Planning Inspectorate

# Appeal Decisions

Hearing held on 23 September 2025

Site visit made on 23 September 2025

**by S A Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22nd October 2025**

**Appeal A Ref: APP/A1530/C/25/3365789**
**Appeal B Ref: APP/A1530/C/25/3365790**
**Appeal C Ref: APP/A1530/C/25/3365791**
**Appeal D Ref: APP/A1530/C/25/3365792**
**Land known as The Laurels, Chappel Road, Great Tey, Colchester CO6 1JR**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mrs Dawn Goulding, Appeal B is made by Mr Robert Goulding, Appeal C is made by Mr Ross Goulding and Appeal D is made by Mrs Paige Goulding against an enforcement notice issued by Colchester City Council.
- The notice was issued on 11 April 2025.
- The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the material change of use of land from agricultural to a mixed use of residential and business use (Scaffolding Business).
- The requirements of the notice are to:
  (i) Cease the use of the land for residential purposes.
  (ii) Demolish/dismantle/remove both bespoke designed pitched roof dwellings outlined in red and labelled A & B on the attached plan from the land including any associated hardstanding.
  (iii) Remove all residential paraphernalia from the land for example but not limited to washing lines, children's toys, the large expanse of gravel parking, boundary fencing and planting, serving the dwelling(s).
  (iv) Cease the use of the land for the running of a scaffolding business.
  (v) Remove all items associated with the scaffolding business in there [sic] entirety from the land.
  (vi) Restore the land to its condition before the breach took place.
- The periods for compliance with the requirements are:
  For parts (i) (ii) (iii) & (vi) above – Twelve (12) calendar months from the date this Notice takes effect
  For parts (iv) & (v) above – Four (4) calendar months from the date this Notice takes effect
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (f) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act). 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 1990 Act.
- Appeals B, C and D are proceeding on grounds (b) and (f).

## Decision

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

   The deletion of the alleged breach of planning control and its substitution with: "Without the benefit of planning permission, the material change of use of the land from agricultural and residential to a mixed use of agricultural, residential, and business use (Scaffolding Business)."

   The deletion of requirement (i) and its substitution with: "(i) Cease the mixed use of the land."

The deletion of requirement (iii) and its substitution with: "(iii) Remove all residential paraphernalia from the land for example but not limited to washing lines, children's toys, and the large expanse of gravel parking serving the dwellings."

The deletion of requirement (iv).

2. Subject to the corrections, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

**Matters concerning the Notice**

3. I have a duty to get the notice in order if I can do so without prejudice to the parties. The allegation in the notice relates to a material change of use of the land. In respect of the two timber units, there is no dispute that they provide residential accommodation and accordingly I consider that the notice should be corrected so that it explicitly refers to both the agricultural use of the land and the use of the land for residential purposes.

4. Furthermore, in mixed use cases, the allegation should refer to all the components of the single mixed use (sui generis[1]) that were taking place at the time of the notice. An alleged mixed use lies outside of any of the identified use classes in the Town and Country Planning (Use Classes) Order 1987 (as amended). It was agreed at the Hearing, that the notice should be corrected to include the agricultural use of the land.

5. The steps for compliance with the notice should reflect the breach of planning control, which is the single mixed use of the land. As the notice is directed at an alleged single mixed use of the land, the requirements should refer to that mixed use rather than the individual alleged unlawful uses. It is not open to the Council to decouple elements of a mixed use. Where some lawful activity is referred to in the allegation, the notice cannot require it to cease.

6. As the corrections do not substantively change the allegation nor the requirements of the notice, I am satisfied that under my powers pursuant to s176(1) of the 1990 Act no injustice would be caused to any party.

**Preliminary Matters**

7. Appeals were submitted by the four appellants who are family members. As only one fee is required on an appeal on ground (a), the fee payer is the single appellant on that ground, that is Mrs Dawn Goulding.

**Ground (b)**

8. An appeal on ground (b) is made on the basis that the matters comprising the alleged breach of planning control *have not occurred* as a matter of fact. It concerns the circumstances leading up to, and at the time when the notice was issued. The making of a material change in the use of any building or other land amounts to 'development' as defined in s55(1) of the 1990 Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the 1990 Act.

[1] In a class of its own

9. There is no dispute that the lawful use of the appeal site is agricultural[2], being occupied by livestock comprising mostly of alpacas which are bred on the land. The appellants also keep pygmy goats, pigs, dolly sheep and chickens, some of which had been re-homed with the appellants. On the site there are also two timber buildings which provide habitable accommodation. There is no disagreement between the parties that these are occupied on a permanent full-time basis by the appellants.

10. The appellants, however, dispute that the site has been used for purposes linked to their scaffolding business, Bor Scaffolding. They declare that following the liquidation of that business, which was run from a yard elsewhere, the scaffolding was moved to the appeal site in October 2023 for storage purposes. Close neighbours fiercely disputed this at the Hearing and gave evidence about the noise and disturbance caused by vehicles carrying scaffolding past their property on a regular basis and provided details linking the scaffolding business to the appeal site address and a 'live' website, which until recently had The Laurels as the business address.

11. At the Hearing, Mrs Goulding explained that her son, Ross[3], had started a new scaffolding business, under her name, in October 2023, following the liquidation of Bor Scaffolding. It was unclear where this was based and how this was operating, but I was informed that a small truck was used daily by the business and that this would go back and forth from the appeal site.

12. All evidence of the scaffolding had been removed from the site by the time of my visit and it is suggested that this was cleared during the summer. Nevertheless, from the evidence presented including aerial images, it is clear that scaffolding was present in one of the paddocks at the appeal site. The fact that the address of the scaffolding business was linked to The Laurels until recently also indicates strongly that part of the land had been used for storing scaffolding, and it seems to me that this was more likely than not for both the longer term and in between jobs. Nevertheless, whether the business operated from the appeal site or whether the scaffolding was stored, the scaffolding was brought onto the land and kept there for close to two years.

13. Therefore, I consider that the matters comprising the alleged breach of planning control, as amended, have occurred as a matter of fact. Moreover, the operational activity is materially different to the former lawful use and is development as defined by s55 of the 1990 Act.

14. The appeals on ground (b) cannot therefore succeed.

### Ground (a) and the deemed planning application

### Main Issues

15. The appeal is made on ground (a) of s174 of the 1990 Act that planning permission ought to be granted in respect of any breach of planning control which

[2] Section 336 of the Act - "agriculture" 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.

[3] Appellant C

may be constituted by the matters stated in the notice. The scaffolding business ceased some time ago, and no arguments have been made that planning permission should be granted for it. I shall therefore confine my consideration to the use of the site for residential purposes.

16. The main issues with this appeal are therefore: i.) whether or not the residential use of the land is justified in this location taking into account the National Planning Policy Framework (the Framework) and relevant policies contained in the adopted Colchester City Local Plan 2017-2033 (the LP); and ii.) the effect of the development on the character and appearance of the area.

**Background**

17. Following the purchase of the land in 2016, an application for planning permission was submitted by the appellants in August 2017 for the 'Temporary stationing of a mobile home in connection with the development of an agricultural holding'. Following a refusal by the Council, the application was allowed on appeal, Ref: APP/A1530/W/18/3194324 dated 5 September 2018.

18. At that time, the Inspector considered that there was an identified essential need for on-site residential accommodation. The temporary permission, now expired, was granted for three years for a person solely or mainly working in connection with the breeding and keeping of alpacas at The Laurels. The temporary nature of the consent for the mobile home was deemed necessary as the business was not at the time able to demonstrate a financial viability likely to endure long term.

19. Under section 57(4) of the 1990 Act, where an enforcement notice has been issued, there is a right to revert to the last lawful use of the land. However, this right does not apply if there have been one or more intervening unlawful uses between the last lawful use and the current unlawful use. By the effect of the time limiting condition, it is no longer lawful to resume the mixed agricultural and residential use. Therefore, the only lawful use of the land is for agriculture.

**Reasons**

*Policy context*

20. The appeal site lies within a rural location, outside of the settlement hierarchy set out in adopted policy contained in Policies SP3, SP7 and SG1 of the LP where there is a general presumption against new residential development unless specific circumstances can be met. The Framework states that one of the few circumstances where a new dwelling within the countryside may be justified is when accommodation is required to enable agricultural or rural workers to live at or in the immediate vicinity of their place of work.

21. Policy DM14 of the LP provides that any proposal for a new agricultural/rural workers dwelling will be expected to satisfy all the criteria set out in that policy. Proposals are required to demonstrate both an essential functional need and that this need cannot be met by another suitable and available dwelling. Financial tests are also identified, and proposals are required to demonstrate that the business has been established for at least 3 years and profitable for at least one of them, is financially viable and is likely to remain so in the future.

22. National or local planning policy do not specifically define 'essential need'. However, the National Planning Practice Guidance sets out what may be relevant when considering the need for an essential rural workers' dwelling in the countryside. It suggests, among other things, this could include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural business, for instance, where farm animals or agricultural processes require on-site attention 24-hours a day, and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of products.

*The current agricultural enterprise*

23. Alpaca Acres has been operating on the land since 2017. The land is said to extend to 5 hectares including the area in residential use and areas for storing agricultural equipment. The land is fenced into paddocks of varying sizes to keep the males separate from the female alpacas, some of which have young (Crias), and to house a modest collection of smaller animals including pygmy goats, pigs, dolly sheep and chickens. An area close to the dwellings contains kennels for several large dogs, and a paddock provides grazing for a couple of horses. A polytunnel provides shelter for some equipment used on the land and there are wooden shelters, polytunnels and arks for animal shelters, and feeders within the paddocks. A marquee providing a covered space for picnic benches for visitors is situated in one corner of the field.

24. The appellant explained that she runs the current business with her daughter-in-law, Paige[4], who also provides personal paid care for her and unpaid care for her husband, Rob[5]. The business is also supported by family members and five volunteers on an ad hoc basis. It is said to be centred around the breeding, rearing and selling of alpacas, micro pigs, baby doll sheep and pygmy goats. Other activities take place at the site such as animal experiences for individuals and groups where visitors meet the animals and pet and feed them. There are also yoga classes during the warmer months where group classes are held in among the alpacas.

25. A notable part of the business at Alpaca Acres appears to be the provision of a 'care farm' or 'petting zoo'. This involves the therapeutic use of the animals to help provide for mental health, social and educational needs of individuals. At my site visit I observed a significant number of, mostly, female alpacas. There were several crias in the paddock with the females, and separate smaller paddocks containing male alpacas. This, to me, was indicative that breeding and rearing is operational. When taken together with the other breeding animals, I am satisfied that, as a matter of fact and degree, the therapeutic element of the use is ancillary to the agricultural use, as breeding forms a reasonable part of the operations at Alpaca Acres alongside caring for the animals.

*Essential functional need to be permanently on the site*

26. At the time of the previous appeal which concluded that, on the presented evidence, there was a functional need for a worker associated with the business to

[4] Appellant D
[5] Appellant B

live on the site, the holding accommodated 19 alpacas. The appeal statement dated July 2025, states that the breeding herd had increased to 50 along with other animals and poultry. Since then, I am told that the herd has increased further to around 90 and that the enterprise also assists with rescue work and the rehabilitation of animals.

27. Although there are no specific labour figures published for the breeding of alpacas, the appellant relies on a 2011 appeal decision which detailed that breeding alpacas requires 86 hours of labour per year. This figure was provided by an expert in alpacas, and with no evidence to the contrary, I have no reason to dispute this figure. John Nix's Farm Management Pocketbook considers that a general farm worker will work for an average of between 250 and 300 Standard Man Days per year. Assuming the figure of 86 hours per alpaca, the appellant considers that this would equate to 573 standard man days per year thus proving the need for two full time workers. Moreover, they consider that two workers would be required to enable 24-hour availability and cover for time off and sickness.

28. Male alpacas and crias require limited day to day management other than regular worming, vaccinations and toenail trimming. The females require a considerably greater degree of husbandry, particularly during pregnancy. Alpacas have a long gestation of around 11 months, and their breeding can be controlled to an extent. Thus, there is a degree of certainty regarding numbers and timing of crias being born. Furthermore, they are more likely to give birth during the day. Nevertheless, I am told that 1 in 3 crias need bottle feeding 3 or 4 times a day and that they must have colostrum within 4 hours of being born. There are also safety issues regarding dogs accessing the land and the young crias being 'easy pickings' for birds of prey and foxes. This is particularly so as they are outdoor creatures throughout the year.

29. The previous appeal considered that there was a need for an on-site presence most of the time and thus an essential functional need was deemed to have been demonstrated. The enterprise was in its infancy and the temporary consent for residential accommodation was considered for the welfare, safety and security of the herd.

30. With the increase in the numbers and variety of animals, I consider that on the basis of the appellant's core argument that, due to the welfare and security requirements of the animals, a worker is required to have a presence on site and be available to monitor the birthing process of different groups of livestock, intervene as necessary and ensure the safety and well-being of the animals.

31. The number of worker hours needed to support the enterprise is not an indication that it is necessary for all workers to live on site. I am satisfied, however, that the enterprise does require one rural worker to be readily available outside usual working hours. The evidence, however, has not been forthcoming to show that the breeding programme is such that it requires the level of man hours suggested by the appellant. Furthermore, although monitoring animals before, during and after birth may at times require a significant time commitment, these activities do not require two workers to always be available. If additional support is required, the appellant could call upon assistance from others living within a reasonable commute of the site.

*Financial soundness of the enterprise*

32. Notwithstanding my view that there is an essential need for an on-site presence for most of the time, permanent accommodation cannot be justified on agricultural grounds unless the agricultural enterprise is financially viable and can be shown to support a rural worker. Temporary planning permission was granted on the basis that, although it was not reasonable to expect that a living wage be demonstrated immediately, it was appropriate to look at whether the trajectories presented show the potential to develop into a business which could, with the right support, develop and endure into the medium and longer term.

33. No information was provided with the current appeal papers to detail the business operations or financial position. Prior to the Hearing, the appellants submitted one page of figures for year ended 31 March 2024 which listed an income of £27,118 and a net profit of £7,348. The appellant explained that the sale of alpacas is the main income and that they had sold 15 this year totalling £10,000. There is said to be little interest in fleeces, with sales being described as 'hit and miss'. It was also claimed that they had spent £30,000 in the past 12-18 months on new breeding stock, machinery, fencing and shelters. There is, however, nothing to support this claimed income or expenditure. The sheet of figures that covers part of that period has an expenditure figure of £3,649 covering repairs, travel, telephone and accountancy, and £8,176 for feed, £1,300 for purchases and £6,645 for vet and medical fees.

34. The appellant provided six 'invoices' dated between 30 May 2025 and 9 July 2025 detailing costs for alpacas, goats and pigs. The information shows that a breeding female alpaca with a cria at foot commands a fee of £1,150 - £1,500 and a pet female £500. Mating fees appear as £200-£250. The sale of five pygmy goats is listed as £1,250 and three pigs is listed as £850. While these detailed the fees commanded, they are also labelled as 'information' and some refer to animals yet to be born.

35. The appellant provided that the lowest quality breeding female could command a sale price of £1,500 and that they now have alpacas that should sell for £3,500 to £5,000. Many of these animals seem to have come from Mrs Hunt who is said to mentor the appellant in alpaca breeding and was present at the Hearing to add her support. Mrs Hunt explained that the sale of alpacas was difficult at present due to financial uncertainty. She and her husband had kept 50 alpacas over the past few years although their main income was derived from working elsewhere. It appeared that they were selling their herd to the appellant and that this would improve the quality of the appellant's alpacas and assist with the breeding programme.

36. In addition to breeding and selling alpacas, micro pigs, baby doll sheep and pygmy goats were also said to be bred and sold. At the Hearing I was told that goats could reach £450-£500 each, dolly sheep £800-£1,900 and pigs £500. While I have limited information of this occurring, the figures appear to conflict with the information on invoice 042 (dated 9 July 2025) which details the sale of 5 pygmy goats totalling £1,250.

37. It is not disputed that there has been some form of enterprise operating at the appeal site for at least 3 years. However, there is insufficient information to support the requirement regarding the financial viability of the business both currently and

into the future. The appellant admitted that neither she nor her daughter-in-law drew an income, and that they were supported by family members and 5 volunteers. Any money made, through sales and donations, is said to be ploughed back into the venture, with emphasis on improving the alpaca breeding programme with higher quality animals which in turn would command a higher price and generate further income.

38. Although I appreciate that poor health, freak accidents and Covid may have had an impact on the business, there is limited evidence to satisfy me that what is operating at Alpaca Acres is financially viable.

39. To consider the matter properly it would have been necessary for the appellant to have provided me with significantly more information. One sheet of figures may well state on paper that a profit had been made for one year, but there is no clear indication as to how this amount was generated. I would have expected to have been provided with a sound future business plan based on historic and detailed profit and loss financial accounts. Furthermore, certified copies of business accounts and tax returns, particularly as the business is registered as a Community Interest Company (C.I.C.) have not been provided.

40. The business is no longer in its infancy and evidence should be available to demonstrate its growth during the years since it was established around 2017. I therefore cannot be certain that the appellant’s intentions to invest further in the enterprise will actually happen, and, in the absence of a firm and detailed business plan, I cannot be sure that the enterprise would be sustained over time. I appreciate the appellant’s clear passion for her animals and the mental well-being of others, however, in the absence of credible financial information and stability forecasts, it is not possible to assess the financial viability of the business to date or of the venture going forward and therefore I cannot be sure that there a permanent dwelling is justified.

41. The appellant has referred to other appeals where a need to live permanently on the site to care for alpacas has been justified. While I have had regard to these, the appellant has not sufficiently demonstrated that their enterprise is or will be financially sustainable or viable to justify a permanent dwelling. In this respect there is conflict with Policy DM14 of the LP.

**Character and appearance**

42. The site is an open flat parcel of land with mostly mature tree lined hedging along some of the external boundaries. Within the site, apart from grass, there is little other form of soft landscaping. The various field shelters and feeders are of modest sizes and are not too dissimilar to structures that might be found in the countryside. The land is divided into several paddocks with fencing which is mostly wooden post and rail fencing and there is also some metal fencing. The fencing is of a standard height and is a feature that is not uncommon on grazing land. In this respect there is no harmful impact on the character and appearance of the area.

43. The residential use of the land, however, is publicly visible from the PRoW which runs along a boundary and there will be views from rear gardens belonging to residential properties within the village. Those rear gardens are large and spacious and rural in nature. The residential use of the appeal site urbanises what was an undeveloped area of agricultural land mostly surrounded by arable farmland.

Furthermore, the large expanse of gravel placed around the residential units to provide a level dry area for its occupants and the parking of domestic vehicles is an overly alien feature in the landscape. Although views of the gravel would be limited, the extent of it and its domestic nature make it an incongruous addition in the agricultural landscape.

44. While the timber units are modest in size and are of a rustic nature, the development associated with the residential use of the land is not justified in agricultural terms and it is visually harmful and urbanising in this countryside setting. I conclude that the harm caused to the character and appearance of the area is contrary to Policies DM15 and ENV1 of the LP which aim to conserve and enhance Colchester's countryside and protect the character of the area from the harmful impact of development.

**Other Matters**

45. The appellant put forward a case for a replacement dwelling on the land in compliance with Policy DM13 of the LP. This, among other things, supports replacement dwellings in the countryside within existing curtilages provided it meets various criteria. While there may well be compliance with some of the criteria listed under Policy DM13, the main criteria for any proposal for a replacement dwelling is that it should be on a one-for-one basis and the property to be demolished is a permanent lawful dwelling.

46. I cannot be certain that the Marshall's Bungalow has a lawful residential use and furthermore there is no evidence that it is a permanent lawful dwelling. While it may have been situated on the land for several years, visually it would seem to comply with the definition of a caravan. Nonetheless, the appellant had previously applied for planning permission for a replacement dwelling, for which they received a refusal dated 13 May 2024, and had chosen not to appeal the decision. As to whether a condition attached to two previous planning applications for a replacement dwelling, which required Marshall's Bungalow to be demolished, would still bite, it would be for the appellant to apply to the Council for a decision on that matter.

47. Policies DM20 and DM21 of the LP relate to safety for all highway users. As this was directed at the scaffolding use of the land, the policies are of limited relevance to my consideration of the residential use of the land.

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

48. For the reasons given above, I conclude that the appeal on ground (a) cannot succeed, and I refuse to grant planning permission on the deemed application.

**Ground (f)**

49. The appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) of the 1990 Act provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case it would appear from the requirements of the notice that its primary purpose is to remedy the breach by ceasing the mixed use and the removal of all residential paraphernalia and all items associated with the scaffolding business. For the appeal on ground

(f) to succeed, the appellants would need to propose alternative steps which would remedy the breach.

50. The appellants assert that the fencing erected is 'permitted development' by virtue of Schedule 2, Part 2, Class A of the Town and Country (General Permitted Development) Order (2015), as it does not exceed 2 metres in height. The appellants also contests that the gravel parking area is associated with the agricultural holding and essential for the running of the farm.

51. The Council refer to an aerial image dated April 2020 which shows the extent of hard surfacing to be relatively minimal and reflective of the hard surfacing areas shown on previously approved planning consents. The next available image dated March 2022 shows the hard standing has been extended substantially in size and crucially, accommodates the two units of accommodation noted as buildings 'A' and 'B' in the notice. The hard surfaces around the dwellings are enclosed by boundary fencing, separated from the area (indicated to be used for parking), to the west of building 'A'.

52. An Enforcement Notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use. Even in the instances where such works on their own might not constitute development or be permitted development, or be immune from enforcement, the removal of those works may be stipulated so that the land is restored to its condition prior to the breach taking place.

53. I have already considered under ground (a) the expanse of the gravelled area and the internal site fencing around the residential part of the site and concluded on its impact. As the fencing plays a role in containing the animals, its removal would go beyond what is deemed necessary to remedy the breach. With regard to the gravelled area, I concur with the Council that this is extensive and intrusive. The areas covered with gravel in association with the residential use of the land should be removed and there are no alternative steps that would remedy the breach in this respect.

54. The appeals succeed in part on ground (f) and requirement iii) is varied to reflect this.

*S A Hanson*

INSPECTOR

## APPEARANCES

For the Appellant

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| Mr Peter Le Cry | Planning Consultant for Stanfords |
| Ms Mollie Daniels | Senior Planning Consultant, Stanfords |
| Mrs Dawn Goulding | Appellant |
| Mrs Lindsey Hunt | Friend and alpaca mentor to Mrs D Goulding |

For the Local Planning Authority

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| Ms Nadine Calder | Principal Planning Officer |
| Mr Dean Stratford | Planning Enforcement Officer |

Interested Parties

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| Mr Matthew Brown | Neighbour |
| Mr Matthew Blair | Neighbour |
| Mrs Amanda Blair | Neighbour |

Documents provided at the Hearing

1. A petition containing 77 signatures of individuals supporting the appellants (provided by Mr Brown)

2. Page of an officer report for the replacement dwelling with Highway comments which refer to the proposal being acceptable