises a residential dwelling, the paving which has been laid appears an overly engineered, modern feature. While I consider the crushed stone does not harm the setting of the listed buildings, I find the paving causes less than substantial harm to the setting of the listed buildings, contrary to policy CP14 of the CS, and policies DM5 and DM9 of the DPD.
37. For the reasons set out above, I find the installation and creation of a glazed openings and door to Building A, the erection of 'dwarf' brick walls to Building B, the erection of a dwarf wall and capping to the eastern gable end of Building C and the erection of brick walls and the creation of a hard surface comprising of slabs in the courtyard is harmful to the setting of the listed buildings. The appellant also does not dispute the harm caused by the roof lights or the pole, which have all now been removed. I consider the harm to the setting is less than substantial.
38. Paragraph 212 of the Framework (December 2024) states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 212 states that, any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
39. It is suggested that, given their size and scale, the buildings are no longer suitable for use as part of a modern day agricultural operation and that in order to ensure the long term retention, protection, maintenance and management of the historic barns, it is essential that a suitable purpose is found for the structures. However, the appeal concerns operational development only. As set out above, the enforcement notice for the material change of use has been quashed and it cannot be assumed that planning permission will be granted for the unauthorised use.

40. Since the use of the buildings is unauthorised, were the Council to take further enforcement action requiring the use to cease, any benefits associated with the use, such as economic and environmental benefits, which are dependent upon income from the use, are unlikely to be realised. I therefore afford these matters very little weight in support of the appeal scheme.
41. The appellant has provided a schedule of preservation works proposed to the former Mill, which the appellant states they are committed to undertaking. However, the appellant suggests that it is the income generated by holding weddings/events at the appeal site that will be used to enable the preservation works to take place. Furthermore, there is no mechanism to ensure that the works would be carried out. I do not consider it would be reasonable to secure such works via condition. I therefore afford this matter very little weight.
42. In my view, the benefits of the glazed openings and door to Building A, the 'dwarf' brick walls to Building B, the dwarf wall and capping to the eastern gable end of Building C and the brick walls and the creation of a hard surface comprising of slabs in the courtyard do not outweigh the harm I have identified to the setting of the listed buildings, the conservation of which I attribute great weight to.
43. Section 171(1) of the Act gives me the power to grant planning permission for the whole or any part of the matters stated in the enforcement notice as constituting a breach of planning control. It would be open to me to grant permission for part of the matters. This would enable those elements which are deemed harmful to be removed, whilst allowing those elements which preserve the setting of the listed buildings to remain.

Conditions

44. As set out above, to ensure the cladding installed on Building A does not harm the setting of the listed buildings, I consider that it is necessary to include a condition requiring it is painted black.

Ground (a) conclusion

45. For the reasons given above I conclude that the appeal under ground (a) should succeed in part only, and I will grant planning permission for the application of horizontal timber cladding (Building A) subject to a condition, the installation of a glazed window opening and the bricking up of an existing door opening (Building A), the fixing of rainwater goods to the buildings (Building A, Building B and Building C), the creation of a hard surface comprising of crush stone, but otherwise I will uphold the notice with a correction and variation and refuse to grant planning permission in respect of the other part of the matters. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Ground (f)

46. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be

constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

47. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. It is clear from the requirements, which require the alleged works to be removed, that its purpose is to remedy the breach.
48. The appellant's submissions under ground (f) appear to repeat arguments made under ground (a) and relate to the planning merits of the scheme. No lesser steps have been put forward. Although the appellant has already complied with some of the requirements of the notice, it is unnecessary to delete these requirements from the notice. I consider there are no lesser steps which would achieve the purposes of the enforcement notice with less cost and disruption and so the appeal under ground (f) must fail.

Ground (g)

49. An appeal under ground (g) is made on the basis that any period specified in the notice...falls short of what should reasonably be allowed.
50. The appellant suggests that, if the proposed use for weddings/events is to cease within 270 days, the other compliance periods should also be 270 days. However, as set out above, the enforcement notice alleging the material change of use has been quashed. The longest period for compliance which has been given is for the hard surfacing, which is 200 days. I see no reason why some elements should be removed within 90 days, while others should be given 180 days or 200 days. I consider it is reasonable to vary the notice to give a single compliance period of 200 days.
51. The appeal under ground (g) succeeds to that extent.

Appeal B conclusion

52. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable and that the appeal under ground (a) should succeed in part only. I will grant planning permission for the application of horizontal timber cladding (Building A) subject to condition, the installation of a glazed window opening and the bricking up of an existing door opening (Building A), the fixing of rainwater goods to the buildings (Building A, Building B and Building C), the creation of a hard surface comprising of crush stone, but otherwise I will uphold the notice with corrections and variations and refuse to grant planning permission in respect of the other part of the matters. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

Appeal C: Access tracks and paths

Matters concerning the notice

53. The enforcement notice alleges the laying of hard core/crushed stone to create new access tracks and pedestrian paths (identified outlined in red on 'aerial

photograph' and shown within photograph 1. The requirements of the notice are to remove the crushed stone access track and pedestrian footpath and return the land to its former condition (as shown within 'aerial photograph').

54. The notice alleges tracks (plural) and pedestrian paths (plural), whereas it only requires the removal of an access track (singular) and pedestrian footpath (singular). The aerial photograph referred to in the notice shows the appeal site with the paths and access tracks. Were the appellant to restore the land to its condition as shown within the aerial photograph there is very little, if anything they would need to do. However, this contradicts the requirement to remove an access track and footpath.
55. I raised with the parties whether or not the notice can be corrected to require access tracks and pedestrian paths to be removed and to delete reference to the aerial photograph. However, this would make the notice more onerous to comply with, since they would have to remove more than one track and footpath and would cause the appellant injustice.
56. I do not consider the notice is a nullity, as the breach and requirements are broadly stated. Nevertheless, in my judgement, the notice is invalid beyond correction.

Appeal C Conclusion

57. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control, or the steps required for compliance. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
58. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Appeal D: Material Change of Use

59. The enforcement notice alleges, without planning permission, development consisting of the material change of use of land and buildings from agricultural use to use for the holding of weddings and events. However, as pointed out by the appellant, the wider site, including land within the enforcement notice, is still used for agriculture. There are also residential uses within the appeal site. Where there is a mixed use, it is not open to the local planning authority to decouple elements of it; the use is a single mixed use with all its component activities.
60. There was much discussion during the hearing as to whether it would be possible to correct the notice, either by cutting down the ambit of the enforcement notice so that it excluded parts of the site where activities other than the use for the holding of weddings and events. However, this option should only be adopted if it is reasonably clear that the activity does not form a component of a mixed use with the alleged use but is a separate use taking place in a separate planning unit.

61. The planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. The concept of physical and functional separation is key. The appellant's position is that the planning unit comprises Hoveringham Mill and Mill Farmhouse, the barns and the surrounding land and fields, which are in agricultural use. This is not disputed by the Council.
62. The appellant explained during the hearing that they farm the land, and the Farmhouse is let out for short term lets. This use of the Farmhouse for short term lets is stated to have commenced in around 2023. The appellant advised that users of the wedding venue can hire the Farmhouse to stay in and, during the winter, it is let out as a short term holiday let. The Council is clearly aware of the use as it refers to it in its Committee report in relation to application 23/01159/FUL and advises '*This application seeks...the use of the Mill Farmhouse as a holiday let to regularise a change of use that has already been taking place without planning permission*'.
63. There is also a building, referred to as the cottage, which forms part of the collection of buildings around the courtyard. This is stated to be in residential use, though the appellant advised during the hearing it is occupied when a wedding is on, with the appellant or another member of staff staying in it so that they can oversee an event.
64. From my inspection of the site, although there is some delineation between the Farmhouse and the barns, the access to the site is shared. The appellant has explained how users of the wedding venue can stay in the Farmhouse. The Council has explained that users of the wedding venue have used the gardens to the rear of the property for the taking of photographs. Indeed, a pedestrian path (which is attacked by Appeal C) has been constructed which enables users of the venue to access the rear of the Mill Farmhouse.
65. It is clear from the evidence provided, that the appeal site is in a mixed use. Were I to leave the enforcement notice unaltered, it could be liable to challenge on the basis that I failed to correct an inaccurate allegation. Furthermore, the actual mixed use would remain unauthorised if planning permission is granted for what is alleged, and further problems would arise in respect of the implementation and enforceability of conditions.
66. The appellant suggests they would be prepared to agree to a correction to the notice that alleges a mixed use of agriculture, residential use and the holding of weddings and events. However, it is not clear whether this would fairly describe all the components of the mixed use. While the limited use of a family home for holiday lettings would not necessarily be a material change of use, this will depend upon the characteristics of the use as holiday accommodation. However, since the use has not been included in the allegation, this is not something which has been addressed by the appellant.
67. The appellant has drawn my attention to two appeal decisions, reference APP/T2405/C/20/3263914 and APP/C3430/C/21/3288847¹. Both appeals concern sites which were found to be in mixed use, where the enforcement

¹ My attention has also been drawn to *Payne v Secretary of State for Housing, Communities and Local Government* [2021] EWHC 3334

notice did not identify all the different components of the mixed use. While both cases turned on their own facts, I share the concerns of the Inspector in respect of 3288847, in that correcting the allegation could have implications for the appellant's case on grounds (a) and (f).

68. The Council does not dispute that correcting the notice would likely cause injustice to both parties and considers the notice should be quashed in this instance. The Council refers to 'withdrawing the notice' in its costs response. However, the Council has not withdrawn the notice under section 173A of the Act and so the appeal remains to be determined.
69. The allegation does not identify all the different components of the mixed use and it is not open to me to correct it using my powers under section 176(1) of the Act, since this would cause injustice to the Council and Appellant.

Appeal D conclusion

70. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
71. In these circumstances, the appeal on the grounds set out in section 174(2)(a) and (f) of the 1990 Act (as amended) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

M Savage

INSPECTOR

Appendix 1: Appeal B: Reference APP/B3030/C/24/3337636

The breach of planning control as alleged in the notice is:

- Building A (outlined in red on plan 2)
 - The insertion of 3 rooflight windows (figures 1 & 2 within Appendix 1).
 - The installation and creation of a glazed openings and door (figure 3 within Appendix 1).
 - The application of horizontal timber cladding (figure 5 within Appendix 1).
 - The installation of a glazed window opening and the bricking up of an existing door opening (figure 6 within Appendix 1).
 - The fixing of rainwater goods to the building.
- Building B (outlined in blue on plan 2)
 - The insertion of 2 rooflight windows (figure 9 within appendix 1).
 - The erection of 'dwarf' brick walls within two of the openings to the front of the building (figure 10 within appendix 1).
 - The fixing of rainwater goods to the building.
- Building C (outlined in orange on plan 2)
 - The insertion of 2 rooflight windows
 - The erection of a dwarf wall and capping to the eastern gable end of Building C, (figure 11 within appendix 1).
 - The fixing of rainwater goods to the building.
- Courtyard (identified within an 'X' on Plan 2).
 - Erection of brick walls (including 'well' type construction) and a pole (figures 12 & 13 within appendix 1).
 - The creation of a hard surface comprising of slabs and crush stone (highlighted in green on plan 2.).

The requirements of the notice are:

- Building A (outlined in red on plan 2)
 - a) The 2 rooflights to be carefully removed from the eastern roof slope of Building A (figure 1 within appendix 1). Once the rooflights have been removed from the building, natural clay pantiles coloured and sized to match the existing shall be installed to infill the openings. The rooflights shall, thereafter, be removed from the site.
 - b) 1 rooflight to be carefully removed from the western roof slope of Building A (figure 2 within appendix 1). Once the rooflight has been removed from the building, natural clay pantiles coloured and sized to match the existing shall be installed to infill the opening. The rooflight shall, thereafter, be removed from the site.
 - c) All glazing and external joinery to be removed from the cart door opening on the eastern elevation of Building A (figure 3 within appendix 1). Following the removal of the glazing and joinery, timber boarded ledge and braced cart doors (painted black) to be reinstated to the opening as shown in Figure 4 within appendix 1. The glazing and external joinery shall thereafter, be removed from the site.
 - d) The horizontal timber cladding installed to the eastern elevation of Building A (figure 5 within appendix 1), shall be removed. The cladding shall, thereafter, be removed from the site.

- e) All glazing and joinery for the window, infill brickwork beneath, metal braces and projecting timberwork to the western elevation of Building A, (figure 6 within appendix 1) shall be removed. The opening shall be reinstated and timber boarded ledged and braced door, painted black, shall be reinstated as shown in Figure 7 within Appendix 1.
- f) All external rainwater goods and downpipes to be carefully removed and, following removal, any holes or damage to brickwork made good. Thereafter the external rainwater goods must be removed from the site.

Building B (outlined blue in plan 2).

- g) The 2 rooflights to be carefully removed from the eastern roof slope of Building B (figure 9 within appendix 1). Once the rooflights have been removed from the building, natural clay pantiles coloured and sized to match the existing shall be installed to infill the openings. The rooflights shall, thereafter, be removed from the site.
- h) The dwarf brick walls installed to openings on the eastern elevation of Building B (figure 10 within appendix 1), shall be carefully removed. Once the walls have been removed, any damage to remaining brickwork on the building to be made good. The bricks must thereafter be removed from the site.
- i) All external rainwater goods and downpipes to be carefully removed and, following removal, any holes or damage to brickwork made good. remove [sic]

Building C (outlined in Orange on plan 2).

- j) 2 rooflights on the south elevation of Building C are to be carefully removed. Once the rooflights have been removed from the building, natural clay pantiles coloured and sized to match the existing shall be installed to infill the openings. The rooflights shall, thereafter, be removed from the site.
- k) The dwarf wall and capping to the eastern gable end of Building C (figure 11 within appendix 1) shall be removed from the building. The bricks and capping stones must thereafter be removed from the site.
- l) All external rainwater goods and downpipes to be carefully removed and, following removal, any holes or damage to brickwork made good. Thereafter the external rainwater goods must be removed from the site.

Courtyard (marked within an 'X' in plan 2).

- m) All brick walling and pole (figure 11 within appendix 1) shall be demolished and materials removed from site.
- n) All hard surfacing (shaded green on Plan 2.) removed from the courtyard area and materials removed from site.

The periods for compliance with the requirements are:

- A. 180 days after this notice takes effect.
- B. 180 days after this notice takes effect.
- C. 180 days after this notice takes effect.
- D. 90 days after this notice takes effect.
- E. 180 days after this notice takes effect.
- F. 90 days after this notice takes effect.
- G. 180 days after this notice takes effect.

- H. 180 days after this notice takes effect.
- I. 90 days after this notice takes effect.
- J. 180 days after this notice takes effect.
- K. 180 days after this notice takes effect.
- L. 90 days after this notice takes effect.
- M. 90 days after this notice takes effect.
- N. 200 days after this notice takes effect.

APPEARANCES

FOR THE APPELLANT:

Shruti Trivedi	of Devello Strategic
George Machin	Agent
Mr Collingham	
Mrs Collingham	

FOR THE LOCAL PLANNING AUTHORITY:

Richard Marshall	Senior Planning Officer
Laura Gardner	Senior Planning Officer
Meg Atkinson	Conservation Officer

INTERESTED PARTIES:

Bruce Ashworth

Matt Oldham

Tia Young

Fiona Groves

DOCUMENTS

- 1: Site location plan, drawing number 03 Revision 1
- 2: Aerial 2007 with hand drawn red line boundary
- 3: Appellant's written submissions in connection with on-going appeal hearing
- 4: Appellant's costs application
- 5: Marketing photograph
- 6: Statement on behalf of the Council