



Appeal Decisions

Hearing held on 3 and 10 December 2024

Site visit made on 3 December 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2025

Appeal Refs: APP/Q3115/C/24/3348330 (Appeal A) & 3348331 (Appeal B) & 3348332 (Appeal C) & 3348333 (Appeal D)

St Andrew's Field, Holton, Oxfordshire, OX33 1PZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by St Andrew's Residential Care Home (Appeal A), Mr Stephen Longthorp (Appeal B), Mr Andrew Longthorp (Appeal C) and Mr John Longthorp (Appeal D) against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 6 June 2024.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from agriculture to a mixed use of agriculture, storage and leisure plot.
- The requirements of the notice are to:
 - (i) Cease the use of the Land for a mixed use of agriculture, storage and leisure plot.
 - (ii) Remove and clear from the Land all non-agricultural items, including and not limited to: Storage/shipping containers, seating, tables, furniture, lamps, standard lamps, domestic and household items and equipment, fridges, microwaves, slow cooker, decanters, silver teapot, steamer, log burner, sofas, chairs, chest of drawers, coffee tables, log stores and logs, wheel barrows, sinks, ride on mower, crates, plastic bottles, bowsers, play, sports and gym equipment, trampoline, touring caravan, patio slabs, cement mixer, waste, buckets, windows, cars, plant pots, gardening equipment, plastic containers, chimineas, highway barriers, traffic cones, Heras fencing, garden benches and furniture, garden ornaments, sculptures, domestic waste bins, ornamental fences and gates, building materials and machinery.
 - (iii) Remove from the Land any waste and materials resulting from compliance with steps 5(i) and 5(ii) above.
 - (iv) Reinstate all area of the Land disturbed, as a results of compliance with steps 5(i) and 5(ii) of this notice, to it former condition and appearance as agricultural land through the spreading of topsoil to levels commensurate with the natural levels and fall of immediately adjoining land and sow those areas of the Land with grass seed.
- The period for compliance with the requirements is: Nine months.
- The appeals are 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 Ref: APP/Q3115/C/24/3348334 (Appeal E), 3348335 (Appeal F), 3348336 (Appeal G) & 3348337 (Appeal H)

St Andrew's Field, Holton, Oxfordshire, OX33 1PZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by St Andrew's Residential Care Home (Appeal E), Mr Andrew Longthorp (Appeal F), Mr John Longthorp (Appeal G) and Mr Stephen Longthorp (Appeal H) against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 6 June 2024.
- The breach of planning control as alleged in the notice is without planning permission, and sited on the Land in the indicative positions as shown on plan 2 attached to this

notice ("Plan 2"), the undertaking of operational development comprising of: (i) the erection of a wooden shed building coloured green on Plan 2 with a pergola attached to the wooden shed building as shown edged green and within the Land edged orange on Plan 2 (ii) the erection of a compost toilet and its building shown coloured pink on the Plan 2, (iii) the extension to an existing stone building shown coloured brown on Plan 2; (iv) the erection of fencing shown coloured blue on Plan 2; (v) the levelling of land and laying gravel to create an area of hardstanding as shown hatched on Plan 2; and (vi) landscaping works including the levelling of land, creation of concrete hardstanding, raised beds, erection of steps and retaining features within the area edged orange on Plan 2.

- The requirements of the notice are to:
 - (i) Demolish and/or dismantle and remove from the Land, together with all and any related foundations: the wooden shed building coloured green on Plan 2 with the attached pergola as shown edged green and within the Land edged orange on Plan 2; the compost toilet and its building shown coloured pink on Plan 2; and the extension to the existing stone building shown coloured brown on Plan 2
 - (ii) Dig up, demolish and remove from the Land: the areas of gravel hardstanding as shown hatched on Plan 2; and, the concrete hardstanding, raised beds, steps and retaining features within the area edged orange on Plan 2
 - (iii) Demolish and/or dismantle and remove from the Land the fence, along the front boundary, as shown coloured blue on Plan 2.
 - (iv) Level and grade the Land that is shown hatched on Plan 2 and edged in orange on Plan 2 to levels commensurate with the natural levels and fall of immediately adjoining land.
 - (v) Reinstatement all areas of the Land disturbed as a result of compliance with steps 5(i), 5(ii), 5(iii) and 5(iv) of this notice to its former condition and appearance as agricultural land through the spreading of topsoil to levels commensurate with the natural levels and fall of immediately adjoining land and sow those areas of the Land with grass seed
 - (vi) Remove from the Land any waste and materials resulting from compliance with steps 5(i), 5(ii), 5(iii), 5(iv) and 5(v) above
 - The period for compliance with the requirements is: Nine months.
 - Appeal E is proceeding on the grounds set out in section 174(2)(a) and (c) 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.
 - Appeals F, G and H are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision: Appeals A, B, C & D

1. It is directed that the enforcement notice is varied by:
 - The deletion of requirement (iv) and the substitution of the words '(iv) Reinstatement all areas of the Land disturbed, as a result of compliance with steps 5(i) and 5(ii) of this notice, to its condition before the breach took place.'
2. Subject to the variation above, the appeals are dismissed and the enforcement notice is upheld.

Decision: Appeals E, F, G & H

3. It is directed that the enforcement notice is varied by:
 - At requirement 5(iv), by the deletion of the words 'the natural levels and fall of immediately adjoining land.' and their substitution with the

words 'its condition before the breach took place.', so that it reads 'Level and grade the Land that is shown hatched on Plan 2 and edged in orange on Plan 2 to levels commensurate with its condition before the breach took place.'

- At requirement 5(v) the deletion of the words 'former condition and appearance as agricultural land through the spreading of topsoil to levels commensurate with the natural levels and fall of immediately adjoining land and sow those areas of the Land with grass seed' and their substitution with the words 'condition before the breach took place.' so that it reads 'Reinstate all areas of the Land disturbed as a result of compliance with steps 5(i), 5(ii), 5(iii) and 5(iv) of this notice to its condition before the breach took place.'
4. Subject to the variations above, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Matters concerning the notice: Appeals E, F, G & H

5. During the hearing, I raised concern regarding requirements 5(iv) and 5(v) of the enforcement notice. These requirements refer to the levels of the fall of immediately adjoining land. However, the land in question is sloping and it was discussed during the hearing whether the notice should be varied to require the land to be reinstated to its condition before the breach took place. It was agreed that the notice could be varied without causing injustice to either party and so I shall vary the notice accordingly.

Preliminary Matters

6. After the hearing was closed, a revised version of the National Planning Policy Framework was published. The parties have been given the opportunity to comment on the implications of the revised Framework on the appeals and I have taken their comments into account when determining the appeals.

Appeals A, B, C & D

Grounds (b) and (c)

7. An appeal under ground (b) is made on the basis that the matters stated in the notice as constituting a breach of planning control have not occurred. The main thrust of the appellants' case under ground (b) is that a material change of use has not occurred and that the appeal site is in agricultural use, with other activities ancillary to that use. However, whether the matters stated in the notice would constitute a material change of use is a matter which should be considered under ground (c).
8. In a legal ground of appeal, such as ground (b) or (c), the burden of proof is firmly on the appellant to make their case, to the civil standard, which is the 'balance of probabilities'. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

9. The appeal site comprises a substantial parcel of land, with a number of buildings, hardstanding and grassed areas. Notwithstanding there is some delineation within the site, the parties all agreed that the appeal site comprises a single planning unit and, from my inspection of the site I concur with this.
10. Although the appellants submitted a planning application for a change of use of agricultural land to agricultural and leisure use, reference P22/S2407/FUL¹, it is stated that the intended informal leisure use of the site for residents of St Andrew's Care Home never occurred and the site continued to be used, in the main, for agricultural purposes.
11. The Council has provided numerous photographs taken within the site, dated 26 May 2016, 21 April 2021, 28 April 2021, 12 October 2023, 1 December 2023, 18 April 2024.
12. The 2016 photographs show a number of pigs within the site (around 5), a number of sheep (around 5). Seating and play equipment is visible outside the wooden building² (Shed 1) and within it, there are limited fixtures and fittings.
13. Within the photographs taken on 21 April 2021, there appear to a greater number of items located around the buildings compared with 2016, such as seating, plants pots, ornaments. Within the wooden building (Shed 1) the number of furniture items is also significantly greater and includes items such as a punch bag, surf board, mirrors, microwave, Welsh Dresser, sofas, table, various chairs. A wood burner has also been fitted. Outside the wooden building is a touring caravan, trampoline, climbing frame, seating, sculpture, various pots. Shipping containers are also visible within the photographs. Around 14 sheep are visible within one of the photographs.
14. Photographs dated 28 April 2021 are similar, but show the wooden building in the north eastern corner of the site under construction³, as well as the adjacent terracing. Within the photographs dated 12 October 2023, the shipping containers have been moved to the large barn. Various items are located in the large barn, including sports equipment, a trampoline and a touring caravan. A number of cars are visible within the site. Around 7 sheep are visible in one of the photographs. A piano has been introduced to the wooden building (Shed 1).
15. During the hearing, the Mr Longthorp advised that they and their brothers work at the site and that when they would visit the site, they would work for an hour or two. Once the work had been done, they would go inside the cabin and watch a dvd, or their brother, who is a keen pianist, would play. Another brother is described as enjoying exercising and that the exercise equipment which is seen in various photographs taken by the Council was kept there so that he could exercise.
16. Mr Longthorp also explained how they would also eat together, depending upon what had to be done. Cooking facilities within the wooden building include a microwave and a slow cooker, which the appellants would pop on when they arrived at site. Mr Longthorp explained that they live around 3 miles from the

¹ Also included operational development.

² Identified as Shed 1 on the St Andrews Field Block Plan – Proposed Layout

³ Identified as Shed 2 on the St Andrews Field Block Plan – Proposed Layout

appeal site and that since traffic is dreadful, they would go and sit down and have a cup of tea rather than travel home once work had been done.

17. It was suggested that the play equipment at the site is now obsolete because the children who used it are now older. However, an appeal under ground (b) is made on the basis that the matters stated in the notice have not occurred.
18. Although the appellants and their families may have worked on the site, the extent to which they are likely to have carried out activities such as exercising, playing, socialising and preparing and eating meals, is unlikely to have been what would reasonably be regarded as incidental or ancillary to an agricultural use.
19. Mr Longthorp explained that they put a shipping container on the land to store their brother's belongings while their brother was moving house and kept them there. It is not clear exactly how long the items were stored, however, from the appellant's account during the hearing, it seems likely they were stored for a significant period of time. The storage of domestic items is not ancillary to an agricultural use but is a primary use in its own right. Even if those items have now been removed, the breach, in this respect, has occurred as a matter of fact.
20. Moreover, the significant number of domestic items which have been stored within the large barn points towards a storage use having occurred by the time the enforcement notice was issued. I note that the appellants have sought to store items/material at the site rather than dispose of them and that in some cases, the intention has been to reuse items as part of the agricultural use of the site. For example, Mr Longthorp advised during the hearing that they brought an old car to the site rather than scrap it so that it could be used as a dry store for underlaying when doing no dig compost. However, this was never actually done.
21. Mr Longthorp also explained they brought uPVC windows to the site to use for propagation. However, this has not been carried out either. Furthermore, in many cases, it seems items are unlikely to be used for agricultural purposes (Welsh dresser, carpet, dining table). While it is not unusual for domestic paraphernalia to be present at a farmstead, this tends to be where there is a residential use as part of the landholdings, which is not the case here. Given the quantity of items which have been stored at the site, I consider storage is a primary use of the land and can not be considered to have been *de minimis*, even though such items are only stored in part of the site.
22. The appellants have provided a series of invoices in support of their case for the purchase and slaughter of animals, as well as the sale of produce. However, it is not disputed that the appeal site has been used for agriculture. Indeed the enforcement notice alleges a mixed use which includes agriculture. In my view, however, the storage and leisure use of the land are primary uses and are not ancillary to the agricultural use of the land.
23. The appellants assert that the majority of items listed under section 5ii) of the notice are used for purposes ancillary to the agricultural use of the site. However, an appeal under ground (c) is concerned with whether the matters stated in the notice constitute a breach of planning control, not whether the

requirements are excessive, which is a matter which should be considered under ground (f).

24. Drawing everything together, from the evidence before me, I find there has been a material change of use of the land to a mixed use of agriculture, storage and leisure use. Thus, the appellants have not shown, on the balance of probabilities, that the alleged breach has not occurred as a matter of fact or that the matters stated in the notice do not constitute a breach of planning control and so the appeals under grounds (b) and (c) must fail.

Ground (f)

25. 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. It is clear from the requirements that the purpose of the notice is to remedy the breach.
26. With respect to the shipping containers, the appellants suggest that they have been located within the open barn to provide secure and dry storage facilities associated with agricultural land maintenance and animal husbandry and needed for the maintenance of the agricultural buildings. However, as set out above, during the hearing, Mr Longthorp acknowledged that one of the shipping containers was brought to site to store his brother's domestic items. Furthermore, the photographs provided by the Council show various domestic items within the site, which appear stored, including items which are stored on the shipping containers and, during my visit, I saw that domestic items are stored on top of the shipping containers.
27. While an agricultural use may have a requirement for secure storage, permitted development rights under Part 6, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO) do not permit the erection of a building. Were I to uphold the notice, it is unlikely that the appellants would be able to re-erect the shipping containers. Furthermore, it has not been shown that the appeal site benefits from permitted development rights under Part 6 of the GPDO.
28. Where an enforcement notice is issued in respect of a material change of use, and works were carried out to facilitate the material change of use, the enforcement notice may require that the ancillary or incidental works are removed in order that the site is restored to its previous condition and the breach is remedied. The enforcement notice can therefore, in my view, require the removal of the shipping containers.
29. While I accept some seating is likely to be required in association with the agricultural use of the land, this is likely to be far more limited in extent than that which is provided within the site. It is unusual, in my experience, for agricultural land to have multiple garden benches. Even if I were to accept that the appellants require seating because of mobility issues, the extent of seating provided goes well beyond what I would expect to be provided, particularly given the limited size of the site. Moreover, the notice only requires the removal of non-agricultural items. Were a particular seat or seats used in association with the agricultural use of the site, the notice does not require their removal.

30. It is suggested that the caravan provides temporary accommodation when required in association with lambing, or the expected birth of piglets. However, the Council advise that there have been no pigs or piglets present on the land during any of their visits since 26 May 2016 and the statement of Mr Machin suggests they wound down the keeping of pigs in 2018.
31. While there were sheep present during my visit, they did not appear particularly young, with the sheep I observed each having horns. The bed within the caravan was made up with a duvet, sheets and pillows, suggesting it has been used more recently for sleeping. While the caravan may have been used when piglets or lambs were being born, it seems unlikely it has been used exclusively in this way.
32. Part 5 Class A of the GPDO permits the use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2, which are those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act⁴ (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters.
33. Schedule 1 of the 1960 Act sets out that a site licence shall not be required for the use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation. However, this permission is limited to 'a particular season', whereas the evidence shows that the caravan has been kept on site for a number of years.
34. Since it is likely the caravan has been used in association with the unauthorised use, and since it has not been shown it was on the land before the material change of use took place and that it was used for purposes incidental to a lawful use, requiring its removal would not be excessive.
35. The appellants suggest that most of the items the Council has listed as facilitating a change of use are actually ancillary to the agricultural use of the site. However, as set out above, the notice only requires the removal of non-agricultural items, i.e., those items which are not used in connection with the agricultural use of the land.
36. The appellants raise concern regarding the precision of requirement 5(iv) and query which former state the Council is referring to, suggesting that if that is to the state of the site when the appellants purchased the site, it is impossible, since things which have been cleared cannot be reinstated. However, the notice does not require items which have been removed to be reinstated, it merely requires areas of land disturbed as a result of compliance with the other requirements of the notice to be reinstated.
37. During the hearing I raised with the parties whether it was sufficiently clear from the wording what the appellants are required to do, given that the site naturally slopes. The Council agreed that the notice could be varied to require 'Reinstate all areas of the Land disturbed, as a result of compliance with steps 5(i) and 5(ii) of this notice, to its condition before the breach took place.' This would accord with the wording of the Act and, since the landowner should have the best knowledge of what that previous condition was, would remove any

⁴ The Caravan Sites and Control of Development Act 1960

ambiguity regarding land levels. The appeal under ground (f) succeeds to this extent.

Conclusion: Appeals A, B, C & D

38. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeals on ground (f) succeeds to that extent.

Appeals E, F, G & H

Ground (c)

The stone building

39. The appellants suggest that the extension to the stone building constitutes repair works, which do not require planning permission. Section 55(1) of the Act sets out that “development” means the carrying out of buildings, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. For the purposes of the Act, building operations include rebuilding and structural alterations of or additions to buildings.
40. Section 55(2) of the Act provides that the carrying out for the maintenance, improvement or other alteration of any building of works which i) affect only the interior of the building, or ii) do not materially affect the external appearance of the building.
41. The Council has provided me with a number of photographs of the stone building, including a Google Streetview image dated July 2023. The 2023 image shows the building with a pitched roof and a stone gable end with a window. The top of a breeze block wall is also visible. A photograph, dated 12 October 2023, taken from within the site, shows the front of the building. The breeze block wall is not physically connected to the building.
42. The building has been extended with wooden beams and a corrugated metal roof. The roof rests upon the breeze block wall and incorporates it within the building. While the evidence points towards the building having been damaged in a fire around 2008, the works which have been carried out, in my view, constitute a structural addition to the building and have materially affected its external appearance. They are therefore development for the purposes of the Act.

Levelling of the land and hardstanding

43. The appellants suggest the hardstanding is development which is granted by the GPDO. Part 6, Class B of the GPDO permits the carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of: the extension or alteration of an agricultural building; the installation of additional or replacement plant or machinery; the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; the provision, rearrangement or replacement of a private way; the provision of a hard surface; the deposit of waste; or the carrying out of certain operations in connection with fish farming, where the

development is reasonably necessary for the purposes of agriculture within the unit.

44. "Agricultural land" means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden. "Agricultural unit" means agricultural land which is occupied as a unit for the purposes of agriculture including (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or (b) any dwelling on that land occupied by a farmworker.
45. The appellants have provided an invoice, dated 13 May 2014, for 2 OSB gilts weaners. An invoice, dated 14 November 2014, from Long Compton Abattoir has also been provided, as well as an invoice dated 20 December 2014 for a pig carcase butchered. An Invoice from Plum Pudding Pork to St Andrews Residential Care Home, for the sale of sausages, dated June 14, 2015 [sic], is consistent with the appellant's suggestion that they sold produce to the care home.
46. I note that the site has an agricultural holding number, CPH 33041004, however, this is not determinative that the land has been used for the purposes of a trade or a business. A 2016 Defra form shows that 6 sheep were moved to the appeal site. An invoice, dated 22 January 2018, shows Breeding sow rolls and sheep rolls were delivered to the site. However, there is a paucity of evidence to show that the sale of produce continued after this date. A letter signed by one of the individuals who the appellants state they entered into the venture with, advises that in 2018 they began to wind down the keeping of pigs. They had intended to start up keeping pigs again, but Covid put an end to that.
47. The appellants have provided me with a letter from a vet who visited the site in December 2021 and January 2022, and who advised them to rotate the areas grazed and that for a field of that size the number of sheep and stocking density kept on it was too high. The appellants advise that they now have four sheep at the site, which I was able to see during my visit. During the hearing Mr Longthorp confirmed that, whilst they have sold sheep in the past, the four that are at the site will not be sold, as they are kept for sentimental reasons.
48. Photographs taken by the Council in April 2021 show that the works to create the hardstanding had not been completed. Although sheep are evident in some of the photographs, the number of sheep are limited. Mr Longthorp advised during the hearing that the sheep (they keep) are quite small and that 2 or 3 legs only 'does one meal'. When asked what is done with the meat in the freezer, he stated that they 'eat it'. Animals reared for personal consumption does not constitute a trade or business.
49. During the hearing the Mr Longthorp commented that the raised beds are of such a limited size, they are unlikely to yield sufficient produce to warrant the effort. The steps and hardstanding are likely to limit the area which can be grazed and the retaining features have no obvious application to agriculture. Indeed, the retaining features in this case appear to have an aesthetic function associated with the appellants enjoyment of the site, rather than a practical function in relation to the agricultural use of the site.

50. It therefore seems unlikely, from the evidence before me, that the site is used for the purposes of a trade or a business. Furthermore, the appellants have not shown that the works, including the extension of the stone building, are reasonably necessary for agriculture. As such, I find, on the balance of probability, that the works which have been carried out were not permitted by the GPDO and the appeals under ground (c) must fail.

Appeal E:

Ground (a)

51. An appeal under ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice. The appellant is not seeking planning permission for the fencing, which had been taken down (though not removed from site) at the time of my site visit and the pergola, which had been removed by the time of my site visit.

Main Issues

52. The main issues of the appeal are:

- Whether the appeal scheme is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (December 2024)(the Framework) and relevant development plan policies;
- The effect of the appeal scheme on the openness of the Green Belt; and
- The effect of the appeal scheme on the character and appearance of the area; and
- The effect of the appeal scheme on protected species, in particular Great Crested Newts.
- If it 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 required to justify the appeal scheme.

Reasons

Whether inappropriate development in the Green Belt

53. The appeal site is located within the village of Holton and is bound by Wheatly Park School and housing. Notwithstanding the site is bound by development, it makes a positive contribution to assisting in safeguarding the countryside from encroachment, affording a sense of openness.

54. Policy STRAT1 of the South Oxfordshire Local Plan 2035 (adopted December 2020)(the LP) seeks to protect and enhance the Oxford Green Belt by ensuring that any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment. Policy STRAT6 sets out that, within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the Framework, unless very special circumstances can be demonstrated.

55. As set out above, with respect to the material change of use notice, I have found that the alleged breach has occurred, and that the enforcement notice should be upheld. The implications of this are that the appellants are required to cease the mixed use of the site. Section 57 of the Act provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out. The implications of this are that the land could lawfully be used for agriculture once the material change of use enforcement notice has been complied with.
56. The Inspector, in respect of appeal APP/Q3115/W/22/3307594, considered the proposed change of use of agricultural land to agricultural and leisure use; and the erection of two sheds and two storage containers; and the erection of boundary fencing above the existing stone wall; and associated operational works.
57. I note the Inspector considered some of the built development which is before me, however, they considered it on the basis that they were appropriate facilities in connection with the proposed material change of use. As such, the Inspector considered whether they preserved the openness of the Green Belt. While I have had regard to that decision, the circumstances of the appeal scheme before me are different as they relate to the matters stated in the notice.

Wooden building in the north east corner of the land

58. The pergola has been removed and so the appeal under ground (a) relates to the wooden building and not the pergola. The appellant suggests that the wooden building is used for agricultural purposes and would therefore meet the exception under paragraph 154a) of the Framework. During my visit, I saw that the building is used for the storage of hay and the keeping of sheep. To enable sheep to access the building, it has been modified, suggesting it was not constructed for this purpose.
59. In response to a planning contravention notice served by the Council, the appellant suggested the shed would be used for the over wintering of worms and to house equipment (tools, mowers etc). Photographs dated 1 December 2023 show the building being used for the storage of various tools, some of which are hung up on the walls. Seating, a parasol, a television and a kettle are also visible in the photographs.
60. The appellant suggests that the pergola⁵ was erected with the intention of growing plants around it to provide shade for sheep. While the appellant is not seeking permission for the pergola, in my experience, pergolas of this design are usually used to provide visual interest and define a particular part of a garden or outdoor space. Seating has been placed to the front of the building, giving it a domestic character, suggesting that the area is used by individuals to enjoy the outside space rather than having a practical application to agriculture.
61. As set out above, I have found the use of the land to be a mixed use. It therefore seems likely that the building has been constructed for the purposes

⁵ Notwithstanding it has since been removed.

of the mixed use. Although the building was being used for the storage of hay and keeping of sheep at the time of my site visit, it seems unlikely to have been designed for this purpose and so it would not meet the exception under paragraph 154(a) of the Framework.

The compost toilet

62. The compost toilet is a modest structure, which can easily be moved. The appellant has not advanced a case that the compost toilet is not development for the purposes of the Act. Furthermore, from the evidence provided, it appears to have remained in the same place for a number of years⁶. It is likely to have been constructed on site and is of sufficient size to have the quality of permanence and so I consider it is a building for the purposes of the Act.
63. The appellant's case under ground (a) is that the structure is necessary when working on site. However, as set out above, I have found the appeal site is in mixed use and so the compost toilet is likely to have been sited within the site as a facility for individuals carrying out agricultural activities as well as carrying out leisure activities. It would not, therefore, meet the exception under paragraph 154(a) of the Framework.
64. The appellant suggests I should consider the compost toilet as an extension to an existing building and has referred me to the case of *Warwick DC c SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin), where it was held that paragraph 154(c) is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension.
65. Whether a detached structure would amount to an extension of an existing building is a matter of fact and degree. The compost toilet building is located some distance from the wooden building (Referred to as Shed 1 on the block plan that accompanied planning application reference P22/S2407/FUL), within a part of the site which is laid with grass.
66. While users of the wooden building are likely to use the compost toilet, users of the other buildings and indeed the rest of the site are also likely to use the compost toilet. It does not, therefore have any greater association with any of the buildings, nor does it appear associated with any of the buildings. In my view, therefore, as a matter of fact and degree, I find that the building is not an extension of a building for the purposes of paragraph 154(c) of the Framework.

The extension to an existing stone building

67. Paragraph 154(c) of the Framework concerns the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The extension to the stone building is modest in size and subordinate in height. In my view, it is not a disproportionate addition over and the size of the original building and is therefore not inappropriate development in the Green Belt.

⁶ A photograph, dated 28 April 2021, shows the compost toilet in the same location it was in during my visit.

Levelling of land, laying gravel to create an area of hardstanding & landscaping works

68. Paragraph 154h) sets out that other forms of development, such as engineering operations, in the Green Belt are not inappropriate, provided they preserve its openness and do not conflict with the purposes of including land within it. The levelling of the land, laying of gravel to create an area of hardstanding, and landscaping works, including the creation of concrete hardstanding, raised beds, erection of steps and retaining features constitute engineering operations for the purposes of the Act.
69. The hardstanding covers a substantial area, which is visible from the public domain. Although views of the concrete, raised beds and retaining features are less visible from the public domain due to a boundary wall, they are likely to be visible from nearby properties. Furthermore, they have a spatial effect on the openness of the Green Belt and in my view, fail to preserve the openness of the Green Belt.
70. Paragraph 155 of the Framework advises that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where certain criteria apply, including a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; and b) there is a demonstrable unmet need for the type of development proposed.
71. Grey belt land is defined as 'land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143⁷. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
72. However, while the parties agree that the appeal site would be considered 'Grey Belt' for the purposes of the Framework, the appellant has not shown that there is a demonstrable unmet need for the type of development proposed. I consider it likely the works, including the erection of the wooden building and compost toilet, were carried out for the purposes of the mixed use, which includes leisure.
73. While I recognise that the users of the site gain pleasure from using the land in this way, this to my mind does not constitute a demonstrable unmet need. Furthermore, I have found, in respect of this mixed use, that the appeal should fail and that the use should cease.
74. Consequently, in my view, the wooden building, compost toilet, levelling of land, laying gravel to create an area of hardstanding and landscaping works constitute inappropriate development in the Green Belt.

⁷ a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; d) to preserve the setting and special character of historic towns.

Openness

75. The Framework advises that the essential characteristics of Green Belts are their openness and their permanence. The building, compost toilet, levelling of land, laying gravel to create an area of hardstanding & landscaping works are all visible from outside the site. The works are located within parts of the site which, prior to the material change of use, would have been largely free of built development. Furthermore, the laying of gravel facilitates parking and the storage of items, which exacerbates the visual effect of the hardstanding and gives the site a cluttered appearance. The works, in my view, have resulted in modest harm to the Green Belt.

Character and appearance

76. Policy DES1 of the LP seeks high quality development that respects local context and complements the scale, height, density, grain, massing, type and details of the surrounding area. I note that the previous Inspector in respect of appeal APP/Q3115/W/22/3307594 found that the 'sheds' are similar in scale and form to structures on the neighbouring site and that, as a result, they do not appear out of character with the rural surroundings. However, the previous Inspector was considering the effect of the building in the context of a proposed material change of use of the land.
77. Furthermore, the boundary fencing, which would have limited views of the building from the public domain, has now been removed. While the wooden shed is modest in height, it does not appear typical of an agricultural building. Its position, away from other farm buildings within the site, the use of concrete around it and the placing of seating against it, gives it a domestic rather than agricultural character. Although there are buildings of a similar height and scale in the adjacent site, these read as domestic outbuildings associated with the adjoining residential property.
78. While some hardstanding is not unusual within an agricultural unit, the extent of hardstanding which has been constructed at the appeal site, along with the steps and retaining features appears out of keeping in an agricultural site. Although views of the hardstanding from the public domain are interrupted by a stone wall, they are likely to be visible from neighbouring properties.
79. The effect of the building, together with the hardstanding, steps and retaining features harms the agricultural character of the site, contrary to policy DES1 and policy DES2 of the LP, which both seek to protect the character of the area and policy ENV1 of the LP, which seeks development which conserves and enhances the landscape, countryside and rural areas.
80. With respect to the stone building, I recognise that the pre-existing building is constructed using metal sheeting to the roof, and in this regard the materials used in construction of the extension are in keeping with the rest of the building. However, the metal used in construction of the roof has a makeshift appearance which does not enhance or complement the surroundings, contrary to policy DES2 of the LP, which seeks development which reflects the positive features that make up the character of the local area and which visually enhances and complements the surroundings and policies DES1 and ENV1, the requirements of which are set out above.

81. The compost toilet is of modest size and is constructed of timber. Due to its modest size and location, it does not appear a prominent feature. Whilst it does not enhance the surroundings, it does not harm the character or appearance of the local area and so there is no conflict with policy DES2 in this regard. This is a neutral factor in my consideration of the appeal.

Protected species

82. Policy ENV2 of the LP seeks to protect priority species and policy ENV3 seeks a net gain in biodiversity where possible and sets out that, as a minimum, there should be no loss of biodiversity. It states that all proposals should be supported by evidence to demonstrate a biodiversity net gain using recognised biodiversity accounting metric. The development has resulted in the removal of existing vegetation from the site, including grassland habitat and is suggested to have resulted in a net loss of biodiversity.

83. In support of their case, the appellant has submitted a preliminary ecological appraisal and has put forward some proposed enhancements, including the installation of swallow boxes within the wooden building, crevice features within the soffit to attract bats and the reinstatement of a pond.

84. The appraisal identified that Great Crested Newts (GCNs) have been recorded within 2km of the site, including in a number of water bodies within 250m of the site. An eDNA survey was carried out in June 2024, however, a number of water bodies were not surveyed due to access constraints. It is acknowledged within the appraisal that there is moderate potential for GCNs within the wider site, however, it is concluded that the risk is considered to be low.

85. The Council's Ecology Officer disputes this and suggests that an offence is highly to have occurred. The Ecology Officer goes on to advise they consider it reasonably likely that the combined impacts could have had a population impact on GNC. Given the number of records in the area, over 100 records of GCN within 2km of the site, with the closest record located approximately 74m west, I share the Ecology Officer's concern in this regard.

86. During the hearing, the appellant's ecologist suggested that the site has become 'quite attractive' to amphibians and that there is a greater chance of great crested newts being in the site as they can hibernate in the gravel. It was suggested that, from an ecological perspective, the removal of the works could result in a worse position than now. However, the Council's Ecology Officer advised this should be balanced with long term habitat creation, which, it was suggested, would outweigh the harm caused by compliance with the notice.

87. Were I to uphold the notice, the appellant would be able to revert to the previous use, which was agriculture. An intensive agricultural use could result in habitat which is less favourable than the current site. However, there is no evidence to suggest that the site would be used in this way. The landholding is a modest size and is unlikely to be farmed on a commercial scale as a consequence. While I note the appellant has been advised by a vet that the number of sheep and stocking density was too high, the appellant has reduced the number of animals grazing at the site.

88. Although the appellant has put forward suggested enhancements, because the impact of the development has not been quantified, it is not clear whether the

proposed enhancements would satisfactorily compensate for the adverse effects resulting from development. Furthermore, it is unclear whether the habitat that is proposed to be created would be compatible with agriculture.

89. While it may be possible to secure details by condition, I do not know whether the measures proposed would mitigate the harm caused by the development. Although the gravelled areas may be attractive to GCNs, the building and concrete hardstanding is unlikely to be so. Furthermore, from the evidence, it seems likely that the hardstanding would be used for parking, even if retained for an agricultural use, which could result in harm to GCNs.
90. Thus, I find that the development is contrary to policy ENV2 of the LP, which seeks to protect priority species, and that it has not been demonstrated that there would be no net loss of biodiversity, contrary to policy ENV3, which seeks to conserve, restore and enhance biodiversity.

Other considerations

91. There is no farmhouse associated with the site, nor are there any public facilities within walking distance of the site. It is suggested that the appellant requires the compost toilet while on site for medical reasons. However, other solutions, such as a portable toilet, could provide an alternative solution for the appellant while they are working at the site. I therefore afford this matter very limited weight.
92. As set out above, under ground (c), I have found that the works which have been carried out do not benefit from permitted development rights under Part 6, Class B of the GPDO. The appellant has not shown that the appeal site is used for the purposes of a trade or a business or that the works are reasonably necessary for agriculture. Consequently, were I to uphold the notice, the appellant could not reinstate the works under permitted development rights.
93. The appellant suggests that it is a material consideration that the holding has historically had a number of buildings and lean-tos. The appellant also suggests that a lot of detritus has been cleared from the site. However, there is very limited detail as to what these 'buildings' and 'lean-tos' comprised. Furthermore, it seems likely that these structures had been removed well before the appeal works were carried out. While the removal of detritus may be of some benefit, this was not contingent on the works which are before me being carried out. I therefore afford these matters very limited weight.

Planning Balance and Conclusion

94. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
95. The building, compost toilet, levelling of land, laying gravel to create an area of hardstanding & landscaping works are inappropriate development in the terms set out in the Framework and have led to modest harm to the openness of the

Green Belt. I have also found that the building, levelling of land, laying gravel to create an area of hardstanding & landscaping works harms the character and appearance of the area and that there is harm to protected species.

96. I find that the other considerations in this case do not clearly outweigh the harms that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist, and the building, compost toilet, levelling of land, laying gravel to create an area of hardstanding & landscaping works conflicts with the Framework and with policies STRAT1, STRAT6, DES1, DES2, ENV1, ENV2 and ENV3 of the LP and the development plan taken as a whole.
97. Although I have found that the extension to the stone building would not be inappropriate development in the Green Belt, I have found that it harms the character and appearance of the area, contrary to policy DES2 of the LP.
98. Thus, for the reasons given above, I conclude that the appeal under ground (a) should be dismissed.

Conclusion: Appeals E, F, G & H

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

M Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Angela Banks	Agent
Marcus Kohler	Director MKA Ecology
Stephen Longthorp	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Dani Rodgers	Planning Enforcement Officer
Robert Cramp	Planning Officer Enforcement Team
Edward Church	Senior Ecology Officer
Dr Phil Chapman	Ecology Officer

DOCUMENTS SUBMITTED DURING THE HEARING

Document 1: Ecology Report

Document 2: Statutory Declaration of Andrew Longthorp (resubmission document previously submitted electronically)