



Appeal Decisions

Hearing Held on 17 June 2025

Site visit made on 17 June 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/D1265/C/25/3361431 & 3361432

Land opposite Pound Farm at Uppington, Wimborne

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Brian Pitman and Mrs Diane Pitman against an enforcement notice issued by Dorset Council.
 - The enforcement notice was issued on 20 January 2025.
 - The breach of planning control as alleged in the notice is:
 - 1. Without planning permission, the construction of a barn in the approximate position shown marked with brown hatching on the attached plan" ("the Alleged Development").
 - 2. Without planning permission, the material change of use of land from agriculture to a mixed use for agriculture, the keeping of two horses and storage.
 - The requirements of the notice are:
 - 1. Demolish the barn which is in the position cross hatched in brown on the plan including any foundations.
 - 2. Remove all building materials resulting from compliance with 1) above from the land
 - 3. Restore the land cross hatched brown to its former condition.
 - 4. Cease to use the land other than for agricultural purposes and the keeping of up to two horses.
 - 5. Remove all items from the land that are not ancillary to the agricultural use of the owner's agricultural land holding and/or the keeping of up to two horses on the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (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.
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Decisions

1. It is directed that the notice is:
 - corrected by deleting the words "2. Without planning permission, the material change of use of land from agriculture to a mixed use for agriculture, the keeping of two horses and storage" under section 2 of the enforcement notice (the breach of planning control alleged).
 - corrected by deleting requirements 4 and 5 under section 5 of the enforcement notice (what you are required to do).
2. Subject to the above corrections, the appeals are allowed and the enforcement notice is quashed 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 development already carried out, namely the construction of a barn in the approximate position shown marked with brown hatching on the attached plan" ("the Alleged Development") at Land opposite Pound Farm at Uppington, Wimborne, subject to the following condition:

- 1) The barn shall not be used for the accommodation of livestock, storage of slurry or sewage sludge, storage of fuel for or waste from a biomass boiler or an anaerobic digestion system.

Procedural Matters

3. In relation to part 2 of the allegation, which relates to the change of use to a mixed use, the appellants have appealed under ground (b): 'that those matters alleged have not occurred'. Ground (b) relates to straightforward situations where what the Council says has happened has not actually happened as a matter of fact. However, there seems to be no dispute that the keeping of two horses and the storage of items on the land has occurred. However, the appellants state that these do not amount to a material change of use (MCU), and that the use remains as agriculture. This would fall under ground (c) appeal: 'whether what has occurred is a breach of planning control.' Since both parties commented on this during the Hearing, I am satisfied that neither party would be prejudiced by my consideration of this under a ground (c) appeal. I have therefore determined the appeal on this basis.

The Appeals on ground (c)

4. This ground of appeal is that the development enforced against does not constitute a breach of planning control. The onus of proof lies with the appellants, the relevant test of the evidence being the balance of probability.

The Barn (Operational Development)

5. Under this ground of appeal, it is contended that there has been no breach of planning control as the operations alleged in the notice are permitted development by The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), Part 6, Class A 'agricultural development on units of 5 hectares or more' of Schedule 2. This allows for "The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—(a)works for the erection, extension or alteration of a building; or (b)any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit". A.1. sets out the types of development that would not be permitted by Class A. A.2. sets out the conditions that the development permitted by Class A would be subject to.

Planning history and background

6. On 5 December 2016, a prior approval application (the PAA) was made to the Council (reference 3/16/2816/PNFAG) pursuant to A.2.(2)(i) of Class A. I will refer to this development subject of the PAA as the prior approval building. The Council failed to determine the 2016 PAA within the required 28 days, therefore there is no dispute that it benefited from 'deemed consent'.
7. The Council wrote to the appellants' agent on 1 February 2017 explaining that although the appellant had complied with the prior approval requirements, the proposal did not comply with permitted development criteria because the barn was intended 'to winter house 45 ewes and their lambs through the winter

- period¹ and would be located within 400m of 'protected buildings' contrary to Part 6 A1(i)². The appellants' agent clarified with the Council, after the 28 days had expired in February 2017, that the barn would only be used by livestock in line with condition Part 6, D1(3).
8. Following the deemed consent, the Council issued a decision notice on 13 February 2017 stating that 'prior approval is not required'. This decision was subject to a judicial review and was quashed by the High Court in *R (Marshall) v East Dorset District Council* [2018] EWHC 226 (Admin). I will refer to this as *the Dorset Judgement*. The parties agree that the deemed consent for 2016 PAA remains in place and is relied upon by the appellants for this appeal on ground (c).
 9. There are two main areas of disagreement:
 - 1) Whether the intention expressed in the 2016 PAA application to use the proposed building "*to winter house 45 ewes and their lambs through the winter period*" prevents the appellants from reliance upon the 2016 PAA deemed consent due to conflict with A.1(i) of Schedule 2, Part 6, Class A of the GPDO, as identified in *the Dorset judgement* (in particular paragraphs 39 and 65 of the *Dorset judgement*).
 - 2) Whether the barn is permitted under 2016 PAA deemed consent and has been built out in accordance with the plans submitted with 2016 PAA deemed consent.
 1. Whether there is conflict with A.1(i) of Schedule 2, Part 6, Class A of the GPDO
 10. A.1. sets out the types of development that would not be permitted by Class A. This includes at A.1.(i) where the erection or construction of a building to be used for the accommodation of livestock would be within 400 metres of the curtilage of a protected building, as defined in D.1.(1) of Part 6, Article 3, Schedule 2 of the GPDO.
 11. The appellants state that the building, whilst within 400m of the curtilage of a protected building, when erected, was not intended for the accommodation of livestock, and that there is no actual or prospective use of the appeal barn for the housing of livestock. However, Paragraph 3.3 of the appellants statement states that "*in 2020, the Appellants constructed a barn on the land, which has been used for purposes including temporary livestock housing...*". This contradicts their statement that it was not intended for the accommodation of livestock and that there is no actual or prospective use of the barn for housing livestock.
 12. Furthermore, under part 5 of the 2016 PAA form the appellants stated, that the proposed development would be reasonably necessary for the purposes of agriculture as the building is to be used "*to winter house 45 ewes and their lambs through the winter period*".
 13. Mr Pitman stated during the Hearing that his then agent did not use the right words in the PAA. Mr Pitman stated that he had been advised that he would not get permission for a 'livestock barn' to begin with; that he should apply for a 'general purpose barn' and establish his holding first; and then go for a

¹ Appendix 015a of the Council's statement.

² Appendix 015c of the Council's Statement.

'livestock barn alongside it.' This statement further confirms the appellants overall intention was to house livestock within the barn and contradicts his other statements that the barn was never intended for the accommodation of livestock. In these respects, the appellants' evidence is internally inconsistent.

14. The matter of the development proposed in the PAA is dealt with in the *Dorset Judgement*. The Claimant's first and main ground for judicial review was that the Defendant's (Council's) decision notice was unlawful because the proposed use of the Building, as set out in the interested parties (appellants) application, was "to winter house 45 ewes and their lambs through the winter period". This constituted "accommodation of livestock," within the meaning of paragraph A.1(i) of Part 6 of schedule 2 to the GPDO, and therefore it was one of the types of "Development not permitted" under Class A.
15. In that case the Mr Pitman, as an interested party (IP), was present at the Hearing. Paragraphs 30 and 31 of the judgement, make clear that the Judge had the benefit of, and relied upon, the appellant's account of how he intended to use the building proposed in the in reaching her decision. In particular, the Judge states:

"31. The IP (appellant) said that, before he made the application for prior approval for the erection of the Building, he was well aware that he could either apply for planning permission or rely upon the GPDO. He had considered paragraph D1(3) of the GPDO and decided that the exception which permitted temporary accommodation of livestock for, inter alia, giving birth or when newly born would be sufficient for his purposes, as he did not intend to accommodate the sheep in the Building full-time."

16. Paragraph 33 onwards of the Judge's decision considered this matter and whether the appellants proposal falls within the scope of Part 6, Class A of Schedule 2 of the GPDO:

"33. In my judgement on a proper interpretation, the scope of permitted development under Class A of Part 6 is to be ascertained by reading the description under "A. Permitted Development" subject to the exceptions in "A.1 Development not Permitted". Thus, the exceptions in paragraph A1 form part of the definition of the development and cannot be severed from it. They are clearly distinguishable from the conditions to which the permitted development is subject, which are expressly stated to commence at "A.2 Conditions"...."

34. Paragraph A.1(i) provides that development is not permitted development within Class A if it includes the erection of a building to be used for the accommodation of livestock, slurry or sewage sludge within 400 metres of the curtilage of a protected building. I agree with the observation in Moore and Purdue: Planning Law (13th ed.) that the "purpose of this provision is to maintain a 'cordon sanitaire' between livestock and livestock slurry and nearby residential accommodation".

35. Condition A.2(1)(a) provides that development is permitted by Class A subject to the condition that, where development is carried out within 400 metres of the curtilage of a protected building, any building resulting from the development is "not used for the accommodation of livestock, except in the circumstances described in paragraph D.1(3)".

36. Paragraph D.1(3) permits temporary accommodation of livestock in a building where (a) no other building which is further away from the protected buildings is available and (b)(i) either an emergency has arisen or (ii) "in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions".

37. I do not accept the Defendant's submission that paragraph D.1(3) should be read into paragraph A.1(i), so that it is subject to the same exception as condition A2(1)(a). In my view, this would amount to an impermissible re-writing of the GPDO [my emphasis]. I do not consider that it was a drafting error (I note that Class B of Part 6 adopts the same distinction). I accept the Claimant's submission that the two provisions are intended to address different circumstances, although both are directed at protecting nearby residences from unacceptable environmental and health hazards. Paragraph A.1(i) excludes from the scope of permitted development a proposed development ("the erection or construction of, or the carrying out of any works to, a building, structure or an excavation") which is used or to be used for the accommodation of livestock i.e. where accommodation of livestock is the purpose of the development. This is likely to be an intended permanent use, whether full-time or part-time. In those circumstances, a blanket prohibition may well be a rational policy choice. In contrast, condition A.2(1)(a) imposes a condition which controls the use of a development which has already been carried out. It prevents the use of any building, structure etc. which has resulted from a development (whatever its original intended use) to be used as accommodation for livestock. This prevents a change to, or adoption of, an unacceptable use, either because of a change of circumstances or deliberate avoidance of paragraph A.1(i). However, it recognises that there may be circumstances where use of a building, structure etc. as temporary livestock accommodation would be legitimate, where no other more suitable building is available, and so it provides for the exception in paragraph D.1(3).

38. Turning to the Defendant's decision notice of 13 February 2017, I am satisfied from its wording that the Defendant did indeed decide that:

"The development, therefore, constitutes permitted development in accordance with the provisions of Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as is subject to the standard conditions."

39. Understandably, the IP relies upon this decision in support of his contention that the Building is permitted development. However, the decision was legally flawed as the Defendant did not apply the interpretation of Class A which I have set out above, either in the decision notice, including the "Informative Notes," or in the officer's report. The Defendant wrongly assumed that the IP could take advantage of the exception in paragraph D.1(3). However, it appears that the IP's proposal was caught by the blanket prohibition on the erection of a building to be used for the accommodation of livestock in paragraph A.1(i), which formed part of the description of Class A."

17. Paragraph 39 of the Dorset Judgement is key, as it follows her detailed interpretation of Class A. In particular, the Judge highlighted that the Council's decision on 13 February 2017, that "prior approval is not required" was legally incorrect since the Council did not apply the correct interpretation of Class A

(as outlined above). The Council wrongly assumed that the appellants could take advantage of the exception in paragraph D.1(3) to accommodate livestock. The Judgement highlights that the appellants prior approval building was caught by a blanket ban on the erection of a building to be used for accommodation of livestock. For the above reasons, the appellants' prior approval building falls foul of the limitation at paragraph A.1(i), which formed part of the description of Class A.

18. Paragraph 65 of the judgement further states:

"65. If the IP occupies an agricultural unit of 5 hectares or more, and proceeds with the proposed development, as set out in his application, he is at risk of enforcement proceedings by the Defendant, on the basis that it is prohibited by paragraph A.1(i). The Interested party may wish to consider whether he can amend his proposal (e.g. by re-locating his proposed Building more than 400m from residential buildings, or by not using it to accommodate livestock). He would then have to make a fresh application for prior approval to reflect the changes" [my emphasis].

19. The above paragraph further confirms that the Judge considered that the prior approval building was prohibited by paragraph A.1(i) of Class A, Part 6, thus fall outside of Class A. No fresh application for prior approval to reflect the above changes were ever made. Deemed consent does not grant planning permission for development outside Class A. If the appellants wish to build a building for an alternative use, other than that mentioned in the PAA, they needed to submit a fresh prior approval application outlining the proposed intended purpose. This has not been done.
20. A failure by the local planning authority to make a determination on a prior approval application within the 28-day period enables the developer to proceed with the proposed development, under paragraph A.2(2)(iii)(cc), but he does not thereby gain planning permission by default and so he does not have planning permission for development that is not "permitted development" (Paragraph 42 of the *Dorset Judgement*).
21. Therefore, based on all of the evidence before me, the prior approval building, referred to in the PAA fails to meet the limitation under paragraph A.1(i) of Part 6 of Schedule 2 to the GPDO, and the appellants cannot rely upon the deemed consent they have obtained. I therefore conclude that the barn is not development permitted by the GPDO.
2. Whether the barn is permitted under 2016 PAA deemed consent and has been built out in accordance with the plans submitted with 2016 PAA deemed consent
22. The Council also consider that the barn has not been built in accordance with the plans submitted with the PAA and thus fails to comply with condition A.2.(2)(v)(bb), which requires the development to be carried out in accordance with the details submitted with the prior approval application, unless otherwise agreed with the local planning authority. Condition A.2.(2)(ii) requires a prior approval application to be accompanied by, amongst other matters, a plan indicating the site. The plan submitted with the PAA showing the red outline of the field parcel and the black area of the proposed building complies with this.

23. When comparing the PAA plan with the 'as built' barn³, whilst there is a degree of overlap, the barn does not occupy the same position. The 'as built' barn is substantially larger than the plan which was approved with the PAA. Furthermore, the 'as built' barn is positioned further South; closer to the access point of the site and the highway. Overall, as a matter of fact and degree, the position and location of the 'as built' barn is materially different than the block plan submitted with PAA.
24. The appellants stated during the Hearing that the block plan submitted with PAA indicates 'roughly' where the barn would go and was for reference purposes only. Nevertheless, it demonstrates the proposed location of the barn, and there is no mention on the plan that the location indicated is not to be relied on and is for reference purposes only.
25. The appellants also contend that the plans the Council hold on their records are not the correct plans which benefit from deemed consent, and that replacement plans were submitted to the Council, which shows the building in the location where the barn is positioned. However, there is no evidence before me to demonstrate that such revised plans were ever submitted to the Council. Neither party was able to provide me with these alternative revised plans or demonstrate that they were submitted. The onus of proof lies with the appellants. In the absence of any clear evidence on this matter, I have considered the development against the plans the Council holds on their file, which is submitted in the evidence.
26. As such, even if the deemed consent could be relied upon, it is evident that the barn was constructed other than in accordance with the details submitted for prior approval in conflict with Part 6, A.2(2)(v)(bb) which requires that development must be carried out 'where prior approval is not required, in accordance with the details submitted with the application'. There has been no written agreement to the change to the plans with the Council. This adds further to my findings above that the operations alleged in the notice are not permitted by the GPDO.

The MCU of land from agriculture to a mixed use for agriculture, the keeping of two horses and storage

27. The appellants argue that there is no mixed use, and that the appeal site is agricultural only, and planning permission would not be required. It is therefore necessary to compare any differences in the character of the use of the land at the time the Notice was issued.
28. The concept of a MCU is not defined in statute or statutory instrument. The basic approach is that, for an MCU to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
29. The Council state that a MCU to an equestrian use occurred given that the owner kept a feed bin in the barn and buckets by the horse shelters, together with the storage of rugs in the barn, including what was identified as a saddle pad evident in the lower photo on the penultimate page of appendix 9. However, the appellants state that the two horses are kept on the land for grazing only.

³ As shown on the aerial photograph provided in the appellants final comments

30. 'Agriculture', under Section 336 of the Act includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly [my emphasis].
31. The definition of agriculture makes reference to the "use of land as grazing land." It is well established that the grazing of horses constitutes an agricultural use where the horses are maintained on the land primarily for grazing.
32. The appellants state that the two horses are not being stabled or exercised in a manner that would be functionally distinct from agricultural use, and that they are simply grazing on the land. If horses were ridden on the land, and if equestrian paraphernalia was kept on the land such as jumps, then the appellants would accept that a MCU has occurred. However, there is no suggestion that those equestrian activities have not occurred, and the owner of the horses has clarified that all tack is kept off-site. Whilst there were two moveable field shelters on the land such items in itself are not determinative of an MCU.
33. I agree with the parties that the difference between horses grazing on the land in an agricultural sense and horses being kept on the land in an equestrian use is nuanced. However, based on all the evidence before me and from what I saw during my site inspection, as a matter of fact and degree, the character of the use has not changed significantly away from agriculture. Therefore, on the balance of probability, it appears that the change to a mixed use of agriculture and keeping of two horses, in this case, has not been material.
34. The appellants also contend that all of the storage taking place on the site relates to agriculture equipment, machinery and other items such as a vehicle and a freezer needed for agricultural purposes, and therefore these items do not amount to a MCU to storage. Following the appellants' explanation of these items and how they are used for agriculture the Council accepted during the Hearing that the change to a storage use has not been material and would not represent a breach of planning control.

Conclusion on ground (c)

35. Thus, for the reasons given above, my conclusion is that the Notice should be corrected by deleting the following words from Section 2 of the Notice (the breach of planning control alleged): "2. Without planning permission, the material change of use of land from agriculture to a mixed use for agriculture, the keeping of two horses and storage;" and deleting steps 4 and 5, under section 5 of the Notice (what you are required to do), which relate to the use of the site. I am satisfied that this would not cause any injustice to either party. I can therefore use my powers under the provisions of s176(1)(a) of the Act to make this correction.
36. The ground (c) appeal succeeds to that extent.

Appeal on ground (a), the deemed planning application (DPA)

37. Under s174(2)(a) of the Act the allegation forms the description of development for which planning permission is sought. The DPA relates to the allegation as corrected. Following my conclusions on Ground (c), the DPA relates solely to the construction of the barn.

Main Issues

38. Therefore, the main issues are:

- Whether or not the development is inappropriate development in the Green Belt;
- The effect of the development on the character and appearance of the area; and
- The effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise, odour and disturbance.

Reasons

Whether inappropriate development

39. The appeal site is located in the Southeast Dorset Green Belt. National policy on Green Belt development is set out in Part 13 of the National Planning Policy Framework, 2024 (the Framework). Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Of particular relevance to this appeal is Paragraph 154 which states that development in the Green Belt is inappropriate subject to a number of exceptions. Reference has also been made to Policy KS3 of the Christchurch and East Dorset Local Plan, Part 1, Core Strategy, 2014 (CS), which is broadly consistent with the Framework. Accordingly, I have assessed this appeal based upon the Green Belt policies contained in the CS and the Framework.
40. Paragraph 154 a) says that buildings for agriculture and forestry is not inappropriate. There is no dispute that the development relates to an agricultural barn within an agricultural unit. The primary purpose of the barn is for the storage of hay/fodder and agricultural machinery. Accordingly, I conclude that the barn is not inappropriate development in the Green Belt and, as such, it would not conflict with the Framework or Policy KS3 of the CS.
41. Case Law has established where development is found to be 'not inappropriate,' applying the relevant exceptions of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. The same judgement makes clear that there is no place for a subsequent assessment of the effect of the development on Green Belt openness.

Character and Appearance

42. The site lies within the countryside, and within the locally designated Woodlands Area of Great Landscape Value (AGLV), which is a c.50 square km area designated for its varied scenic landscapes and quiet peaceful countryside with open rural vistas. The Grade II* listed Horton Tower, a folly in the form of a 7-storey tower, said to have been built as an observatory, is one of the main

features of this area, with views of the tower visible from the appeal site and the surrounding countryside.

43. The wooden clad barn is visible from the highway above and through the hedgerow. Nevertheless, the barn is constructed of appropriate timber boarding and the agrarian nature of the building is appropriate in this countryside setting.
44. I therefore conclude that the barn does not harm the character and appearance of the area. In this respect, the barn complies with settlement policies KS2 of the CS in so far as the land remains in use for agricultural purposes and there is a requirement for storage of agricultural items and crops produced on the holding. The development is appropriately sympathetic to the rural character of the AGLV, and it does not detract from the scenic landscape, and is compatible with its surroundings in accordance with policies HE2 and HE3 of the CS.

Living conditions of neighbouring occupiers – noise, odour and disturbance

45. I observed during my site visit, which was undertaken during a weekday afternoon, that this rural area is noticeably quiet. There are also residential properties located close to the site including Broadview and Pound Farm, and therefore the area remains a noise sensitive environment in which the potential for and effect of any additional noise and disturbance must be carefully considered.
46. The Council are concerned that the open nature of barn would not provide suitable protection to the living conditions of neighbouring occupiers in terms of noise and odours mitigation if it were to be used for the housing of livestock or the storage of slurry. Indeed, the use of the barn for livestock would potentially be associated with additional noise and odour.
47. However, the appellants are agreeable to a condition, which would restrict the use of the barn for the accommodation of livestock, storage of slurry or sewage sludge, storage of fuel for or waste from a biomass boiler or an anaerobic digestion system.
48. Subject to this condition, I conclude that the development would not have a harmful effect on the living conditions for the occupiers of neighbouring properties, with particular regard to noise, odour and disturbance, in accordance with Policy HE2 of the CS and Saved policy DES2 of the East Dorset Local Plan 2002. These require that development should be compatible with or improve its surroundings which include the relationship to nearby properties including minimising general disturbance to amenity, and that development should not impose unacceptable impacts on existing or likely future development or land uses in terms of noise, smell... disturbance, traffic or other pollution.

Other matters

49. There are two listed buildings close to the application site: the Grade II* listed Horton Tower, which is seven storeys in height and clearly visible from the appeal site and the surrounding countryside and the Grade II listed Uppington Cottage, a one and a half storey whitewashed thatched roof C18 dwelling. The Council's has raised no objection in relation to the significance and setting of these nearby listed buildings.

50. Given the separation distance of the appeal building from these listed buildings, I agree that the development has not resulted in the loss of any buildings or features which contribute to the special historic interest of the heritage assets. Furthermore, there is no evidence to suggest that the development harms the significance of these Listed buildings. In giving great weight to the assets conservation, I consider that the development does not erode the setting of these listed buildings to a harmful degree or cause harm to their significance, in accordance with the Framework and Policy HE1 of the CS.

Conditions

51. I have had regard to the planning conditions suggested by the parties. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance.

52. A condition that restricts the use of the barn for the accommodation of livestock, storage of slurry or sewage sludge, storage of fuel for or waste from a biomass boiler or an anaerobic digestion system is necessary to protect the living conditions of neighbouring residential occupiers.

53. The Council has also recommended a condition stating that there shall be no more than two horses kept on the appeal land at any one time. However, the allegation, as corrected, relates solely to the operational development comprising the construction of the barn, and not the use of the site. As such, a restriction limiting the number of horses does not relate to the operational development and I have found on this occasion, that the keeping of two horses on the land has not resulted in a MCU to an equestrian use. I therefore find that this condition is not necessary and does meet the tests in the Framework.

Conclusions

54. For the reasons given above I conclude that the appeals succeed on ground (a). I shall grant planning permission for the development described in the enforcement notice, as corrected, subject to a condition. The appeals on grounds (f) and (g) do not therefore fall to be considered.

R Satheesan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Frederick Quartermain, Partner, Thrings LLP
Sam Eachus, Planning Consultant, Plainview Planning Ltd
Brian Pitman, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Elizabeth Adams, Team Leader, Dorset Council

Documents submitted during the Hearing.

1. Site Plan submitted for the application for a certificate of lawful use or development ref: 3/20/1953/CLP.