



Appeal Decisions

Hearing held on 20 and 26 November 2024

Site visit made on 21 November 2024

by Mrs H M Higenbottam BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2025

Appeal A Ref: APP/N1730/C/23/3328103

Appeal B Ref: APP/N1730/C/23/3328104

Hares Farm, Pickaxe Lane, South Warnborough, HOOK, RG29 1SD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Matthew Silvester of The Woodland Pig Company and Appeal B is made by Ms Helen Freeman against an enforcement notice issued by Hart District Council.
- The notice was issued on 13 July 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, the material change of use of the land from an agricultural use to a mixed use comprising agricultural use, residential use, use of the land to run a catering business, the storage of a food trailer and use of the land for camping, with the uses facilitated by the stationing of a twin unit caravan, the formation of an access and hard surfaced area for parking, external lighting, engineering operations (altering land levels) to facilitate the installation of the twin unit caravan, yurts, a timber veranda, raised decking, outdoor kitchen/dining area, pizza oven, planters, outside toilet, shipping containers, timber storage shed, pig housing and shelters, telegraph pole, foul water drainage system including septic tank, electricity and water supply.'
- The requirements of the notice are to:
 - i) Permanently cease the residential use of the land.
 - ii) Permanently cease the use of the land to run a catering business.
 - iii) Permanently cease the use of the land for storing food trailers.
 - iv) Permanently cease the use of the land for camping.
 - v) Remove from the land the twin unit caravan marked with a red cross in the approximate location on the attached plan and any other caravans.
 - vi) Remove from the land the hard surfaced access and parking area shown in the approximate location in dark green on the attached plan.
 - vii) Remove all external lighting.
 - viii) Restore the Land to its condition before the breach took place. These works to include but not limited to restoring the ground level, the infilling of any holes and reseeding the Land with grass seed.
 - ix) Remove from the land the timber veranda, raised decking, outdoor kitchen/dining area, pizza oven, planters and outside toilet marked in the approximate location with blue crosses on the attached plan.
 - x) Remove the food trailer stored in the parking area.
 - xi) Remove from the land the shipping containers, timber storage shed, pig housing and shelters marked with purple crosses on the attached plan.
 - xii) Remove from the land the services that facilitate the residential and commercial uses on site including water connection, electricity supply, foul sewage system septic tank drainage apparatus, equipment cabinets and telegraph pole.
- The periods for compliance with the requirements are:
 - For step (i) three months
 - For steps (ii) – (iv) one month
 - For step (v) four months

For steps (vi) – (xii) five months

- Appeals A and B are proceeding on the grounds set out in section 174(2) (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Appeal A is also proceeding on ground (a) of section 174(2) 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

Appeals A and B

1. It is directed that the enforcement notice is corrected by:

- the deletion of the words "residential use" and substitution with the words "the siting of a twin unit caravan for human habitation (marked with a red cross in the approximate location on the attached plan)" in paragraph 3;
- the deletion of the words "use of the land to run a catering business" and substitution with the words "storage of catering equipment and supplies for offsite events and" in paragraph 3;
- the deletion of the words "and use of the land for camping" in paragraph 3;
- the deletion of the words "the stationing of a twin unit caravan, the formation of an access and hard surfaced area for parking, external lighting, engineering operations (altering land levels) to facilitate the installation of the twin unit caravan, yurts, a timber veranda, raised decking, outdoor kitchen/dining area, pizza oven, planters, outside toilet, shipping containers, timber storage shed, pig housing and shelters, telegraph pole, foul water drainage system including septic tank, electricity and water supply" and the substitution with the words
 - "the formation of an access track and hard surfaced area for parking (shown in the approximate location in dark green on the attached plan);
 - external lighting comprising the four lights at the entrance from Pickaxe Lane, one of which is shown on photograph 1, and all the lights circled in red on photographs 2 to 4 appended to this notice;
 - engineering operations (altering land levels) to facilitate the installation of the twin unit caravan (marked with a red cross in the approximate location on the attached plan);
 - yurts, a timber veranda, raised decking, outdoor kitchen/dining area, clay oven, planters and outside toilet, timber shed (marked in the approximate location with blue crosses on the attached plan);
 - two shipping containers;
 - pig housing and shelter (marked in the approximate location with purple crosses on the attached plan and in photographs 5 and 6 appended); and
 - telegraph pole, foul water drainage system including septic tank, electricity and water supply."

- The deletion of the plan attached to the enforcement notice and the substitution of Plan A and Photographs 1 to 6 appended to this decision;

and varied by:

- The deletion of requirements i), ii), iii) and iv) in full and their substitution with "i) Cease the use" in paragraph 5.
 - Deletion of the words "and any other caravans" from requirement v) in paragraph 5.
 - Renumbering of requirement v) as requirement ii) in paragraph 5.
 - Insertion of the word "track" between the words "access" and "and parking area" in requirement vi) and the renumbering of it as requirement iii) in paragraph 5.
 - Delete the word "all" from requirement vii) and insert the words "comprising the four lights at the entrance, one of which is shown on photograph 1, and all the lights circled in red on photographs 2 to 4 attached to this notice" after the word "lighting" in requirement vii) and then renumber requirement vii) as requirement iv) in paragraph 5.
 - Renumber requirement viii) as requirement v) in paragraph 5.
 - Delete the word "pizza" and substitute the word "clay" in requirement ix) and then renumber requirement ix) as requirement vi) in paragraph 5
 - Renumber requirement x) as requirement vii) in paragraph 5.
 - Insert the word "two" between "land the" and "shipping", delete the letter "s" from the words "shelters" and "purples" and insert the words "and in photograph 5 and 6 appended" after "attached plan" in requirement xi) and renumber requirement xi) as requirement viii) in paragraph 5.
 - Renumber requirement xii) as requirement ix).
 - Delete the words "For step (i) three months, For steps (ii) – (iv) one month, For step (v) four months, For steps (vi) – (xii) five months" from paragraph 6 and substitute with "For requirement i) three months, For requirement ii) four months, For requirements iii) to viii) five months, For requirement ix) 6 months."
2. Subject to the corrections and variations 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.

The Notice

3. There were several matters in relation to the allegation and requirements which I raised in a Pre-Hearing Note and Pre-Resumption Note. These were the subject of discussion and general agreement with the parties.
4. The allegation relates to a mixed or composite use on the site and facilitating works. I will correct the allegation in relation to identifying where on the site

various elements are and insert reference to the siting of a twin unit caravan. It was also agreed that there were two shipping containers on the appeal site. I will therefore correct the allegation and relevant requirements in relation to these matters and substitute a revised plan identifying the various elements. This would not cause injustice to either party.

5. The Council confirmed that the pig housing and shelter attacked by the Notice are the ones located adjacent to the rear boundary of the property known as West View. For clarity I will correct the allegation to refer to the pig housing and shelter shown in photographs 5 and 6 and by purple crosses on the substituted plan. The moveable shelter and pig arcs are not attacked by the Notice.
6. The Council confirmed that while the allegation refers to the creation of an access and hard surfaced area for parking, the requirements only require the removal of the hard surfaced access track and parking area, denoted green on the plan attached to the Notice. The area denoted green includes the access track, not the access point from Pickaxe Lane, and the parking area. The Council accept that the actual access from the highway, Pickaxe Lane, into the site is lawful. I will therefore correct the allegation to refer only to the creation of an access track and parking area denoted green on the substituted plan. I will vary the requirement to refer to the access track and parking. This correction and variation would not cause injustice to either party.
7. While requirements i) to iv) would achieve the cessation of the mixed use as alleged, I consider for clarity those requirements should be substituted for a single requirement of 'Cease the use'. This would cause no injustice to either party.
8. The requirements should follow on from the allegation. Requirement vii) is to remove all external lighting. However, there is no reference to facilitating external lighting within the allegation. As external lighting was clearly required to be removed in the Notice, I am satisfied that inserting reference to facilitating external lights within the allegation would not cause injustice. For clarity I will correct the allegation to include facilitating external lighting comprising four lights at the entrance (one of which is identified in a photograph) and photographs of other lights circled in red. This would not cause injustice to either party.

Background

9. In April 2022 the appellants state that they started farming the appeal site and adjoining land with sheep and lambs. The land was left to rest after a period of grazing.
10. In May 2022 the appellants brought two shipping containers onto the site. At this stage it is stated that they were used to store agricultural equipment in. The northern shipping container and the rear elevation of the southern container were then clad in timber.
11. On 24 June 2022 the appellants purchased the appeal site¹. The appeal site is now known as Hares Farm and is about 3.2 hectares in size. At the time the

¹ Land registry documents show that the appeal site comprises two parcels of land owned by the appellants. The date recorded for the land registry entry is 15 July 2022.

appellants purchased the site there was no mains water connection or mains electricity at the site.

12. In early July 2022 the formation of the access track and trenching for water and electric were carried out. A parking area was created to the right hand side of the access track, just beyond the gate. On 1 September 2022 the pole for electricity and the green box for the electric meter were installed in/adjacent to the parking area.
13. On 16 September 2022 the appellants acquired the twin unit caravan which was moved to and sited at the appeal site. Engineering operations (altering land levels) to facilitate the siting of the twin unit caravan were also carried out. The septic tank was installed during late September or early October 2022.
14. An interested party notes that on 12 February 2023 pigs moved onto the site and were housed directly behind West View. Photographs show the building identified by purple crosses and photographs 5 and 6 and another photograph shows pigs in a penned area by that building. The date of construction is therefore before 12 February 2023.
15. The appellants accept a food trailer was stored at the appeal site on the parking area to the right of the access track. When that use began is not clear, but it was prior to the service of the Notice. Also, the timber veranda, raised decking, outdoor kitchen/dining area, clay oven, planters and outside toilet are in photographs dating from 7 July 2023. The structures all appear to have been in place for some time as the planting in the planters is established as is the grass around the structures and there are no signs of works recently undertaken in the photographs.

Appeals on ground (b)

16. This ground of appeal is that what has been alleged (as corrected) has not happened as a matter of fact. The burden of proof is on the appellants, and the relevant test is the '*balance of probabilities*'.
17. The appellants raise two points. Firstly, that reference to a pizza oven is incorrect. It has been confirmed by the appellants that if the allegation is corrected to refer to a clay oven instead of a pizza oven, this issue would be addressed. The Council accept this point. The appeal on ground (b) succeeds in relation to this and I will correct the allegation and vary the requirements to substitute the word "clay" for "pizza".
18. The second point is in relation to the two yurts. The appellants state that the yurts have not been used for camping. The alleged mixed use includes camping as a part of the composite use, which means the Council consider that camping was a primary use within the planning unit.
19. I was informed that the yurts were bought by the appellants in August 2022. They were bought for use offsite in connection with the Hog Roast business. However, the appellants explained at the Hearing that the yurts were erected on the site to provide shelter for children while the AGM of the Southwest Surrey Farmers Market was held in August 2022 and September 2023. The appellant stated the yurts were erected on 15 August 2022 for the AGM on 18 August 2022 and they erected again in September 2023 for the AGM on 12 September 2023, with the yurts being taken down in October 2023. The evidence available does not support an allegation that a primary camping use has taken place.

20. The yurts were used, in my view, and on the balance of probabilities, for purposes ancillary to the catering business (Hog Roast business) offsite and Farmers Market AGM's. The yurts do appear to have been erected for periods of time with no active use. I am satisfied that they were not utilised for a primary use purpose. As such, I accept that no primary camping use has taken place and the appeal on ground (b) succeeds in relation to this. I will correct the allegation to remove camping as part of the mixed use.
21. In addition to the two matters directly raised by the appellants, there were matters relating to the food trailer storage and catering business parts of the allegation.
22. The storage of the food trailer has occurred as a matter of fact. I also note that the appellants stated that it was allowed as a favour to a friend. However, in my view, this was a primary use of part of the land for the purpose of storage of a food trailer. Whether or not it was for commercial reasons is not the relevant issue.
23. While a chef attended the appeal site and utilised the clay oven, decking/verandah area at the top of the site, I understand this to be a limited activity, not open to the public, which occurred rarely and did not amount to a primary use but a *de minimis* activity. In my view, on the balance of probabilities, the catering business activities took place away from the site at events and Farmers Markets (the Hog Roast business). What has taken place at Hares Farm is the storage of catering equipment for offsite events including within the shipping containers. I find that this storage use is not ancillary to an agricultural operation but is a primary use in its own right. The equipment and catering items are stored on the site and when required for Farmers Markets or separate catering events are taken from the site to the place where hot food is prepared and served. I will correct the allegation to reflect this. This would cause no injustice to either party.
24. At the time of my site visit the northern shipping container contained: a fridge freezer (fridge element empty, freezer element was stocked with more domestic items), kitchen sink and drainer (hot water), metal surfaced preparation areas, washing machine, two freezer units which were turned off, a mini BBQ, two blackboards/A frame boards, insulating boxes, catering supplies including stuffing mix, forks, sauces, lids, notepads, tea and coffee supplies, a desk and chair, soup heater, shelving and bowls.
25. The southern shipping container at the time of my site visit, contained 18 feed bags, a quad bike and helmets, various tools, a lawn mower, equipment to knock poles for fencing into the ground, buckets, pipe fittings for field water, electric fence equipment, jet wash used to clean trailers after moving pigs, water pump for remote fields, and a generator for events².
26. The appellants claim that items associated with the catering equipment storage were temporarily stored in one of the 'storage containers' in July 2022 but that at the time of the service of the Notice it had been removed. However, there is no substantiated evidence to demonstrate that storage of catering equipment did not occur on the appeal site as a whole. Furthermore, storage of catering equipment was clearly taking place in the shipping containers at the time of my site visit. On the balance of probabilities, I am satisfied that storage of catering equipment for offsite events has taken place on the appeal site and within the shipping containers.

² Confirmed orally on-site visit.

27. I am satisfied that a mixed use comprising agricultural use, siting of a twin unit caravan for residential use, storage of catering equipment and supplies for offsite events and the storage of a food trailer has taken place as a matter of fact. The appeal on ground (b) succeeds to the extent that I have corrected the allegation in this regard.

Appeals on ground (c)

28. This ground is that what is alleged does not amount to a breach of planning control. The burden of proof is on the appellants, and the relevant test is the '*balance of probabilities*'.
29. The appellants have referred to the following in relation to this ground of appeal:
- The pig housing and shelter are not a building or buildings.
 - The yurts are a temporary use of the land under Schedule 2, Class B, Part 4 of the GPDO³.
30. Section 173(4)(a) of the 1990 Act enables a local planning authority to issue an enforcement notice to specify the steps to be taken to remedy the breach of planning control by "restoring the land to its condition before the breach took place". Therefore, an enforcement notice directed at a material change of use may require the removal of works integral to and solely for the purposes of facilitating the unauthorised use, even if such works on their own might not constitute development or they would be permitted development or immune from enforcement action.
31. The Notice in this case alleges a material change of use with facilitating works. The pig housing and shelter and yurts are facilitating works and as such the arguments put forward by the appellant are not relevant in these circumstances.
32. The appeal on ground (c) fails.

Appeals on ground (d)

33. This ground of appeal is that, at the date when the notice was issued, no enforcement action could be taken. The burden of proof in an appeal on this ground lies with the appellant. The appellants have only pursued this ground of appeal in relation to the formation of an access onto Pickaxe Lane.
34. It is accepted that the access track and parking area are not immune from enforcement action through the passage of time as they were constructed in July 2022. They were also works that were integral in facilitating the material change of use as a whole. Furthermore, in the light of the corrections which removes reference to the creation of an access from the allegation and variation of the requirements to refer to the access track and parking, the actual access onto Pickaxe Lane is no longer attacked by the Notice.
35. The appeal on ground (d) fails.

³ Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Appeal A on ground (a) and the deemed application for planning permission

36. I have found that the alleged mixed use (as corrected) comprising agricultural use, the siting of a twin unit caravan for human habitation, storage of catering equipment and supplies for offsite events and the storage of a food trailer with facilitating works has taken place as a matter of fact. As such, the deemed planning application is for that corrected mixed use.
37. The main issues in the ground (a) appeal are:
- whether the mixed use is appropriate in this countryside location and the effect of the development on the character and appearance of the area;
 - whether or not there is an essential need for a temporary mobile home for residential use to accommodate a rural worker; and
 - the effect of the development on highway safety, particularly in relation to increased traffic generation.

Countryside location and character and appearance

38. Policy NBE1 of the Hart Local Plan (Strategy and Sites) 2032 supports development within the countryside where it can be demonstrated that a countryside location is both necessary and justified. LP Policy NBE2 requires development to respect and wherever possible enhance the special characteristics of the District's landscapes. The appeal site is within the Hart Downs as identified within the District's Landscape Character Assessment 1997. The main distinguishing features of this area being strongly rolling landforms, intensive arable cultivation with open landscapes, extensive views and a rural character.
39. On the basis of the evidence available it has not been demonstrated that a countryside location is both necessary and justified for the mixed use as a whole. In particular, the food trailer and the catering business primary uses are not necessary or justified in this location. The development is therefore contrary to LP Policy NBE1.
40. The appellant has provided a landscape and visual appeal statement (LVAS) in relation to an earlier Notice that was withdrawn. Concerns were raised by the Council that the LVAS did not assess the larger area of the appeal site.
41. The appeal site formally consisted of an open field. The development with has resulted in the loss of some grassland and the introduction of new structures/works to facilitate the mixed use. The deeply undulating topography, woodland and field boundary vegetation forms part of the local landscape. Views to the north, south and east are predominantly limited to distances of 150m or less. Views to the north west and west extend to about 500m.
42. I accept that the changes in topography to enable the siting of the twin unit caravan, and the access track, parking area, and storage containers are experienced in close views rather than long distance views. Particularly from Pickaxe Lane and the adjacent properties.
43. The LVAS states that the development has not changed the farming usage of the land. While I accept that a large part of the site is used for pigs and cattle, the site is in a mixed use as set out in this decision. The LVAS

concludes that the development (attacked by the previous enforcement notice) could be said to cause some minor "harm" to the countryside given the scale of the site, but that this of itself would not justify withholding permission because the site is not accessible to the public. The LVAS considers that all adverse effects outside the site can be mitigated by the incorporation of a mitigation strategy that is sympathetic to the local context and character, and which increases biodiversity within the site.

44. The site, while not readily being viewed in long distance views, is clearly visible from adjacent and nearby properties. The stark access track and parking area are clearly visible from the road and appear as hard visual intrusions within the site. The inherently rural character of the site formerly laid to grass has been significantly undermined by the hard surfacing, storage containers, food truck and twin unit caravan which have had an unduly urbanising effect. The structures at the top of the site including the clay oven, veranda etc add paraphernalia to the site which further changes the character of the land.
45. The mixed use and facilitating works have resulted in the introduction of changes in topography, the insertion of a twin unit caravan, set back from the road, two shipping containers and timber structures with hard surfaced and stark access track and parking area into what was grassland rising up from the road. The twin unit caravan is set deeper into the site than the nearby properties and this has necessitated a long access track with parking closer to the road. I accept that soft landscaping could reduce the visual harm resulting from the twin unit caravan and facilitating works. However, the landscaping would be introduced to prevent views, rather than to enhance the development.
46. There are clear views along the access track from Pickaxe Lane and from the first floors of adjacent properties. I am not satisfied, on the evidence available, that a landscaping scheme would adequately mitigate the visual harm experienced in close views from Pickaxe Lane and nearby properties. I therefore find that the development fails to respect or enhance the special characteristics of the area. The development is therefore contrary to LP Policy NBE2.

Essential need for a temporary mobile home for residential use to accommodate a rural worker

47. The appellant's primary business is stated in appeal submissions to be the production of pigs to sell as pork products. A local abattoir is used to slaughter the livestock. A local butcher then packages and labels their produce. It is then sold online, delivered locally or sold at Farmers Markets. It is stated that around 150-200 Farmers Markets⁴ are attended by the appellants each year with one or two weekly delivery runs to local customers. This amounts to approximately 70% of the business since they do not sell to supermarkets through brokers. The business is stated to be purely direct trade and retail.
48. The appellant's business includes pork-based catering for events. It sells approximately 30% of their pork sales as hot food at Farmers Markets alongside the sale of their uncooked meat products. Other events are

⁴Paragraph 3.23 of statement of case of Phillip Hughes.

concentrated in the summer months with approximately 28 events in a year.⁵ The appellant provides the meat and equipment, and the venues or customers provide their own catering and/or service staff.

49. At the Hearing the appellant stated that the catering business has reduced, and they are pivoting away from catering to a contract for ethically sourced meat. The appellant's agricultural consultant's evidence (ACE) refers to contracts being finalised for up to 500 finished pigs per annum at an agreed price per kilo. However, the previous production model would remain as a fall back as the business is stated to have many local contacts and has already developed a number of private sales market opportunities.
50. The ACE states that the herd of pigs will be stabilised with approximately 30 sows with two litters per sow per year. The breeding activities are undertaken at Hares Farm (Breeding Unit) with the growing on of the weaned pigs (Rearing Unit) undertaken on rented arable land away from Hares Farm.
51. The ACE includes start up accounts and states that up-to-date accounts would be available at the Hearing. None were produced at the Hearing. Furthermore, there was no specific update on the contracts being negotiated for the sale of 500 pigs per annum at an agreed price.
52. At the time of my site visit there were also some cattle on the site which are not accounted for within the ACE. The appellant has stated that the Longhorn Cattle were bought to graze the ground around the outside of the pig pens. Although reference is made to the cattle being a potential income stream with the calves fattened and then sold for breeding, rearing or meat, it is not clear what effect the cattle have on the business model or whether assumptions and forecasting in the ACE are affected. There is also a lack of information on how the cattle affect the ability of the Hares Farm site to accommodate both the cattle and the pig Breeding Unit. I note that the appellant considers the cattle are part of a holistic approach to land management. However, the amount of land available for the pig Breeding Unit at Hares Farm and the stocking rates are very important in demonstrating the number of standard man days (SMD) required to demonstrate the need for a full-time worker.
53. Furthermore, the ability of the appellant to meet the husbandry needs of the Breeding and Rearing Units and attend or support the numerous Farmers Markets and summer events set out above, is unclear. While I appreciate that other individuals may be employed to attend the Farmers Markets or summer events, the evidence itself is unclear as it is stated the appellants⁶ attend the Farmers Markets.
54. LP Policy NBE1 supports development to meet the proven essential need of a rural worker to live permanently at or near their place of work. The explanatory text to the policy gives guidance on the interpretation of the policy in terms of rural workers dwellings. The principal considerations, if there is not sustainable or suitable accommodation in the area, are that there has to be a functional need for the person to be readily available on site or nearby at most times, that the worker is fully or primarily employed on the

⁵Paragraph 3.24 of statement of case of Phillip Hughes

⁶ The reference to appellants in Mr Hughes statement of case is taken to mean Mr Matthew Silvester and Ms Helen Freeman.

site, and that the business is financially sound and has a clear prospect of remaining so.

55. The National Planning Policy Framework (NPPF) requires only that there is an essential need for a rural worker to live permanently at or near their place of work.

Functional

56. The ACE report sets out that the need for a worker to live on site arises from the care and management of sows at farrowing and the rearing of piglets to weaning as well as dealing with viral and stress related illnesses to ensure piglets are reared efficiently. Living on site would enable a squealing piglet to be heard and rescued immediately. Keeping mortality to a minimum is clearly advantageous to the business. The models used by ACE assume a 10% mortality. However, a rate of 16% is recorded in the evidence and this is stated to be the inherent problem with no one living on site.
57. The ACE records that there would be a 68 standard man days (SMD) requirement for sows. It is not explicit how many of the 188 SMD for "growing pigs" would be split over Hares Farm (Breeding Unit) and the rental land (Rearing Unit). It is therefore difficult to assess whether the Hares Farm activities amount to a worker who would be primarily employed on the site as set out in the guidance to Policy NBE1 for assessing rural workers accommodation.
58. If the breeding sow numbers and business contracts are finalised, it is not clear whether this can be accommodated alongside the cattle on the site. The Council's agricultural appraisal raises issues with the rented status of land used for the stock pigs (Rearing Unit). However, I am satisfied that it is not unusual for rental land to be relied upon to some extent by a business such as this.
59. The business model is for a relatively small-scale pig Breeding Unit and Rearing Unit, and it will be finely balanced whether or not there is a functional need proven in relation to the activities of a rural worker primarily employed on the site i.e. at the appeal site. The ACE states that the work would be primarily at Hares Farm at the Breeding Unit, whereas the Council's agricultural appraisal considers that the SMD should be reappraised to consider the two components of the business as two distinctly separate operations i.e. the Breeding Unit at Hares Farm and the Rearing Unit on rented land elsewhere. If they were separately appraised the Council contends there would not be a functional requirement for the appellant or a worker to live on site.

Financial

60. Although the ACE refers to 2022 accounts to be provided these were not submitted. However, the budgets have been produced for the private sales, Farmers Markets and Hog Roast business plan and a separate one for the anticipated new contract business model. These forecasts show that the business in Year 3 is projected to achieve a net profit such that it is likely to be sustainable in the future. The Council's agricultural appraisal concludes that the appellant's business plan does appear that it would be capable of being viable.

61. I appreciate without a worker living on the site, a mortality rate of over 10% would have a negative effect on profitability. However, in my view, the appellant has demonstrated that the forecast for the business, whichever budget or model is pursued, will achieve a net profit by Year 3 and be likely to be sustainable in the future.

Conclusion Functional and Financial

62. I am satisfied that the enterprise as a whole comprising the Breeding Unit and the Rearing Unit would have a labour requirement for at least a full time worker. I also accept that without a worker living on site the mortality rate of the pigs would be higher (16% recorded in the ACE when no worker living on site) such that it would adversely affect the profitability of the business. However, based on the evidence available, which fails to account for the land needed for the cattle at Hares Farm, and fails to clearly demonstrate there is a functional need proven in relation to the activities of a rural worker primarily employed on the site i.e. at the appeal site, I am not satisfied that a functional need has been demonstrated at this time.

63. The guidance to LP Policy NBE1 states that where there is insufficient evidence provided of need, consideration will be given to granting permission for temporary accommodation for a period of up to three years. There is therefore policy support for the twin unit caravan for use as a rural worker's dwelling being permitted for a temporary period.

64. However, even if I had concluded that there was functional need demonstrated in relation to the activities of a rural worker primarily employed at the appeal site or that a temporary period of three years was appropriate, if the mixed use as a whole is unacceptable in planning terms, I cannot grant permission. This was discussed and accepted by the parties at the Hearing.

65. I cannot therefore consider the siting of a twin unit caravan for residential use in isolation, as it forms a primary use within the overall mixed use and to do so would not be part of what is alleged but a different use.

Highway Issues

66. The Highway Authority record that Pickaxe Lane has a high-capacity junction with the B3349, which runs between Hook and Alton. This junction was provided as part of an agricultural development and has priority at that point. Users of Pickaxe Lane travelling northbound are signed to give way to vehicles merging from the private road.

67. Beyond the private road junction, Pickaxe Lane is single track with minimal highway verge and few vehicle passing places. It was agreed with the parties that there were about 12 passing places along a roughly one mile stretch of Pickaxe Lane to the appeal site.

68. The Highway Authority consider that Pickaxe Lane is a route where new development with direct access should be avoided. Further, the amount of traffic using it should not be increased.

69. The access onto Pickaxe Lane is lawful. The lawful use of the land for agriculture would be likely to generate traffic movements. While it is likely that traffic movements have increased at the site as a result of the development, there is no substantiated evidence that the development has

resulted in traffic flows that have caused material detriment to highway safety. I appreciate that local residents and occupiers have noted additional traffic movements, but I am not satisfied that these would be materially less for an agricultural use of the land.

70. Moreover, the NPPF advises that development should only be prevented or refused on highway grounds if it would have an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. I am not satisfied on the evidence before me that this is or would be the case.

71. I therefore find that the development would not be contrary to SLP Policy GEN1 or the NPPF in relation to highway safety.

Conclusion on ground (a)

72. While I have found no substantiated evidence that the development would result in harm to highway safety, there are no good reasons to site the mixed uses which include storage of catering equipment and supplies for offsite events and the storage of a food trailer at this location. I am further not persuaded on the evidence that there is a clearly demonstrated functional need proven in relation to the activities of a rural worker primarily employed on the site i.e. the appeal site. The development is therefore contrary to the development plan as a whole and the appeal on ground (a) fails.

Appeals on ground (f)

73. This ground of appeal is that the requirements of the notice are excessive, and lesser steps would overcome the objections.

74. The Council confirmed that the purpose of the notice goes to paragraph (a) of section 173(4) of the Act as amended which is to remedy the breach of planning control. Section 173(4) permits the notice to achieve the purpose of remedying the breach by restoring the land to its condition before the breach took place.

75. The intention of a person carrying out development at various stages in the history of the site are not relevant.

76. The Council has suggested that requirement (iv) be varied to:

"Cease using the land for any temporary use for not more than 28 days in total in any calendar year in accordance with Schedule 2, Part 4 Class b of the GPDO."

However, as I have set out above, I accept that camping as a primary use has not taken place and the allegation will be corrected such that camping is not part of the mixed use. Furthermore, as I have varied the requirements i) to iv) to a single requirement of 'Cease the use', the Council's proposed variation is unnecessary.

77. In relation to requirement v) the allegation does not include any other caravan other than the twin unit caravan which facilitates the residential use. The reference to "any other caravans" in the requirement is therefore erroneous. I will vary the requirement to remove reference to any other caravans.

78. As stated earlier it was held in *Murfitt*⁷ that where a Notice is issued in respect of a material change of use and works were carried out to facilitate it, the Notice may require any ancillary work to be removed in order that the site is restored to its previous condition and the breach is remedied.
79. In relation to all requirements which relate to a material change of use that requires removal of works which facilitate that material change of use, I must ask whether the *Murfitt* principle applies with regard to whether the facilitating works were installed for the unauthorised use or the previous lawful use. If they were installed for the unauthorised use, I must ask whether they were of a nature and scale exceeding that which is truly integral to the material change of use.
80. The material change of use in this case is a mixed use comprising agriculture, siting of a twin unit caravan for human habitation, storage of a food trailer and storage of catering equipment for offsite catering activities. The facilitating works, which include the provision of drainage, water, and electricity were in my judgement brought onto the site/installed to support that mixed use.
81. In *Bowring*⁸ at paragraph 16 it was stated that *"it will not be sufficient if the works are integral to or part and parcel of the present unauthorised use of the land if the works had been undertaken for a different and lawful use and could be used for that other lawful use even if the unauthorised use ceased."* In *Bowring* the kitchen(s) ordered to be removed were installed for some other lawful use before the material change of use was made. As such, they would not have involved in the breach of planning control as they would not have been installed for the making of a material change of use. In *Bowring* it was not clear on which date the two additional kitchens were installed and whether they were installed simply to enable the house to be used as a HMO or whether the installation of the two additional kitchens was in fact a precursor to the conversion of the house into three self-contained flats.
82. I am clear that if works are integral to or part and parcel of an unauthorised use of the land and they had not been undertaken for a different and lawful use and could not be used for that other lawful use even if the unauthorised use ceased, then a Notice may be directed at the entirety of the development.
83. I accept that an agricultural use of the land would be lawful and thus the fall-back lawful use of the land would be for agriculture. While I appreciate that water and electricity could and would be used for any lawful agricultural use, they were installed to facilitate the unauthorised mixed use. As such it is not excessive to require the removal of the water and electricity works which are integral to the human habitation and other uses within the mixed use and facilitated the material change of use.
84. The access track and parking were integral to the mixed use enabling vehicles to park just inside the access gate area and drive up closer to the twin unit caravan and the shipping containers. In my view, it is not excessive to require the removal of the parking or access track which are clearly facilitating works integral to the material change of use to a mixed use.

⁷ *Murfitt v Secretary of State for the Environment* (1980) 40 P and CR 254

⁸ *Bowring v SSCLG* [2013] EWHC 1115(Admin)

85. All the other facilitating works set out in the allegation are directly and integrally related and facilitated the material change of use alleged (as corrected).
86. The appeal on ground (f) succeeds in part in relation to the “any other caravans” only and I will vary the requirement as set out above.

Appeal on ground (g)

87. This ground of appeal is that the period for compliance falls short of what should reasonably be allowed. The notice sets out the compliance periods as three months for requirement i); one month for requirements ii) to iv); four months for requirement v); and five months for requirements vi) to xii).
88. The appellants were seeking a period of 18 months to allow a period for the appellants to find another site served by utilities and with structures and buildings that can be utilised by an agricultural business and from which the business can operate and then allow a time for the relocation of the business. The appellants do however accept the compliance periods for requirements iii), iv) and x) as being reasonable.
89. The appellants confirmed that no persons were living on site at the time of the Hearing. The appellants accepted at the Hearing that as there was no active residential use of the site at the time, that a period of 18 months could not be justified, but that it would still take 12 months to look for alternative sites for the agricultural business.
90. The key question is what is reasonable, and this is a matter of judgement for me. The task is essentially to balance the public interest in the Notice being complied with expeditiously against the private interests bound up in the development the subject of the notice as corrected.
91. Requirement i) has a compliance period of 3 months while requirements ii) to iv) had compliance periods of one month. It would be unreasonable, as a result of my variations, to have a single ‘Cease the use’ period for compliance of one month. I will therefore allow three months compliance period for the varied requirement i).
92. I see no justification for the compliance period for requirement iv) (removal of twin unit caravan) to be increased as the appellants have confirmed no one is living in the twin unit caravan.
93. I have noted earlier in this decision that the appeal site could be put lawfully to an agricultural use. I have also noted in the ground (f) appeal that while it was not excessive to require the removal of the water and electricity supplies, the installation of both these utilities could be put to use for a lawful agricultural use. I therefore find that there is some justification to allow enough time for compliance for the appellants, if they choose to, to submit a planning application to seek to retain mains water and electricity suitable for an agricultural use at the appeal site. In my view, a period of 6 months would be reasonable to allow the appellants, if they so choose, to submit a planning application and for it to be determined. I will therefore vary the compliance period for requirement xii) (varied requirement (ix)).
94. In relation to an extended period to allow the appellants to look for alternative sites for an agricultural business, a 12-month compliance period would be

akin to a temporary planning permission and I can see no justification for that. The site can be lawfully used for agriculture. In my view, the compliance periods for the various requirements, other than set out above, are reasonable.

95. The appeal on ground (g) succeeds to the limited extent set out above.

Conclusion

96. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and 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) in Appeal A.

Mrs H M Higenbottam

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Hughes BA(Hons) MRTPI FRGS Dip Man MCMI	Planning Consultant for the Appellants
Mr Williams BA(Hons) FBIAC	Agricultural Consultant for the Appellants
Mr Sylvester	Of The Woodland Pig Company Appellant
Ms Helen Freeman	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Williams	Barrister instructed by Basingstoke shared legal services
Miss Whitaker CPSE	Planning Enforcement Officer, Hart District Council
Mrs L Moore BA(Hons)	Interim Team Leader for Enforcement, Hart District Council

INTERESTED PARTIES:

Mr J Wilson	Interested Party
Ms D Powell	Interested Party.

DOCUMENTS SUBMITTED AT HEARING

1. New agreed coloured up plan to substituted for Notice plan
2. Grazing agreement submitted by the appellants
3. Pig records submitted by the appellants
4. Draft Conditions submitted by the Council
5. Note on cattle on site submitted by the appellant

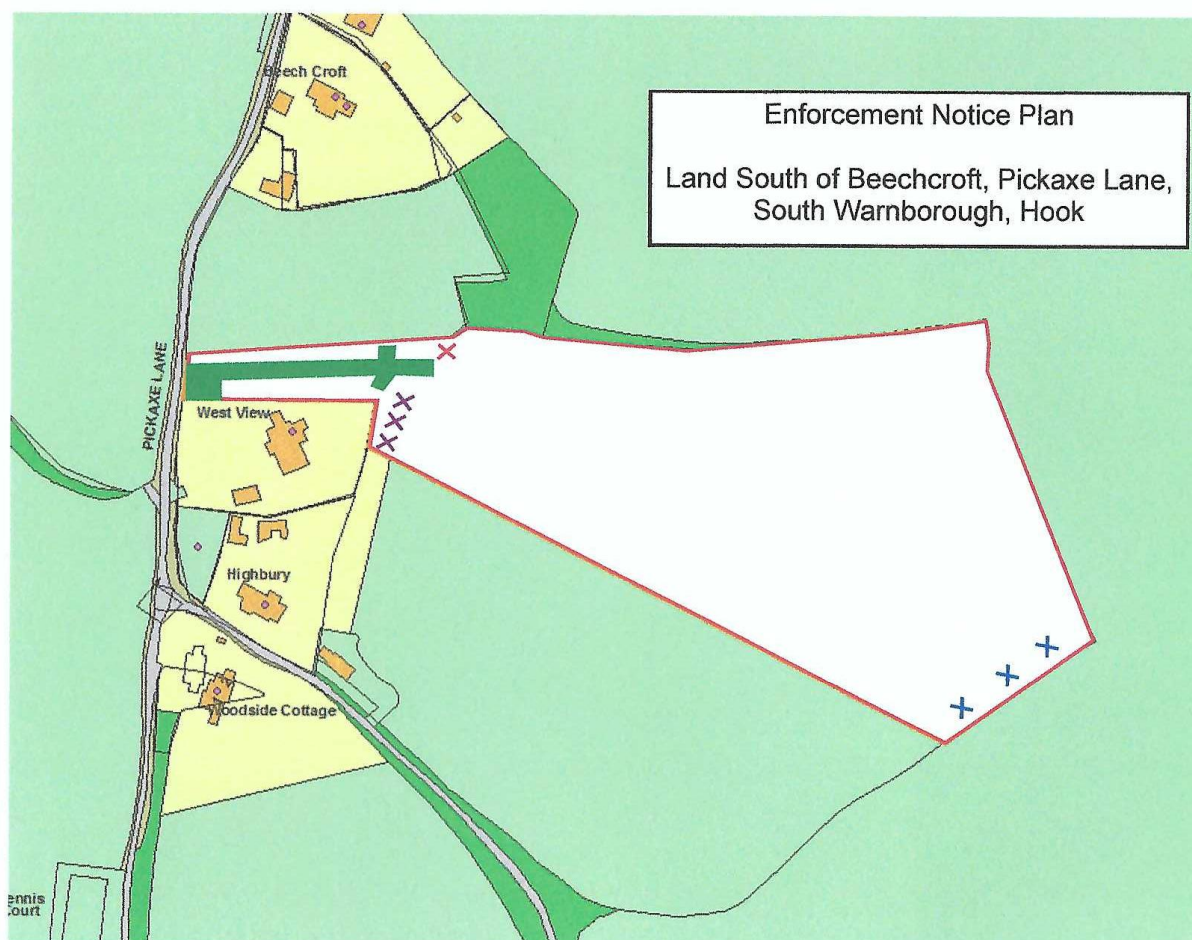


Plan A

This is the plan referred to in my decision dated 14 July 2025

by Mrs H M Higenbottam BA(Hons) MRTPI

Land at Hares Farm, Pickaxe Lane, South Warnborough, HOOK, RG29 1SD
References Appeal A Ref: APP/N1730/C/23/3328103 and Appeal B Ref:
APP/N1730/C/23/3328104





The Planning Inspectorate

Photographs 1-6

These are the photographs referred to in my decision dated 14 July 2025

by Mrs H M Higenbottam BA(Hons) MRTPI

Land at Hares Farm, Pickaxe Lane, South Warnborough, HOOK, RG29 1SD
References Appeal A Ref: APP/N1730/C/23/3328103 and Appeal B Ref:
APP/N1730/C/23/3328104



Photograph 1 of one light of four at entrance



Photograph 2



Photograph 3



Photograph 4

Photograph 5



Photograph 6

