



Appeal Decisions

Hearing held on 25 November 2025

Site visit made on 25 November 2025

by **Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 January 2026

Appeals Refs: APP/L3815/C/25/3369025, APP/L3815/C/25/3369026

Land south of Hook Lane, Bosham, West Sussex, PO18 8EX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeals are made by Mr John Wells and Mrs Susie Wells against an enforcement notice issued by Chichester District Council.
- The notice was issued on 30 May 2025.
- The breach of planning control as alleged in the notice is: Without planning permission the construction of concrete pads in the approximate position shown on the Plan.
- The requirements of the notice are:
 - i. Break up the concrete pads and remove the resulting debris from the Land;
 - ii. Backfill the excavated areas with top soil; and
 - iii. Re-seed the areas affected with grass.
- The period for compliance with the requirements is one month after the notice takes effect.
- The appeal by Mr John Wells is proceeding on the grounds set out in section 174(2)(c), (a) and (g) of the 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 Act.
- The appeal by Mrs Susie Wells is proceeding on the grounds set out in section 174(2)(c) and (g) of the Act.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Preliminary matters

1. In the discussion at the hearing the appellants introduced a new argument in support of their ground (c) appeal. I agreed time should be allowed for the Council and the interested parties to respond in writing and for the appellants to make final comments. As a result, the hearing was closed in writing on 10 December 2025.
2. Four prior approval applications and a full planning application were made by the appellants over the period 2020 to 2024. All applications related to the erection of an agricultural building. None of these applications resulted in a positive outcome for the appellants. I made clear at the start of the hearing, the appeal for my consideration is not an appeal against the refusal of planning permission, nor is it an appeal against any of the decisions made by the local planning authority on the prior approval applications.
3. The appellants provided an account of their discussions and correspondence with the local planning authority in the period leading to the commencement of development. This information is relevant in so far as it provides the background to the appeals. The appellants confirmed at the hearing they were not seeking to pursue a case based on estoppel by representation or legitimate expectation.

4. The concrete pads were constructed as the first stage in the erection of a proposed agricultural barn, a matter not disputed by any party. Submissions and representations on the current appeals include a lot of commentary on the planning merits of the proposed barn. However, the matters for consideration and determination now are prescribed by the terms of the notice and the grounds of appeal. In the ground (a) appeal, the deemed planning application is not for the barn but for the concrete pads, being the matter stated in the notice as constituting the breach of planning control.
5. The applications for costs made by the appellants and by the Council are the subject of separate Decisions.

Enforcement Notice

6. Section 172 of the Act states that a local planning authority may issue an enforcement notice where it appears there has been a breach of planning control and it is expedient to do so, having regard to the provisions of the development plan and to any other material considerations. Case law has confirmed an appeal under section 174 against an enforcement notice is not the appropriate procedure to challenge the expediency of issuing the notice and an Inspector has no jurisdiction to determine whether the local planning authority has complied with its obligation under section 172 of the Act. Therefore I will not be considering any such matters in this decision.
7. The Land to which the notice relates is described in section 2 of the notice as Land South of Hook Lane, Bosham, whereas the description on the Notice Plan is Land at the Old Cart Shed, Hook Lane, Bosham, Chichester, West Sussex PO18 8EX. The descriptions should be consistent and it was agreed at the hearing the Notice Plan wording is preferable.
8. The alleged breach of planning control in section 3 of the notice does not state the number of concrete pads that have been constructed. The appeal site visit confirmed a total of twelve pads were formed, a number that should be stated in the allegation to provide an accurate description and for future reference. No correction to the plan is necessary because the purpose is to show the approximate position of the pads.
9. To correct the enforcement notice in respect of these two matters will not cause injustice to either the appellants or the Council.
10. The Reasons state the proposal would be contrary to paragraph 190 of the National Planning Policy Framework, a policy that applies to major development in National Landscapes. At the hearing the Council confirmed the concrete pads do not amount to major development and that paragraph 189 sets out the relevant national policy tests.

Reasons

Appeals on ground (c)

11. The main issue is whether the construction of the concrete pads constitutes a breach of planning control. The main matters for consideration are:
 - whether the concrete pads amount to development requiring planning permission,

- if they do, has permission been granted by the local planning authority following the making of a planning application or by way of a development order;
- if reliance is placed on a development order, have all conditions and procedures been complied with.

Development

12. The appellants explained that the construction of the concrete pads involved taking cubes out of the ground and filling the holes with concrete. The work was undertaken by two men using a digger. Concrete was mixed on site. The operation began on 17 December 2024 and took about two days to carry out. As seen on the appeal site visit, the pads are approximately just less than a metre square, are set into the ground and have metal bolts protruding above the concrete surface. The appellants say the projection of the galvanised bolts is approximately 100mm above the surface of the pads.
13. The operation amounted to development within the meaning of section 55(1) of the Act¹. Planning permission is required for the development and may be granted by the local planning authority on application to the authority or by development order (sections 57 and 58(1) of the Act).
14. A proposed agricultural barn, sited in a different position to the south of the pads, was refused planning permission on 10 January 2024 (BO/22/02446/FUL). The concrete pads are not authorised by a grant of planning permission from the local planning authority. The appellants submit permission has been granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). More specifically, their case is the pads do not constitute a breach of planning control because the works implement the prior approval application made on 1 March 2021 ref 21/00619/PNO for an agricultural barn (the PNO application).

Development Order

15. Article 3(1) of the Order grants planning permission for the classes of development described as permitted development in Schedule 2, subject to the provisions of the Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the 2017 Regulations). Under article 3(2) any permission granted is subject to any relevant exception, limitation or condition specified in Schedule 2. Thus, to be "permitted development", the whole of any development has to be within the scope of one of the Schedule 2 classes by falling within the relevant definition and satisfying the express restrictions as to exceptions, conditions and limitations.
16. Relevant to this appeal, Class A of Part 6 of Schedule 2 permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more (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. Development is not permitted by Class A in the circumstances set out within A.1 (regarding siting, size and use). Development permitted and granted permission by Class A is subject to the conditions set out in

¹ Section 55(1): the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

A.2, which includes the prior approval procedure. An additional condition is derived from the 2017 Regulations, as referred to by article 3(1).

17. Interpretation of various terms in Classes A, B and C is provided in D.1.
“Agricultural land” means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden. Other terms referred to in D.1 include “agricultural unit” and “reasonably necessary for the purposes of agriculture”.
18. The prior approval process on siting, design and external appearance of the proposed building is a distinct and separate process from that to gain a Regulation 77 approval. There is no legislative requirement for one application to be made before the other or concurrently, although they concern conditions imposed on the same grant of planning permission that have to be satisfied for a proposal to be considered permitted development.

Schedule 2 Part 6 Class A: Permitted development

19. The first consideration is whether the 12 concrete pads as part of an agricultural barn come within the scope of the description of permitted development in paragraph A of Part 6. If they do not, the ground (c) appeal would fail. The matter contested by interested parties, not the Council, is whether the barn would be reasonably necessary for the purposes of agriculture within the unit.
20. The proposed barn is for the dry storage of hay and the secure storage of farm equipment used in the production of hay and grassland management. The dimensions of the building are stated as 13.8 metres (m) x 8m, with an eaves height of 3.75m and ridge height of 4.8m. The three-bay steel framed barn would be clad in timber spaced boarding, with a grey fibre cement roof. Secure storage would be provided within two bays, accessed by a timber sliding door and the third northern bay would be open-sided to the north and east.
21. The supporting statement for the PNO application dated February 2021 explained the appellant had owned a block of agricultural land of 8.5 hectares (ha) plus an area of reed bed and mud flats at Hook Lane for nearly five years. The 8.5ha block of agricultural land comprised permanent pasture which was used for summer grazing of sheep and cattle together with the production of hay. Work was carried out by contractors due to the lack of a suitably sized building to store farm equipment and hay. To resolve various difficulties, the appellant had decided to take work in-house.
22. Subsequently, as part of the planning application, the appellants’ agricultural advisors explained the barn was required to support the use of the foreshore block of land (30.5 ha) to increase productivity through the introduction of a sheep flock and hay-making as a move back to more traditional agriculture. Several benefits were identified related to increased productive use and achieving a high standard of environmental management.
23. There is no reason to doubt that the building works would be on land in use for agriculture at the relevant time. The barn would allow for a change in farming practice and land management, which is acceptable within the terms of the Order. Whether the land was part of an agricultural unit used for the purposes of a trade or business involves consideration of whether the unit, as a whole, provided a

means of earning a living. In this respect the appellants own 89 ha of land in arable production within the Bosham area, known as the inland block which they have farmed for over twenty years. The total area of the landholding is 121 ha as of September 2025.

24. Demonstration of business viability or profit, which the interested parties regarded as a fundamental consideration, is not required by the Order to justify the development as “reasonably necessary”. The evidence available to the local planning authority at the time indicated the use of an existing building Green Barn, as an alternative to the erection of a new barn, was not a practicable option. Green Barn was fully utilised for agricultural purposes on the wider arable area of the holding and not well located in relation to the foreshore block. That remains the case. The size of the proposed barn has been shown to be proportionate to the land involved and the described purpose. The use for storage of hay and farm machinery under cover, as opposed to in the open, would be reasonable, having regard to security, protection from the weather and other land management matters. Considerations arising from development plan policy, such as ecological benefits, are not relevant to the test in the Order.
25. I conclude the proposed barn in the PNO application would be reasonably necessary for the purposes of agriculture within the unit and fall within the definitional scope of Class A of Part 6.

A.1: Development not permitted.

26. None of the criteria or circumstances set out in (a) to (k) of A.1, relating to use, location/siting and building height and design apply. The proposed barn is not excluded from being permitted development.

A.2: Conditions, including prior approval

27. The conditions in A.2(1) would be met as the barn is proposed to store hay and related farm equipment and the development would not involve mineral-working or deposit of waste materials. The Council in their assessment came to the same conclusion.
28. In the ground (c) appeal the dispute is focused on compliance with conditions on the prior approval procedure under A.2(2).
29. An application was made for a determination as to whether the prior approval of the local planning authority was required as to the siting, design and external appearance of the building (ref BO/21/00619/PNO). The PNO application was received and validated by the authority on Monday, 1 March 2021.
30. The decision dated 29 March 2021 stated the proposed development did not constitute permitted development under the relevant provisions of the Order and an application for planning permission was required. The reason was based on Article 3(1) of the Order, regulations 75 to 78 of the 2017 Regulations, and the potential of the proposal to have a significant effect upon the integrity of protected European designates sites.
31. The officer report shows an assessment of the proposal against Class A, A.1 and A.2. The local planning authority considered the location of the building to be “entirely appropriate”, the design “functional” and with appropriate use of external materials. The one matter considered to require prior approval was in respect of

the siting “as no additional hardstanding is proposed and therefore it is unclear how access to the barn will be provided”. This reasoning was on A.2(i) and may be based on a criterion more applicable to the formation or alteration of a private way. Nevertheless, ‘siting’ was not found to be acceptable. The appellants when quoting from the report² fail to include the officer’s observations on siting.

32. The Order sets out in A.2 the conditions to be met before beginning the development, which include timescales for a local authority to respond to an application regarding prior approval. One such timescale is set out in A.2(2)(iii)(cc): “the expiry of 28 days following the date on which the application under subparagraph (2)(ii) was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination.” Planning permission accrues or crystallises on the expiry of the 28-day period.
33. The point in dispute is whether day 1 of the 28 day period was 1 March or 2 March. The start date is governed by the statutory wording. An approach is to ask what a reasonable reader would understand the words to mean having regard to the natural and ordinary meaning of the words. The provision specifically states the 28 day period follows the date the application was received, the key word being “following”. The dictionary meaning of “following”, as used in the condition, includes coming after, the next day. Therefore my understanding is day 1 was 2 March and so the Council’s decision was issued on the last day of the relevant period.
34. This interpretation is consistent with Article 7 of the Order regarding time periods for decision on prior approval applications. The decision in relation to the application must be made by the authority (a) within the period specified in the relevant provision of Schedule 2, (b) where no period is specified, within a period of 8 weeks beginning with the day immediately following that on which the application is received by the authority.
35. The wording is not exactly the same as found in Class A of Part 6 but I am not persuaded by the appellants’ argument that the different wording means something different. The wording is an alternative way of expressing the same timescale and demonstrates consistency of approach. The fact that the appellants and their professional advisors did not raise the timescale point sooner than the morning of the hearing suggests initially they too did not consider the Council’s decision was out of time.
36. The appellants rely primarily on the *Murrell* judgement³, a case that concerned the erection of a proposed cattle shelter, a development within Class A of Part 6 of Schedule 2. At the time the 1995 Order applied but the wording of the relevant conditions was the same as those in the Order. The judgement in paragraph 28 states the application was received on 1 December, the statutory 28 day period ran from that date, and on the expiry of the statutory period on December 28, permission for the development accrued under the GPDO.
37. The judgement must be read as a whole, bearing in mind a central matter for the court was whether the 28 day time period related to receipt of the application on 1 December or when the application was validated by the council on 9 December on

² Appellants’ statement of case paragraph 4.4

³ *Murrell v Secretary of State for Communities and Local Government* [2010] EWCA Civ 1367

receipt of further information. The Council has drawn attention to phrases in the judgement that stated the 28 days expired on 29 December and considers the 28th date was an error. The interested parties also highlighted the ambiguity in the judgement and the fairness of starting the period the day after receipt to allow the authority a full 28 days to respond.

38. National Planning Practice Guidance: When is permission required? covers permitted development rights but does not assist on the 28 day period. The Planning Practice Guidance replaced Annex E to Planning Policy Guidance 7 (PPG7), which was cited in *Murrell* in relation to the operation of the prior approvals process and in submissions by the appellants and interested parties. Annex E to PPG7 is not current guidance and is not a document I rely on.
39. Having carefully considered the submissions from all parties I conclude the 28 day period expired at midnight on 29 March 2021. The Council's decision letter of the same date was within the required timescale. Planning permission did not crystallise by reason of the local planning authority failing to notify the appellants of their determination within the required timescale.

The decision document

40. The decision letter dated 29 March 2021 in response to the PNO application did not state in so many words either that prior approval was not required or that it was required (A.2(2)(iii)). Instead, the written determination notified the applicant that the proposed agricultural building was not permitted development under the Order and an application for planning permission was required. The stated reason was based on Article 3(1) of the Order and the condition derived from the 2017 Regulations that prohibits commencement of any 'permitted development' that would affect a European Site until such time as a local planning authority provides a written notification of approval of a regulation 77 application. Applying the precautionary principle the local planning authority had concluded the proposal, without suitable mitigation, had the potential to have a significant effect upon the integrity of the nearby European designated sites.
41. The appellants maintained that because of the wording, the Council made legal errors and issued a totally erroneous decision. The Council did not make a determination on whether prior approval was required and did not notify the applicant of a decision on prior approval. Accordingly, the Council failed to give notification of their decision on prior approval within 28 days following the date of receipt of the PNO application. However, in my view the 2021 decision cannot easily be put aside.
42. The *Thornton Hall* judgement⁴ reaffirms the principle that a decision which is defective by reason of a legal flaw cannot normally be treated as a complete nullity, *ab initio*, such that it is wholly void and can safely be ignored. The accepted position is settled: such a decision is capable of having legal effect unless and until it is quashed. The judge also accepted there are cases where a legal flaw is present in a decision, but the decision then effectively acquires legitimacy despite the flaw, either because no challenge is brought to have the decision quashed or for other reasons. In *Thornton Hall* the planning permission in question was

⁴ Appendix 8 to the Council's statement of case *Thornton Hall Hotel Limited v Wirral Metropolitan Council and Thornton Holdings Limited* [2018] EWHC 560 (Admin) paragraphs 52 to 54

quashed by the Court of Appeal after due consideration of the cases presented to the court.

43. No appeal or legal challenge was made against the 2021 decision. Procedures available to the appellants were not pursued. The decision stands and there is no power through the current appeals to quash it. The course of action the appellants decided to follow was to make two further prior approval applications supported by additional information and to submit a planning application. None of these applications were successful. The appellants now rely on the 2021 decision to seek to demonstrate the installation of the concrete pads are not a breach of planning control.
44. The *New World Payphones* judgement⁵ provides a useful context. This judgement established the decision-maker is bound to consider and determine whether the proposed development otherwise falls within the definitional scope of the particular class of permitted development.
45. The PNO application was to confirm whether or not prior approval of siting, design and external appearance of the proposed barn was required, not for a determination on whether the agricultural building was permitted development. The 2021 decision notice stated: “the proposed development does not constitute permitted development...” and “An application for planning permission is therefore required”. The effect is that siting, design and external appearance required approval and approval was not granted. The 2021 decision can reasonably be read as a refusal of the PNO application. It appears at the time the appellants understood that to be the case because of the subsequent applications made to the local planning authority.
46. The approach taken and the conclusions reached by the local planning authority could have been more explicitly stated in the decision, but a decision on the PNO application was given within the required timescale. Returning to the *Thornton Hall* principle, the Council’s decision cannot be safely ignored. The Council drew attention to another appeal where a similar issue arose. The details in that case were different, as pointed out by the appellants, but there is relevance in that the Inspector incorporated the *Thornton Hall* principle in the reasoning behind the determination⁶.

The Habitats Regulations

47. The appeal site is located close to Chichester Harbour Site of Special Scientific Interest (SSSI), Chichester and Langstone Harbours Special Protection Area (SPA), Solent SPAs Functional Land, Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Ramsar. All these areas are designated nationally and internationally because of their importance for biodiversity. The National Planning Policy Framework draws attention to Circular 06/2005 that provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system. The 2017 Regulations provide for the protection of the European sites.
48. To recap, Article 3(1) of the Order grants planning permission for classes of development subject to regulations 75-78. In summary, a condition prohibits

⁵ *New World Payphones v Westminster City Council* [2019] EWCA Civ 2250

⁶ Council’s statement of case Appendix 5 Appeal ref APP/A1910/X/20/3261710 dated 5 August 2021

commencement of any ‘permitted development’ that would affect a European Site until such time that a local planning authority provides a written notification of approval of a regulation 77 application.

49. More particularly regulations 75-78 impose a general condition on any planning permission granted by a general development order made on or after 30 November 2017. Development which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77.
50. The 2017 Regulations also provide (i) a procedure in regulation 76 whereby a developer may apply to the appropriate nature conservation body for their opinion whether his proposed development is likely to have such an effect, and (ii) a procedure for assessment by the local planning authority in cases where the proposed development is likely to have a significant effect on a European site.
51. The proposed barn would not be directly connected with or necessary to site management for nature conservation, where the site is the European site. The appellants’ focus on the land management of the application/appeal site is not in accordance with the advice in Circular 06/2005⁷. When the PNO application was made no opinion had been obtained from Natural England. The Council in the 2021 decision concluded that without suitable mitigation and applying the precautionary principle ‘the proposal has the potential to have a significant effect on the integrity of these European designated sites’. This was a reasonable conclusion, taking account of the sensitive location of the development site, the absence of advice from Natural England and the uncertainty over effects. Also, regulation 77(1) states for the purposes of considering an application the local planning authority must assume that the development is likely to have a significant effect. I note Chichester Harbour Conservancy supported the Council’s conclusion.
52. By the time the development commenced in December 2024, the position had changed. In response to a formal regulation 76 application made on behalf of the appellants Natural England considered “the proposed site will not have a likely significant effect or a Relevant Effect” on the SPA and the SAC. No objection was raised based on the information submitted⁸. This conclusion was consistent with Natural England’s consultation response on the earlier planning application for the barn.
53. Regulation 76(6) states the opinion of the appropriate nature conservation body that the development is not likely to have a relevant effect is conclusive of that question for the purpose of reliance on a planning permission granted by a general development order. This is subject to the nature conservation body notifying the applicant and the local planning authority in writing of its opinion. There is no doubt the applicant/appellant was notified, although there is no document submitted to show the local planning authority received formal notification. However, in view of Natural England’s advice on two occasions, it may now be concluded the development is not likely to have a significant effect on a European site (regulation

⁷ Circular 06/2005 paragraph 43 and Figure 2, here site means the European site, not the development site.

⁸ Appendix 9 to the appellants’ statement of case Natural England response dated 11 November 2024.

75). With reference to Figure 2 in Circular 06/2005, prior approval was not needed if the proposal met all other permitted development conditions and restrictions.

54. In view of my conclusion in respect of the 2021 decision, the condition on complying with the prior approval procedure on siting, design and external appearance was outstanding when development commenced.

Conclusions

55. The installation of the concrete pads as part of a proposed agricultural building amounts to development requiring planning permission. No planning permission has been granted by the local planning authority for the pads or the barn. The agricultural building falls within the meaning of the permitted development described in Class A of Part 6 to Schedule 2 of the Order. Planning permission is granted by Article 3(1) of the Order subject to all the applicable conditions. The 2021 decision was issued in the required 28 day timescale and may reasonably be read as refusing the PNO application. The 2021 decision was not challenged through the procedures available. The 2021 decision cannot be safely ignored and continues to have legal effect. Even if the provisions of regulations 75 to 78 were satisfied in November 2024 through the regulation 76 response from Natural England, the provisions and condition on prior approval regarding siting, design and external appearance were not met before development commenced.
56. The appellants have not demonstrated on the balance of probability the installation of the concrete pads was permitted development under Class A of Part 6 to Schedule 2 of the Order. A breach of planning control has occurred and the appeals on ground (c) fail.

Appeal on ground (a), the deemed planning application

57. The deemed planning application may not be used to obtain planning permission for development going beyond the terms of the enforcement notice (sections 174(2)(a) and 177(1) of the Act). Consequently, even though the application is somewhat unusual, the planning merits of the concrete pads only are for consideration, not the proposed agricultural building. The determination must be made in accordance with the development plan unless material considerations indicate otherwise.
58. The Chichester Local Plan Key Policies 2014-2029 formed part of the development plan when the enforcement notice was issued in May 2025. This document was replaced by the Chichester Local Plan 2021 to 2039 adopted in August 2025. Policies S2, NE11 and NE14 are the most relevant to this deemed planning application.
59. A draft National Planning Policy Framework and consultation document was published on 16 December 2025. The documents do not constitute Government policy or guidance. The proposed reforms are in draft and may be subject to change. I am satisfied that for this appeal it is not necessary to seek comments from the parties on the implications of the draft documents for assessment of the development. The National Planning Policy Framework December 2024 (the Framework) continues to be the relevant document.

60. The main issues are whether (i) there is policy justification for the development's location in the countryside, and (ii) the development conserves and enhances the natural beauty of the Chichester Harbour National Landscape.

Sustainable development

61. Policy S2 restricts development outside the defined settlements to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with Policy NE11. The overall objective of the settlement hierarchy over the Plan area is to deliver development that supports the needs of individual communities, enabling them to prosper in the long term.
62. At the hearing the Council argued there was no justification for the development in the countryside location, no rural need and no support for rural diversification. Accordingly, they considered no justification exists for the pads and there is in principle harm.
63. Much of the appellant's evidence and assessment was in respect of the proposed barn, not the concrete pads. At a later stage in the appeal process the possibility was raised of using the pads as a level base on which to site a temporary structure for use as temporary storage or covered shelter for livestock.
64. The probability is that policy makers did not have in mind the applicability of Policies S2 and NE11 to the installation of concrete pads in a field. Nevertheless, the policies are relevant to the development and the Council's case has merit. The pads were installed to facilitate the erection of a barn. They do not have a purpose or use in their own right and without the intended barn they would not have been installed. There is no planning permission to enable the rest of the building to be erected to provide a barn. If planning permission is granted for the pads another grant of planning permission would be required to complete the building. In absence of a permission there is no need for the pads. In view of the planning history to date, it is not possible to know whether a permission would be secured. To grant permission for the pads alone may be seen as support for the barn.
65. The placing of a temporary structure on the pads may be considered as part and parcel of the use of the land but without details such a conclusion cannot be made. This justification has little weight. The erection of a straddle barn was found by the Council to amount to development requiring planning permission, demonstrating conclusions are fact sensitive in relation to such proposals.
66. In conclusion, the development is not supported by Policies S2 and NE11.

National Landscape

67. There is a statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty (AONB). Case law has established the statutory duty to "seek to further" conservation purposes is more demanding than the former "have regard to" test, but that the new duty is not an absolute prohibition on development. If the specific characteristics are left unharmed then the decision maker will have properly sought to further the statutory purpose of conserving and enhancing.
68. Policy NE14 of the Local Plan reflects the statutory duty. The Framework states great weight should be given to conserving and enhancing landscape and scenic

beauty in National Landscapes, which have the highest status of protection in relation to these issues.

69. The Management Plan for the National Landscape describes the 10 integrated special qualities of the Chichester Harbour AONB. These include the unique blend of land and sea, the frequently wooded shoreline, picturesque harbourside settlements, the unspoilt character and unobtrusive beauty. The impact of incremental developments resulting in the gradual urbanisation of the countryside is identified as one of the pressures affecting the special qualities.
70. The site of the 12 concrete pads is in a grassland field, close to the hedgerow and woodland tree belt along the field edge, which forms a boundary to a sunken farm track to the east. To the south are extensive areas of deciduous woodland tree cover, designated as Ancient Woodland. The surrounding landscape is characterised by arable fields bounded by hedges on embankments and sunken lanes. There are views to the harbour area and beyond. Settlement is sparse, apart from a small number of farmsteads. In landscape character terms the site and the surrounding area are considered of High sensitivity to change. West of the site the appellant identified as detractors the ISO shipping containers adjacent to Old Park Wood but they occupy only a small area in the corner of a field.
71. The installation of the concrete pads has disturbed the ground surface. The concrete material is not compatible with the soils and field vegetation. In a very small and localised way they have a negative effect on the unspoilt character and unobtrusive beauty of the National Landscape. The pads are sited in a field with a good level of natural enclosure. The upper surface of the pads is at ground level, with the metal bolts protruding slightly. Consequently, they are visible only from within the field and not from the track or elsewhere.
72. In sum, there is a small degree of harm associated with the development of the concrete pads. The development does not reinforce and respond to the distinctive character and special qualities of the AONB. In the absence of the rest of the agricultural building the development is not appropriate to the economic, social and environmental well-being of the area. The development fails to comply with Policy NE14.

Conclusions on ground (a)

73. Planning permission is being sought through the deemed planning application for the foundations of a building that has not got planning permission. Consideration of the pads has come about because of the timing of the enforcement notice and the development has been found to be unauthorised. A small negative impact on the National Landscape and development principles is demonstrated. This appeal is not the appropriate means of deciding whether the siting of the pads for a future barn is acceptable. The development of the 12 concrete pads is not in accordance with the development plan and there are no considerations of sufficient weight to overcome this non-compliance with the plan. The appeal on ground (a) fails.

Appeals on ground (g)

74. The issue is whether the compliance period of one month is reasonable.

75. The appellants have requested the period be extended to six months in order to instruct a contractor and undertake the work when ground conditions are appropriate to ensure minimum impact on land quality.
76. Effective enforcement is important to maintain public confidence in the planning system. Nevertheless, a compliance period has to be reasonable taking into account what the recipient of the notice would have to do in practice to achieve the required remedial steps and consequently how much time it is reasonable to permit for that purpose.
77. The required works are not unusually onerous but the appellants have indicated the importance of weather and ground conditions. Weather is unpredictable but the Decisions will be issued in the winter months. To provide for the necessary flexibility the compliance period will be increased to six months. The appeals on ground (g) succeed and the enforcement notice will be varied accordingly.

Conclusion on appeals

78. For the reasons given above, the appeals should not succeed. I shall uphold the enforcement notice with corrections and a variation. In Appeal A, I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

DECISIONS

79. It is directed that the enforcement notice is corrected:
- in section 2 by the deletion of the wording “Land South of Hook Lane, Bosham, West Sussex” and the substitution of the wording “Land at the Old Cart Shed, Hook Lane, Bosham, Chichester, West Sussex PO18 8EX”, and
 - in section 3 by the deletion of the wording “construction of concrete pads” and the substitution of the wording “construction of twelve (12) concrete pads”.
80. It is directed that the enforcement notice is varied in section 6 by the deletion of one month and the substitution of six months as the period for compliance.
81. Subject to the corrections and variation, the appeals are dismissed and the enforcement notice is upheld. In respect of Appeal ref. APP/L3815/C/25/3369025 planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Scott Stemp, Barrister

Jill Scrivener, Director, Bourne Rural Planning Consultancy Limited

T R Furse, Furse Landscape Architects Limited

Mr J Wells

FOR THE LOCAL PLANNING AUTHORITY:

Mike Coates-Evans, Principal Planning Enforcement Officer

Mr Marshall, Senior Planning Officer

INTERESTED PARTIES:

Kevin Leigh, Barrister

Alex Macdonald, Director CLM Land and Property Management

Tavis Cannell

Steven O'Brien

Sarah Sullivan

Dr R Austin, Chichester Harbour Conservancy

DOCUMENTS submitted at the hearing

Murrell v Secretary of State for Communities and Local Government [2010] EWCA Civ 1367

Planning Application Summary.