
Appeal Decisions

Site visit made on 27 May 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 June 2025

Appeal A Ref: APP/R0660/C/24/3357896

Appeal B Ref: APP/R0660/C/24/3357897

Appeal C Ref: APP/R0660/C/24/3357898

Land Adjacent Cranage Trade Park, Goostrey Lane, Cranage CW4 8HE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Rebecca Randles, Appeal B is made by Catherine Thornhill and Appeal C is made by John Thornhill against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 21 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of the land from a use for the keeping of horses to a mixed use comprising the holding of auctions; the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park; the creation an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track.
- The requirements of the notice are to:
 - a) Cease the unauthorised use of the Land for the holding of auctions.
 - b) Cease the unauthorised use of the Land for the parking of vehicles not associated with the authorised equestrian use.
 - c) Remove from the Land in their entirety all areas of hardstanding including the concrete track.
 - d) Permanently close up the unauthorised vehicular access and erect a post and rail fence between points A-B shown on the attached Plan B.
 - e) Remove all materials resulting from compliance with c) and d) from the Land.
 - f) Return the Land to its condition prior to the breach of planning control taking place.
 - g) Plant a native species hedge between points C-D and D-E on Plan B attached to this notice and thereafter retain the hedge.
- The periods for compliance with the requirements are:
 - a) One month
 - b) One month
 - c) Two months
 - d) Three months
 - e) Four months
 - f) Five months
 - g) Six months
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Appeals B and C are proceeding on the grounds set out in section 174(2) (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeals succeed in part and permission for that part is granted, but otherwise the appeals fail, and the enforcement notice is upheld.

The Notice

1. The header of the enforcement notice (the notice) states **ENFORCEMENT NOTICE (Material Change of use)**. The allegation set out in paragraph 3 of the notice states ‘without planning permission, the unauthorised material change of use of the land from a use for the keeping of horses to a mixed use comprising the holding of auctions; the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park; the creation an unauthorised vehicular

access onto a classified road and the creation of an area of hardstanding and vehicular track.’ This could be read as meaning the ‘creation an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track’ form components of the mixed use. However, it is evidently clear from within the four corners of the notice that the ‘creation [of] an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track’ is operational development and does not form part of the alleged mixed use.

2. Under s176(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act) I have the power to correct any defect, error or misdescription in the enforcement notice. Accordingly, as the notice alleges a mixed use and operational development, I shall delete ‘(Material Change of use)’ in the header of the notice. I shall also correct the allegation to clearly define the alleged mixed use and its components and the operational development. I am satisfied this would not cause injustice to any party.
3. I note the appellants’ argument that the alleged matters do not include commercial customer parking with the alleged mixed use. However, I consider ‘the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park’ includes customer parking.

Reasons

The hidden ground (b)

4. The appellants argue that the holding of auctions and the parking of vehicles associated with the commercial uses of Cranage Trade Park are two separate uses taking place on separate areas of the hardstanding and therefore there is not a mixed use. This is therefore a ground (b) appeal in that it is argued that the alleged breach of planning control has not occurred as a matter of fact.
5. The planning unit is 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. There are three broad categories of distinction: 1) a single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary; 2) a single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and 3) the unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In such a case, each area used for a different main purpose, together with its incidental activities, ought to be considered as a separate planning unit.
6. There is no dispute the overall hardstanding area has been laid in different stages. The 2010 aerial photograph depicts a roughly ‘L’ shaped area of land being of a different character to the grassed field to the north east. However, whilst there appears to be piles of something on the site it is not clear as to what is taking place on the land or that its surface was a hardstanding. There does not appear to be any vehicles on this land. Whilst the appellant contends this parcel of land was in commercial use at the time, there is no evidence as to what that use was.
7. The first time the ‘L’ shaped parcel of land is used as a car park and is clearly covered in hardstanding is in the 2017 aerial photograph, although the north west

section (adjacent to what appears to be two orange shipping containers) appears to remain covered in vegetation. There is no dispute that by at least 2017 this area of land was used for parking associated with the commercial uses at Cranage Trade Park.

8. In 2018, works began on an additional hardstanding area. The April 2018 aerial photograph appears to show approximately half of this second parcel of land covered in hardstanding. The remaining half appears to be undergoing works with the land being disturbed and what appears to be piles of hardcore adjacent to it.
9. The appellants provide conflicting evidence regarding when the second half was completed. They state it was 'completed between April 2020 and April 2021'¹, whereas they state 'Based on the available imagery, the change of use for holding auctions occurred between March 2017 and April 2018'² and 'The works are shown as substantially complete by April 2020'³. The April 2020 aerial photograph appears to depict the second stage of the hardstanding as being substantially completed.
10. Following this, the hardstanding was then extended across the entire width of the appeal site and also includes concrete sleepers laid out to create an access road. The 2025 photograph shows a number of tractors and trailers laden with large silage/hay/straw bales parked on this area of hardstanding. On the April 2021 aerial photograph and the 2022 photograph taken from Goostrey Lane, this area of the site appears to be undeveloped.
11. Therefore, it is evidently clear the overall hardstanding was constructed in three separate stages. The appellant contends the intention for the first area that was completed by 2017 was for the parking of vehicles associated with Cranage Trade Park and the second area was only for the holding of auctions. The third stage was created sometime later and used for the holding of auctions, as depicted on the 2025 photograph.
12. Notwithstanding this, the overall hardstanding area is clearly read as a single area, with no boundary demarcating the boundary between the different stages of its construction. Whilst parking may well be intended to take place on the first part and auctions on the second, and third, part, there is no evidence before me as to how this is achieved. Given the lack of any boundary between the three areas, it is reasonable to conclude that there would likely be some parking taking place on the area intended for the auctions and some activity associated with the auctions, eg customer parking, taking place on the area intended for parking.
13. Whilst I acknowledge the overall hardstanding was constructed in separate stages, it is nevertheless a single area of land that accommodates two uses on it, the parking of vehicles associated with the commercial use on Cranage Trade Park and the holding of auctions. Given the lack of any physical boundary between the areas of hardstanding that were constructed at different stages, there would likely be some crossover between the uses and the areas of the hardstanding that they take place on.
14. As a consequence, I find that the overall area of hardstanding forms part of the same planning unit, although that is not to say it is a planning unit of its own, and a

¹ Paragraph 3.20 of appellants' Statement of Case

² Paragraph 3.36 of appellants' Statement of Case

³ Paragraph 3.37 of appellants' Statement of Case

mixed use comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park is taking place within the unit. There is no dispute the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track has not occurred.

15. I conclude from the evidence before me and on the balance of probabilities that the alleged breach of planning control comprising the material change of use of the land from a use for the keeping of horses to a mixed use, comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park, and the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track has occurred.

16. The ground (b) appeal therefore fails.

The ground (d) appeal

17. The onus is on the appellants to demonstrate that at the time the notice was issued it was too late to take enforcement action against the alleged breach of planning control. The relevant test of the evidence is 'on the balance of probability' (ie that it is more probable than not). If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.
18. There is no dispute the access, the road created from concrete sleepers and the area of hardstanding created after 2022 are not immune from enforcement action.

The material change of use

19. As I have found above, the alleged material change of the use of the land to a mixed use comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park has occurred as a matter of fact. Even if I accepted the appellants' argument that the use of the land for the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park took place in 2010, when there appears to be some activity taking place on the land as depicted in the 2010 aerial photograph, the commencement of the use of the land for auctions in 2018 created a mixed use. This mixed use resulted in a material change of use of the land and therefore the clock restarts in respect of the period of immunity as the land would be in a different use.
20. I note the holding of markets, which an auction could be considered as, can be permitted development, in accordance with Class B, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). However, this is limited to the use taking place for no more than 28 days in total in any calendar year. The appellants confirm the auction is held every Monday. Therefore, it is not permitted development.
21. The relevant period of immunity from enforcement action in respect of the material change of use is 10 years prior to the date of the notice being issued. This mixed use has evidently not taken place for in excess of 10 years and is therefore not immune from enforcement action.

The hardstanding

22. It was held in *Murfitt*⁴ that 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 *Murfitt* principle does not apply in circumstances where the operational development is itself the source of or fundamental to the relevant change of use. In particular, the principle does not extend to works that are more than merely ancillary or secondary and are instead fundamental to or causative of the change of use itself. Operational development carried out “in its own right”, or “fundamental to or causative of” the change of use is not “ancillary” to, “secondary” to, “associated with” or “facilitative only of” that change of use, so falls outside the principle in *Murfitt*.
23. The first stage of the hardstanding was completed by 2017 at the very latest. The second stage was substantially completed by 2020. I do not accept the Council’s argument that the overall hardstanding was ‘created incrementally’ and by implication that it should be treated as a single operation. It is clear that it was completed in distinctly separate stages. The first stage was completed in 2017 and the aerial photograph clearly depicts a hedgerow providing a definitive, physical boundary with what would later become the second stage of the hardstanding. Following that, the third stage was similarly constructed as a separate operation.
24. A hardstanding is more than merely ancillary to a car park. It is reasonable to conclude the hardstanding was causative of the holding of auctions and the parking of vehicles on the land. Therefore, as this first stage was causative of the material change of use and was operational development in its own right, it falls outside of the *Murfitt* principle. Accordingly, the relevant period of immunity from enforcement action in respect of operational development is 4 years prior to the date of the notice being issued. As the first area of the hardstanding was substantially completed in 2017, it is therefore immune from enforcement action.
25. The second stage of the hardstanding was created in 2018 and was substantially completed by April 2020, as clearly depicted on the April 2020 aerial photograph. The intention of this part of the hardstanding was for the holding of auctions, which is a component of the mixed use. The aerial photographs dated May 2019 shows a hedgerow on the eastern boundary of this second stage of hardstanding, whilst there is little evidence of the hedgerow in the aerial photographs dated April 2020 and April 2021, there is also no evidence of any works being undertaken to extend further east, including commencing work on the new access at this point. The third area of hardstanding, access and road formed by concrete sleepers was not created until after April 2022, as clearly seen on the 2022 photograph.
26. Accordingly, I consider the creation of the second stage of the hardstanding to be a single operation and was causative of the material change of use to a mixed use comprising the holding of auctions and parking. Therefore, it falls outside of the

⁴ *Murfitt v SSE [1980] JPL 598*

Murfitt principle. Based on the evidence before me, on the balance of probabilities, the second stage of the hardstanding was substantially completed by April 2020 and is therefore immune from enforcement action.

Conclusion on the ground (d) appeal

27. The ground (d) appeal fails insofar as it relates to the mixed use of the land and the area of hardstanding, the access and the concrete sleeper road created after 2022. The ground (d) appeal succeeds insofar as it relates to the construction of the hardstanding to the extent depicted on the April 2020 aerial photograph.
28. To reflect my finding on the ground (d) appeal, I shall vary requirement c) of the notice to ensure it only requires the removal of the extent of hardstanding that I have not found to be lawful.

The ground (a) appeal and the deemed planning application

Preliminary matter

29. Given my finding on the ground (d) appeal, and the consequential deletion of the requirement to remove the lawful area of hardstanding, under section 173(11) of the Act, planning permission shall be treated as having been granted for this area of hardstanding.
30. Therefore, I have determined the ground (a) appeal and the deemed planning application on the basis that planning permission is sought for the material change of the use of the land to a mixed use, comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park; and, the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding, to the extent I have not found to be lawful, and vehicular track.
31. Section 177(1) of the Act provides that planning permission may be granted 'in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates'. The appellant refers to a recent planning application⁵ for the new access, which the Council confirm has since been refused. The application sought to reconfigure the existing hardstanding to separate HGVs from the staff and customer parking area and the closure of the central vehicular access. Whilst this appeal does not relate to the refused planning application, the development that was the subject of that application forms part of the matters alleged in this notice. Therefore, I have taken it into account in my determination of the ground (a) appeal.
32. The Council refer to the area of land used as a petting zoo in association with the commercial uses. However, this area of land falls outside the appeal site and therefore does not form part of the ground (a) appeal and the deemed planning application.

The main issues

33. The main issues are whether the development is in a suitable location, having regard to the development plan; and, the effect of the development on the character and appearance of the area.

⁵ Council ref 24/4875/FUL

Location

34. The appeal site is located outside any settlement with a defined settlement boundary identified in the development plan. Accordingly, the site is located within the open countryside. Policy PG6 of the Cheshire East Local Plan Strategy (CELPS) 2017 restricts development to that which is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area. It also lists several exceptions to this, including development that is essential for the expansion or redevelopment of an existing business.
35. The appellants contend the new access is required to provide a safer environment for pedestrians in and around the site. Notwithstanding the newly created access, there are two accesses serving the trade park. The one to the west provides access to the lawful parking area for staff and customers. The eastern access provides access to the unlawful parking area that is the subject of this appeal and is used by HGVs relating to O'Reilly's Tanker Services Ltd and Bulk Haulage Ltd, located to the rear of the site.
36. Whilst I acknowledge the appellants' concerns regarding pedestrian safety and the potential for them come into conflict with vehicles, particularly HGVs, there is little evidence before me justifying this concern. There is no evidence before me of the regularity and frequency of vehicles moving into and out of this access. Moreover, there is no evidence before me of any alternative options having been considered, such as speed reduction measures or designated pedestrian routes/crossings, particularly to the petting zoo area, albeit at the time of my visit this appeared to only contain a very small number of goats and pigs. I noted the access gate to the petting zoo area is very close to the access off Goostrey Lane. The relocation of this gate would likely remove the likelihood of pedestrians crossing the access road so close to the access with Goostrey Lane, thus providing drivers entering the site off Goostrey Lane greater reaction time should any pedestrians be crossing the access road. If pedestrian safety is such a significant concern, with the appellants noting the concern arising since 2022, then such alternative measures would likely be a far quicker way to alleviate such concerns than the creation of an entirely new access.
37. I note the existing access off Goostrey Lane provides reduced visibility for drivers entering the site. However, the wider site is in the appellants' control and therefore improvements could be made to it to improve visibility, such as the relocation of the large advertisements on either side of the access and/or reducing the height of the trees/hedging.
38. Accordingly, I do not find that the new access, vehicular track and hardstanding (to the extent which was created after 2022) are essential for the expansion of the existing businesses at the trade park.
39. With regard to the mixed use, comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park, there is limited lawful staff and customer parking provision associated with the numerous adjacent commercial uses. This is largely contained to west of the

building complex. Therefore, it is reasonable to consider that it is essential for the site to expand to provide sufficient parking provision for the wider site.

40. Given that I have found a large part of the hardstanding to be lawful and that it lies adjacent to the commercial units, it would be a logical area to provide the required parking provision. As the parking is in association with the existing adjacent commercial uses and would be contained within an existing lawful area of hardstanding, it is therefore appropriate to its location and setting and makes the best use of existing infrastructure.
41. Having considered the use of the lawful hardstanding for parking in association with the existing adjacent commercial uses to be acceptable, I now turn to the other component of the mixed use – the holding of auctions.
42. The auctions comprise the selling of agricultural produce. Whilst the nature of this produce clearly has a rural basis, there is no evidence before me why it is essential that it must be sold in a rural area. As there is no evidence before me that any of the produce sold is produced on the appeal site or wider site, it is reasonable to conclude that all the traders and customers attending the auctions would have to travel to the site. That being the case, there is no evidence before me why the auctions could not be held in a more suitable location, such as the nearby towns of Middlewich and Northwich. Therefore, I do not consider a countryside location is essential for the auctions. It does not satisfy any of the exceptions set out in Policy PG6 of the CELPS.
43. I therefore find the creation of the vehicular access, vehicular track and hardstanding (to the extent which was created after 2022); and, the holding of auction element of the mixed use to be unsuitable in this open countryside location and therefore would undermine the Council's development strategy. As such, these elements of the development would conflict with Policy PG6 of the CELPS and Policy RUR10 of the Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD) 2022, which seeks to ensure development makes the best use of existing infrastructure, such as existing parking and vehicular access.
44. Notwithstanding the above, I find the use of the lawful hardstanding for parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park is in a suitable location and therefore complies with Policy PG6 of the CELPS and RUR10 of the SADP.

Character and appearance

45. Despite the appeal site's proximity to the adjacent commercial units, it is located in a countryside location comprising agricultural fields, interspersed with farmsteads and small clusters of dwellings. Prior to the development being carried out, the appeal site was an open field that would have made a positive contribution to the open, rural character of the area.
46. The lawful extent of the hardstanding retained a small field between the hardstanding and the adjacent dwelling to the east. This would have created a welcome visual break between the built form of the commercial site and the dwelling, ensuring a sense of openness was maintained. The creation of the additional hardstanding, post 2022, the new access and the vehicular track, fully extend the built form across the site, diminishing the greenspace and undeveloped

openness that the field previously provided. The use of the new access by large commercial vehicles entering and exiting the site would exacerbate this harm, by further eroding the openness of the area.

47. With regard to the mixed use, this would take place on a lawful area of hardstanding directly adjacent to the existing commercial units. This area of the site sits largely behind the petting zoo, reducing its visual impact when viewed from Goostrey Lane. Moreover, its proximity to the commercial units ensures it is read as a logical part of the commercial site, rather than an incoherent extension to it. Its low profile would ensure that it forms a visual transition between the large commercial units and the surrounding open fields. Although large agricultural vehicles would use this area and therefore increase the visual impact it would have, this would only take place once a week and the large vehicles would be agricultural in nature, therefore lessening the impact on the rural setting.
48. I have considered the use of the hardstanding for the parking of HGVs associated with the commercial units of Cranage Trade Park, which would fall within the matters alleged in the notice because it refers to 'vehicles'. However, HGVs parking on the lawful hardstanding would be significantly more visually prominent than cars and vans, introducing a more stark, industrial character to the area to the extent that they would unacceptably harm the character and appearance of the area.
49. I find therefore, the vehicular access, vehicular track and hardstanding (to the extent which was created after 2022) has significantly harmed the character and appearance of the area. As such, this element of the development is contrary to Policies SE1 and SD2 of the CELPS and Policy GEN1 of the SADPD, which seek to ensure development reflects and contributes positively to the local character. With regard to the mixed use, I find this to have no unacceptable harmful effect on the character and appearance of the area. As such, it complies with Policies SE1, SD2 and GEN1.
50. Other Matters
51. I acknowledge the closure of the central access and the proposed internal access routes would likely provide a safer environment for pedestrian movement within the site. However, in the absence of any evidence that the existing lawful access arrangements are inherently unsafe I attribute these improvements limited weight. Accordingly, they do not outweigh the significant harm caused by the unsuitable location of the development and its unacceptable harm to the character and appearance of the area.

Conditions

52. I have considered the conditions suggested by the Council, having regard to the six tests set out in the National Planning Policy Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
53. In the interests of the character and appearance of the area, a condition is necessary preventing the parking of HGVs on the land.
54. The only element of the alleged matters that I find acceptable is the car parking component of the mixed use. Accordingly, it is not necessary to impose a

condition requiring the development to be carried out in accordance with particular drawings.

55. As I have not found the unlawful part of the hardstanding to be acceptable, it is not necessary to impose a condition requiring details of its materials. The lawful part of the hardstanding that I have allowed under the ground (d) appeal, does not fall within the remit of the ground (a) appeal and therefore such a condition is not necessary for it.
56. Similarly, I have found the car parking component of the mixed use to be acceptable without the need for additional landscaping. Accordingly, the imposition of a condition requiring as such is unreasonable.
57. As I am not allowing the proposed alternative scheme, it is not necessary to impose a condition restricting parking in accordance with the plans pertaining to that scheme.
58. It has not been demonstrated why conditions are necessary for the provision of schemes pertaining to bird boxes or an electric vehicular infrastructure. Accordingly, such conditions would be unnecessary.

Conclusion on the ground (a) appeal and the deemed planning application

59. I have found the vehicular access, vehicular track and hardstanding (to the extent which was created after 2022), and the holding of auctions component of the mixed use, to be unsuitable in this open countryside location. Furthermore, I find the vehicular access, vehicular track and hardstanding (to the extent which was created after 2022) to be significantly harmful to the character and appearance of the area. However, with regard to the component of the mixed use comprising the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park on the hardstanding to the extent I have found lawful under the ground (d) appeal I find no unacceptable harm.
60. Given that the lawful extent of the hardstanding can clearly be identified on aerial photographs, it is clearly severable from the remaining unlawful hardstanding. Moreover, although the alleged breach of planning control involves a mixed use, the fact that the holding of auctions is of a temporary nature, occurring only once a week, I find the parking component severable from the auction component. Accordingly, I am satisfied that the lawful extent of the hardstanding and the parking component of the mixed use form part of those matters to which the notice relates. Therefore, I shall make a split decision.
61. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude the ground (a) appeal and the deemed planning application should succeed in part and planning permission will be granted for the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park on the area of hardstanding to the extent I have found lawful under the ground (d) appeal, but refused for the holding of auctions and the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding, the extent that I have not found lawful, and vehicular track. On the facts and circumstances of the case, a split decision causes no injustice or prejudice to any party.

Split decision: the effect of section 180 of the Act

62. Section 180 of the Act states that where, after the service of a notice, planning permission is granted for any development carried out before the grant of that permission the notice shall cease to have effect so far as it is inconsistent with that permission. In this case, the appeal on ground (a) will be allowed in part. If the requirements of the notice were varied to exclude that part of the development for which planning permission is being granted, then this could give rise to two inconsistent permissions, one being granted under s173(11) as a variation of cutting down the requirements. To avoid this possibility, I take the view that the requirements should not be varied in respect of the car parking component of the mixed use. Reliance will be placed on operation of s180 to mitigate the effect of the notice in so far as it is inconsistent with the permission.

The ground (f) appeal

63. This ground is that the notice requirements are excessive. Depending on the purpose of the notice, this can be assessed against the question of whether the requirements exceed what is necessary to remedy the breach of planning control; or, any injury to amenity.
64. Notwithstanding the above, the requirements of the notice do not explicitly require the cessation of the mixed use. Requirement a) states 'Cease the unauthorised use of the Land for the holding of auctions' and requirement b) states 'Cease the unauthorised use of the Land for the parking of vehicles not associated with the authorised equestrian use.' Nevertheless, the effect of these two requirements would result in the cessation of the mixed use. For the sake of clarity, I shall correct the requirements to refer to the cessation of the mixed use. I note the appellants' contention that no such correction could be made without causing them injustice as the case they would have to make would be different. However, the case they have made is on the basis that the notice alleges a material change of use to a mixed use comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park and operational development comprising the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track. Therefore, it has not been demonstrated how a different case would have been put forward.
65. Requirement b) states 'Cease the unauthorised use of the Land for the parking of vehicles not associated with the authorised equestrian use.' However, this prohibits all forms of parking on the land unless it is associated with the authorised equestrian use, rather than remedying the alleged breach, ie parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park. As such, it exceeds what is necessary to remedy the breach of planning control. Therefore, I shall correct this to reflect the alleged breach. I am satisfied no injustice would be caused to any party by making such a correction as it merely aligns the requirements with the alleged matters.
66. Requirement g) requires the planting of two hedgerows forming the southern and western boundaries of the appeal site. However, given my finding on ground (d), these hedgerows fall within the area of hardstanding I have found to be lawful. Accordingly, the planting of the hedgerows is not necessary.
67. I find therefore, the ground (f) appeal succeeds and I shall correct the notice accordingly, as set out above.

The ground (g) appeal

68. This ground of appeal is that the period for compliance is unreasonably short.
69. The appellant seeks a period of six months to remove the hardstanding, access track and vehicular access. I acknowledge such works would require reducing the car parking space available for staff and customers. However, given I have found a large portion of the hardstanding to be lawful, this should provide sufficient space for the retention of staff and customers, and for plant and machinery whilst the demolition works are undertaken. I am satisfied two months is sufficient to carry out such works without causing undue disruption to the commercial uses or the occupants of the adjacent neighbouring residential properties.
70. I find therefore the period for compliance is not unreasonably short. The ground (g) appeal fails.

Formal Decision

71. It is directed that the enforcement notice is corrected and varied by:
- i. The deletion of the words “(Material Change of use)” in the header of the notice.
 - ii. The deletion of the entire paragraph under paragraph 3 and its substitution with the words “Without planning permission, the unauthorised material change of use of the land from a use for the keeping of horses to a mixed use, comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park; and, the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding and vehicular track.”
 - iii. The deletion of requirements a) and b) under paragraph 5 and their substitution with the words “Cease the mixed use of the land comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park by ceasing the use of the land for the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park.”
 - iv. Immediately following the word “track” in requirement c) under paragraph 5 the insertion of the words “, with the exception of the area of hardstanding edged in blue on the plan attached to this decision under Appendix A”.
 - v. The deletion of requirement g) under paragraph 5.
72. Subject to the corrections and variations, the appeals are allowed insofar as they relate to the appeal on ground (d) concerning part of the hardstanding. The ground (a) appeal and deemed application under Appeal A is allowed insofar as it relates to Land Adjacent Cranage Trade Park, Goostrey Lane, Cranage CW4 8HE outlined in red on the plan and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the use of the land edged blue on the plan attached to this decision under appendix A for the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park, subject to the following condition:
- i) No HGVs shall be parked on the land.

73. The appeals are dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the material change of use of the land to a mixed use, comprising the holding of auctions and the parking of vehicles associated with the adjacent commercial uses of Cranage Trade Park; and, the creation of an unauthorised vehicular access onto a classified road and the creation of an area of hardstanding (with the exception of the land edged blue on the plan attached to appendix A of this decision) and vehicular track.

A Walker INSPECTOR

Appendix A

