



Appeal Decision

Site visit made on 12 January 2026

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

an Inspector appointed by the Secretary of State

Decision date 12 February 2026

Appeal Ref: APP/G1630/C/25/3360223

Land at The Leys, Oakle Street, Minsterworth, Gloucestershire GL2 8JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Darren Corder against an enforcement notice issued by Tewkesbury Borough Council.
 - The notice was issued on 10 January 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from agricultural use to a mixed use of agricultural, residential and equestrian use.
 - The requirements of the notice are to:
 - (1) Cease the use of the Land for residential and equestrian use.
 - (2) Remove the caravan shown in the approximate position hatched orange on the attached site identification plan.
 - (3) Demolish the stables shown in the approximate position hatched purple on the attached site identification plan.
 - (4) Demolish the building shown in the approximate position hatched green on the attached site identification plan, including the removal of any pump equipment and solar panels.
 - (5) Demolish the building shown in the approximate position hatched blue on the attached site identification plan.
 - (6) Demolish the building shown in the approximate position hatched red on the attached site identification plan.
 - (7) Remove all residential paraphernalia.
 - (8) Excavate and remove all hard surfacing, including the track (approximate position shown hatched black on the attached site identification plan), lay with 300mm topsoil and re-seed with grass.
 - (9) Remove all debris/waste materials resultant from compliance with the above steps.
 - The period for compliance with the requirements is 6 (six) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) 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.
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Decision

1. It is directed that the enforcement notice is varied by:
 - Deleting requirement (1) and substituting it with: “(1) Cease the mixed use of the land.”
 - Deleting requirement (4).
2. Subject to the variations, the appeal is 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 Section 3 of the notice relates to a material change of use of the land. The steps for compliance with the notice should reflect the breach of planning control, which is the single mixed use of the land. The requirements should therefore refer to that mixed use rather than the individual alleged unlawful uses.
4. As the amendment does 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

5. Based on the appellant's appeal papers, it seems to me that a case has been made under ground (f) of the 1990 Act, that the steps required by the enforcement notice exceed what is necessary to achieve its stated purpose, namely, to remedy the breach of planning control. I wrote to the parties for their comments on this matter. Both responded accordingly and with no objection to me considering those matters. In these circumstances, as there would be no injustice to the parties, an appeal under ground (f) is therefore added to my assessment of the matters at the end of this decision.
6. Agriculture is defined in s.336 of the 1990 Act to include 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.

Appeal (a) and the Deemed Planning Application (the DPA)

7. The appeal made on ground (a) of s174 of the 1990 Act is that planning permission ought to be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice. No arguments have been made that planning permission should be granted for the residential use of the land or the retention of any structures or paraphernalia used for residential purposes, and no arguments have been made that planning permission should be granted for the alleged equestrian use of the land.
8. Nevertheless, and although the appellant seeks planning permission to retain the water pump, the stable building and the track only, as the deemed planning application is the material change of use of the land, an appeal on ground (a) seeks planning permission for those uses. I shall address the reasons for issuing the notice accordingly.

Main Issues

9. Considering the reasons for the notice, the main issues are: i.) whether the site provides a suitable location for the mixed use of the land; ii.) whether the site is appropriate for the development in terms of flooding and whether there are sufficient drainage measures in place; and iii.) the effect of the development on the character and appearance of the area.

Reasons

Location of the development

10. The appeal relates to a parcel of agricultural land measuring some 2.9 hectares. The alleged breach of planning control is that the use of the land has changed from an agricultural use to a mixed use incorporating residential and equestrian. The site is located at the southern end of Oakle Street, a rural road which connects the A48 with the A40. The surrounding area is characterised mostly by arable land with sporadic residential dwellings. The site lies outside of any defined settlement boundaries and is therefore countryside.
11. There are no landscape designations, but the land is wholly within Flood Zone 3, having the highest likelihood of fluvial flooding. It is bounded with mature trees and hedgerows. Oakle Street runs the entire length of its eastern border and from which vehicular access is gained. Residential dwellings border the land to the south, and the Ley Brook and open countryside bound the remaining land. Two public rights of way cross the land.
12. A track has been laid with hard surfacing materials from the site access diagonally across the centre of the land to the opposite boundary where the mobile home, stable block and containers are located. The track is fenced either side and is single width and constructed of crushed grey/black aggregate. The land to one side of the track is subdivided into small areas by post and wire fencing. The other side remains open. At the time of my visit, there were three sheep grazing the open field and a few goats and some chickens in a smaller sectioned off area. A large motor home was stationed along the boundary with the rear garden belonging to the nearest residential property next to which was a storage unit, and the stable block. The motor home, with tables and chairs set up outside under an attached awning and sides extended to allow for more internal space, was clearly sited to provide residential accommodation.
13. Having regard to the settlement strategy for the area, the enforcement notice refers to Policies SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and Policy RES3 of the Tewkesbury Borough Plan (TBP). Policy SD10 of the JCS guides new housing to sustainable and accessible locations and states that housing will be permitted on allocated sites, where it is infilling within the existing built-up areas of Tewkesbury Borough's towns and villages except where otherwise restricted by policies within District plans. Policy RES3 sets out the circumstances where new housing outside defined settlement boundaries will be supported. These exceptions include the re-use of redundant buildings, replacement dwellings or dwellings essential for rural workers.
14. Except for dwellings to the south, there is very limited development immediately surrounding the site. Residential development in the vicinity is sporadic with no clear pattern or built-up area that could be defined as a rural settlement. The appeal site is within the countryside and outside of any settlement considered acceptable for new housing. The development does not meet any of the exceptions for new residential development that would satisfy any of the exception policies and there are no obvious material considerations to weigh against the policy position of the relevant development plans for the area.
15. Regarding the use of the land for equestrian purposes, if horses simply graze the land, much like cattle or sheep, the use normally remains agricultural, so no

planning permission is required. However, in this case, the notice alleges an equestrian use which indicates that the land is being used for keeping horses for leisure, riding, livery, or with supplemental feeding. This latter type of equestrian use does not fall under the definition of agriculture, so moving from agricultural land to equestrian use represents a material change of use, which requires justification, and none has been provided by the appellant.

16. Although the appellant's submissions refer to the horses as "not a commercial venture and sometimes used for rounding up sheep", with the evidence of equestrian equipment at the site, it seems that it is more likely than not that the horses are 'kept' on the land primarily for recreational purposes. This is a use that can conflict with policies which protect against unjustified loss of agricultural land and rural character.
17. The use is also likely to require some sort of storage to keep feed, rugs and tack and may require a building for shelter or even stabling. This can result in visual clutter from non-agricultural paraphernalia and the potential for increased general activity on the land that may have a harmful effect on the rural location and for those residing in proximity of the site. Accordingly, it would be necessary to assess the impact of the use and further development that might be needed to support an equestrian use in terms of its effect on its surrounding.
18. In the absence of information to support and justify an equestrian use of the land, I consider that the mixed use that has occurred on the land is contrary to Policy RCN4 of the TBP which aims to protect against any adverse effect of new equine facilities on rural character and setting of the landscape. There is also conflict with Policy SD10 of the JCS and Policy RES3 of the TBP which seek to distribute new development in the Borough to respect the function and form of settlements and their setting and avoid intrusion into the countryside unless by exception. This policy approach is consistent with the National Planning Policy Framework's (the Framework) overall approach to the locational aspects of meeting local housing needs in a sustainable manner.

Flooding and drainage

19. The whole site, including its only access, is located within Flood Zone 3, where land has a high probability of flooding from rivers and the sea. Policy INF2 of the JCS requires that development proposals must avoid areas at risk of flooding in accordance with a risk-based sequential approach and must not increase the level of risk to the safety of the occupiers of a site or the local community or wider environment. While I acknowledge that the appellant has undertaken works to assist with the drainage of the land, the Policy requires the application of the sequential test for assessment of applications for development giving priority to land in Flood Zone 1, and, if no suitable land can be found in Flood Zone 1, applying the exception test. No sequential test or exception test has been provided to accompany the appeal on ground (a). Furthermore, there is no justification for the site being exempt.
20. The unauthorised residential development represents inappropriate and highly vulnerable development in Flood Zone 3. It has not been demonstrated that the development could be located on a sequentially preferable site at lower risk of flooding. There is conflict with Policy INF2 of the JCS and the Framework which states that development should not be permitted if there are reasonably available

sites appropriate for the proposed development in areas with a lower risk of flooding.

21. Information required to show that a suitable sustainable drainage system is in place to support the development has not been provided by the appellant. Policy ENV2 of the TBP states that all proposals will be expected to incorporate sustainable drainage systems where appropriate and proportionate to the scale and nature of development proposed. There is an absence of any information to demonstrate how the development would use and manage water efficiently and provide and maintain a sustainable drainage system to achieve multifunctional benefits. Accordingly, there is conflict with Policy ENV2 which, among other things, seeks to improve the quality and sustainability of development.

Character and appearance

22. The introduction of the unauthorised mixed use, together with the associated domestic paraphernalia, including the parking of domestic vehicles within the field, has resulted in a distinctly urbanising effect within what is otherwise a rural and agricultural landscape. This effect is compounded by the construction of a substantial hard-surfaced track extending from the site access to the far boundary across the centre of the land. Due to both its length and engineered form and materials, the track reads as a roadway primarily intended for domestic vehicular movements. Its presence materially erodes the pastoral qualities of the site and contributes to the encroachment of development into the open countryside.
23. The storage building positioned between the mobile home and the stable building appears to consist of a converted metal shipping container. Although it is said to serve an agricultural storage function, its design and form bear a stronger relationship to residential or general domestic storage rather than to agricultural uses. Its utilitarian and incongruous character renders it visually intrusive, and its presence accentuates the domesticating effect of the unauthorised mixed use. While another storage container referred to in the notice appears to have been removed, it is reasonable to conclude that such a structure would have had similarly discordant impacts upon the rural setting.
24. The stable building has a low-profile single sloping roof with an overhang to the front. The appellant claims that the building is solely for agricultural purposes providing shelter for the animals kept on the land. The building is limited in height and is a simple timber structure with horizontal boarding. The four stalls are mostly open fronted with metal gates across the wide opening to the front of each stall. At my visit I noted that the floor in three of the stalls was laid to bedding and the fourth was being used for the storage of items, included items such as saddles and horse rugs, which relate to the alleged equestrian use of the land. Its design is not overtly agricultural, but its scale and form are reasonably typical of buildings that may be encountered in rural fields of this nature.
25. While the Council acknowledges that the design and scale of the stable are generally sympathetic to its surroundings, and I concur with that assessment, its concern relates primarily to siting and landscape impact rather than the building's intrinsic appearance. It is considered that the building introduces a form of development that bears little functional or spatial relationship to those dwellings. Furthermore, its siting has contributed to the need for the long, engineered track across the field, which is visually stark and urbanising in this pastoral context.

26. It seems to me that the Council considers that a more appropriate location closer to the access, adjacent to the existing hedgerow boundary with Oakle Street, and further from existing residential properties may well reduce the visual impact and mitigate any harm. This would also reduce the need for such an extensive track and would likely result in a less intrusive form of development. I have no reason to disagree with this view.
27. The water pump is enclosed in a small timber structure with associated solar panels and is situated to one side of the access within the field. It is of limited dimensions and, although not de minimus, in my opinion I consider that its siting has a minor effect on the character and appearance of the area.
28. Taking all components of the unauthorised mixed use and associated operational development together, the overall effect is visually intrusive and results in the progressive urbanisation of previously open land. The development fails to conserve, respect or enhance the rural landscape and results in an unacceptable intrusion into the countryside. It therefore conflicts with Policies SD4 and SD6 of the JCS and Policy LAN2 of the TBP, which seek to ensure that development responds positively to local character, protects the intrinsic qualities of the landscape, and maintains the transition between settlement and open countryside.

Ground (f)

29. An appeal on ground (f) is that the steps required by the notice exceed what is necessary to achieve its stated purpose. Under section 173(4) of the 1990 Act, that purpose may be either: (a) to remedy the breach of planning control, or (b) to remedy any injury to amenity. In this case, the notice makes clear that its purpose is to remedy the breach of planning control as described in section 173(4)(a).
30. The breach of planning control alleged in the notice, as amended, is the material change of use of the land from agricultural use to a mixed use of agricultural, residential and equestrian.
31. The allegation concerns only the unauthorised mixed use of the land, however the notice also requires the removal of the mobile home, residential paraphernalia, certain buildings, hard surfacing and other associated works. The Council's position is that these matters are integral to, and facilitate, the unauthorised mixed use, and therefore their removal is necessary to remedy the breach. As the operational development does not form part of the allegation, the DPA is the material change of use and thus it is not open to me to grant planning permission for those works under ground (a).
32. In response to my request for clarification of the appellant's ground (f) case, the appellant confirmed, as they had done in their statement, that they sought to retain only the water pump, the stable building, and the track. They also stated that they had already partially complied with the notice by removing residential paraphernalia, the horses, and the building identified in red on the enforcement notice plan.
33. I acknowledge the appellant's wish to maintain a shelter for the animals grazing the land, and it seems to me that there may be an opportunity to explore the possibility of relocating the building, as suggested by the Council. While this cannot be secured via a ground (f) appeal, should the appellant wish to explore this option, the requirements of the notice allow six months for compliance. This

period could afford sufficient opportunity to discuss with the Council whether such agricultural development would be acceptable and, if so, apply for planning permission for a building suitable for agricultural purposes in an acceptable location.

34. The Council contends that the retention of any of the structures sought by the appellant would not overcome the planning harms identified and would not remedy the breach which is the unauthorised use of the land. The water pump structure is small, of limited visual impact, and could reasonably be regarded as necessary to support a lawful agricultural use of the land. In the circumstances of this case, its retention would not undermine the aim of the notice to cease the unauthorised mixed use. I am therefore satisfied that the requirements should be varied to allow the water pump and associated solar panels to remain.
35. In conclusion, the purpose of the notice is to remedy the breach of planning control by requiring cessation of the unauthorised mixed use and the restoration of the land to its previous agricultural condition. I consider that the steps required go no further than requiring the appellant to undo what has been done. They are the minimum necessary to comply with the notice and are proportionate to achieve its purpose, which is to fully remedy the breach of planning control.
36. Accordingly, I will vary the terms of the notice and delete the requirement to remove the structure containing the pump equipment and solar panels sited near the access. To that extent the ground (f) appeal succeeds in part. In all other respects, the appeal on ground (f) fails.

S A Hanson

INSPECTOR