



Appeal Decisions

Hearing held on 24 March 2026

Site visit made on 24 March 2026

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

an Inspector appointed by the Secretary of State

Decision date 27 April 2026

Appeal A Ref: APP/A0665/C/25/3376530

Appeal B Ref: APP/A0665/C/25/3376531

The Barnyard, Marsh Lane, Kings Marsh, Chester CH3 6NG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr James Curtis and Appeal B is made by Mrs Rachel Curtis against an enforcement notice issued by Cheshire West and Chester Council.
 - The notice was issued on 4 November 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a building used as a residential dwelling and an equestrian workshop ("the Unauthorised Development").
 - The requirements of the notice are to:
 - (i) Cease the residential use of the hay store and the equestrian workshop use of the building.
 - (ii) Demolish the building.
 - (iii) Remove all resulting materials away from the site; and
 - (iv) Restore to previous condition before development commenced.
 - The periods for compliance with the requirements are: (i) 9 (nine) calendar months; (ii) 12 (twelve) calendar months; (iii) 12 (twelve) calendar months; and (iv) 15 (fifteen) calendar months).
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Appeal B is proceeding on the grounds set out in section 174(2)(f), (g) of 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 Act.
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Decision

Appeals A and B

1. It is directed that steps (i), (ii), (iii) and (iv) required to comply with the notice are deleted and substituted with:

‘(i) Cease the residential use of the building and remove all residential paraphernalia from the land.’
2. It is directed that the periods for compliance with the requirements of the notice are varied accordingly by deleting points (ii), (iii) and (iv).
3. Subject to these variations, the appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for part of the development, namely the construction of a building for equestrian purposes on land at The Barnyard, Marsh Lane, Kings Marsh, Chester CH3 6NG, referred to in the notice, subject to the following conditions:
 - 1) The building hereby permitted shall be used for equestrian or agricultural purposes only.

- 2) Prior to the installation of external lighting, full details including height, design, location, and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
4. Otherwise, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under S177(5) for the use of the building for residential purposes.

Preliminary Matters

5. Planning permission was granted by notice dated 2 April 2020, reference 19/04500/FUL, for the demolition of existing buildings and replacement with a stable block, workshop/hay store and riding arena and to change the use of the land from agricultural to equestrian. That permission was not lawfully implemented.
6. The appeal relates to the unauthorised construction of the workshop/hay store (the appeal building). It is occupied for residential purposes and used as an equestrian workshop.

Appeal A on Ground (a) and the Deemed Planning Application

Main Issues

7. The main issues are i) the effect of the development on the character and appearance of the countryside and ii) whether the appeal site is a suitable location for housing having regard to any relevant development plan and national policies.

Reasons

Effect of the development on character and appearance

8. The appeal building is rectangular in form with a footprint of approximately 160sqm. It comprises a steel portal frame building with a shallow pitched roof clad in profiled metal sheeting. The external walls are finished in brickwork with the upper sections clad in horizontal timber boarding supported by an internal timber frame. The front elevation contains a vehicular entrance with a roller shutter serving the workshop together with a pedestrian access door. The rear elevation includes a large, fully glazed domestic-style opening and a pedestrian entrance door to the living accommodation. Rooflight panels are installed within the roof slope.
9. Planning permission had previously been granted for a building of agricultural appearance to provide hay storage and a workshop in connection with equestrian activities associated with the site. At that time, the Council concluded that, having regard to the scale and location of the development, the proposal would not harm the character of the surrounding landscape.
10. It is common ground that the appeal building, as constructed, differs in scale, height, form and siting from that which was previously granted permission. The discrepancies listed by the Council show the building to be 2.2m longer, 0.1m wider, 0.4m higher at eaves level and 0.6m higher at pitch. Internally, one half of the building has been fitted out as a two storey residential unit providing some 167sqm of living space. The building is also said to be positioned 3m further away from the northern field boundary and 2m closer to the western boundary with the

road. By reason of its increased scale and height, the Council considers the building to be more visually prominent in the wider landscape.

11. From my observations on the public right of way approximately 100m to the south, the building is clearly visible, albeit in the context of the existing equestrian development on the site. With its shallow pitched roof, profiled sheeting and timber-clad upper sections, the structure presents as an agricultural building and sits comfortably alongside the adjacent L-shaped stable block, which is of a similar form and design.
12. Although the external appearance broadly reflects the previous approved design, the insertion of the glazed opening on the rear elevation introduces domestic features not previously contemplated. Furthermore, the introduction of residential use materially alters the relationship of the building with its rural surroundings. The use brings with it an expectation of domestic activity and associated paraphernalia, which would serve to urbanise the rural site. In this respect, the harm arises less from the fabric of the building itself and more from the use and its inevitable visual and functional consequences. It is this aspect that would erode the rural character of the area and would be contrary to policies intended to safeguard the countryside.
13. Overall, I consider that having regard to its siting, scale and agricultural-style appearance, the building does not have a significantly harmful impact on the character and appearance of the wider landscape. When viewed against that which was previously approved, the increase in scale is not of such a degree as to amplify its visual presence in a harmful manner or render it unduly dominant within the countryside setting. Thus, I conclude that the building accords with Policies STRAT 9, ENV2 and ENV6 of the Cheshire West and Chester Local Plan 1 (LP1), Policies DM 3, and GBC 2 of the Cheshire West and Chester Local Plan Part 2 (LP 2), and Policies 3.1 and 3.2 of the Farndon Neighbourhood Development Plan. Taken together, these policies seek to ensure that development in the countryside respects local character and protects visual amenity, and in this case those objectives would be met.

Suitability of the location for residential use

Policy context

14. The appeal site is in the countryside outside any identified settlement and remote from services and facilities, where occupiers would be highly reliant on private motor vehicles. The residential use conflicts with the settlement hierarchy and strategic spatial policies which direct new housing to sustainable settlements with access to services and facilities. Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the LP1, in accordance with the National Planning Policy Framework (the Framework), limit new residential development in the countryside to that which requires a countryside location and cannot reasonably be accommodated elsewhere.
15. The appellant places significant reliance on Policy DM 25 of the LP2 which supports proposals for residential development in the countryside, outside of identified settlements, where the proposal is for an essential rural worker. Their claim is that the dwelling is justified to support a rural enterprise providing farriery and emergency equine care.

16. To accord with the policy, all eight criteria should be met. These require that a functional need for a full-time worker to live permanently at the site has been established to support the rural land-based enterprise. This need must be clearly established and relate to a full-time worker whose primary employment is connected to the enterprise and there is a need for them to be readily available to attend to the needs of the business for most of the year (day and night). In this case, it would also need to be demonstrated that the business mainly involves horses being brought to the site, rather than the farrier travelling to treat horses elsewhere.
17. Furthermore, the holding and associated activity must have been established for at least three years, be financially sound, have demonstrated profitability for at least one of those years, and show a realistic prospect of continued viability. It must also be shown that no suitable existing dwelling is available on or near the site to meet the identified need, and that the size and siting of the dwelling are proportionate to the functional requirement and appropriately related to existing buildings. All other relevant planning considerations, including access and landscape impact, must also be satisfactorily addressed.
18. Where a new dwelling is essential to support a rural based activity, whether new or established, it should, for the first three years, be provided by a caravan, or other temporary accommodation. Proposals for temporary workers' dwellings should satisfy all the criteria for permanent rural workers' dwellings, except for the requirement for the activity to have been established for three years. These requirements align with national policy at paragraph 84 of the Framework.
19. Although the Framework does not prescribe detailed assessment criteria, applying functional and financial tests is long-established and remains a reasonable and proportionate means of determining whether an essential need exists. Local and national policy therefore operate cohesively in requiring a clear, evidence-based justification for rural workers' dwellings.

Functional requirement

20. An essential functional need arises only where a rural enterprise cannot operate effectively without a worker living on, or in the immediately vicinity of the site. National Planning Practice Guidance (NPPG) advises that such a need may exist where the welfare of livestock or agricultural processes require continuous on-site, round-the-clock attention, or where emergencies could otherwise lead to animal welfare risks or significant operational consequences.
21. The appellant provides an out-of-hours farriery service and offers 24-hour care for horses brought to the appeal site for prompt intervention and essential treatment. Some may remain on site overnight for monitoring and recovery. Two stables are kept available for this purpose and, in the past 12/24 months, an average of one horse per week has been accommodated overnight. Occasionally, horses may require monitoring every 2-3 hours throughout the night. Others may require less vigilant monitoring but may still need to be checked for potential problems post treatment. This forms part of the justification for an on-site presence and would also enable the appellants to be alerted to the noise of any distressed stabled horse.
22. In addition to emergency and remedial work, the appellant undertakes routine shoeing, including services outside conventional hours to accommodate clients

who work full-time. Evidence was given that some clients travel considerable distances to use this service, and several interested parties spoke positively of the welfare benefits and flexibility provided.

23. I accept that farriery and equine welfare constitute rural land-based activities and that situations can arise when timely intervention is important. However, the relevant policy test is whether the enterprise cannot operate effectively without a full-time worker living permanently at the site, and that this requirement cannot reasonably be met in any other way. While the appellant characterises the enterprise as distinct from a conventional mobile farriery business, the evidence shows that the principal and primary income-generating activity remains the routine farrier work, undertaken during normal weekday working hours at clients' premises across a wide geographical area.
24. Emergency, remedial and workshop-based services, including the occasional overnight accommodation of horses at the site, form a subsidiary element of that business, accounting for approximately a quarter of total income. Although such services provide flexibility and welfare benefits, and I have no doubt that the appellant provides a welcomed highly professional service, they reflect a business choice and adaptation rather than an operational necessity inherent to farriery.
25. The challenges identified, such as difficulty in accessing a farrier 'out of hours' and the benefits of rapid treatment, do not of themselves justify a new dwelling in the countryside. The policy test concerns necessary functional need, not whether the service fills a gap in the market or improves client convenience. There is also insufficient substantive evidence to demonstrate that response times from local off-site accommodation would be unacceptable in welfare terms or materially different from those achieved by on-call attendance. While living on-site may be advantageous and reassuring, the evidence does not demonstrate a year-round functional requirement for continuous residential presence that cannot reasonably be met by alternative arrangements such as scheduled monitoring or temporary on-site presence as and when required.
26. Additional matters raised in support of on-site residence, including enhanced security for equipment, housing affordability and the appellants' personal and family circumstances, are factors that do not elevate desirability into necessity. Security concerns are common among rural businesses and are ordinarily addressed through non-residential measures such as secure storage, alarms or surveillance. Planning policy is clear that essential need must arise from the operational demands of the enterprise itself, not from personal preferences, lifestyle choices or wider socio-economic considerations, and none of these matters demonstrate that permanent residence on the appeal site is indispensable.
27. Having considered all the presented evidence, including the case examples submitted, I find that the enterprise does not exhibit a scale or operational structure that would give rise to an essential, year-round functional need for permanent on-site presence.

Intent and financial soundness

28. While the test for functional or economic viability of a rural enterprise is no longer specified as a requirement by the Framework, the NPPG provides that the degree to which there is confidence that the likelihood of the enterprise remaining viable

for the foreseeable future is one of the considerations that may be relevant. In the case of newer enterprises, it also recognises that a temporary form of accommodation may sometimes be appropriate where functional need is otherwise demonstrated.

29. Local policy and guidance are clearer still. For a permanent rural workers' dwelling to be supported, the associated rural enterprise should normally have been established for at least three years, have demonstrated profitability for at least one of those years, and be financially sound with a realistic prospect of remaining so.
30. The financial information submitted shows that the appellant's mobile farriery work remains the principal source of income, with emergency and out-of-hours services forming approximately a quarter of total income. While later figures indicate some improvement in overall profitability, there is no meaningful assessment of the business.
31. The evidence lacks formalised business accounts and longer-term forecasts or a business plan to demonstrate the potential growth and viability of the business. This limits the extent to which confidence can be placed in the business going forward. In any event, financial viability alone cannot establish essential need, or that on-site living is indispensable to the operation of the enterprise. Similarly, references to the fishing pond as a form of rural diversification and to wider rural economic benefits do not materially advance the case. The fishery is a supplementary activity and does not generate an independent or cumulative justification for on-site residence.
32. On balance, while the evidence indicates a professionally operated business, the lack of financial details and/or a business plan with forward projections backed by sound evidence provides little certainty about its capacity or its longevity which could support a claimed essential need.

Alternative accommodation

33. Alternative accommodation within what is described as the necessary operational catchment area is said to be unavailable and unaffordable. Evidence has been provided on house prices and rental levels within the area, which are said to exceed the household's financial capacity. It is also argued that smaller properties would be unsuitable due to family circumstances, the need for secure storage of vehicles and equipment, and that relocating further away would adversely affect business operations.
34. However, the information submitted is limited in scope and is not supported by robust evidence demonstrating that no suitable accommodation is available within reasonable proximity of the site. The figures provided do not show that the properties identified represent the lowest-cost or most appropriate options, nor is there clear evidence of sustained efforts to secure either rental or purchase accommodation, such as engagement with local agents, formal searches, or waiting-list registrations.
35. While it is accepted that many properties in the immediate vicinity may be limited or unaffordable from the appellant's perspective, the evidence does not demonstrate that suitable alternative accommodation within reasonable proximity is unavailable in nearby settlements offering more affordable housing, such as Holt or Wrexham as suggested by the Council. It seems to me that the search area

relied upon is narrow and I am not persuaded that it reflects a comprehensive or sequential investigation of realistic alternatives in nearby settlements offering a wider range of housing choice.

36. The suggestion that living off site would necessitate multiple daily journeys, increase inconvenience, or generate additional traffic does not equate to functional necessity. Repeated attendance at rural sites is common across many enterprises and does not, in itself, justify the creation of a permanent dwelling. Similarly, concerns regarding emergency travel, weather conditions, or personal safety, while understandable, relate to lifestyle and personal circumstances rather than an essential functional need in policy terms. Overall, I find that it has not been fully demonstrated that there are no other existing suitable and available dwellings within the surrounding area capable of meeting any accommodation need.

Temporary dwelling

37. The NPPG acknowledges that, in some circumstances, new rural enterprises may involve an initial period of uncertainty and that a temporary dwelling may be appropriate for a limited trial period, usually three years. The purpose of such an approach is to allow sufficient time to establish whether the enterprise is viable in the longer term and whether an on-site residential presence is genuinely required. That position is reflected in Policy DM25 of the LP2 which provides that proposals must still satisfy the functional requirement to comply with all of the policy criteria for a permanent rural workers' dwelling, with the sole exception of the three-year establishment requirement.
38. Notwithstanding that the dwelling on the appeal site is complete and currently occupied by the appellant and his family, they consider that it could alternatively be treated as temporary residential accommodation.
39. I have found that a functional need has not been demonstrated for the business that has been operating in its mobile capacity since 2011 and from the site since February 2022. In these circumstances and in the absence of a proven essential need, granting temporary permission would not serve the trial or monitoring purpose envisaged by policy and would instead undermine the restrictive approach to isolated residential development in the countryside. Therefore, the accommodation cannot be justified as a temporary rural workers' dwelling.

Conclusion on essential functional need

40. Taking all the evidence before me, I conclude that it has not been demonstrated that the farriery enterprise gives rise to an essential functional need for a permanent residential presence on the appeal site. While the enterprise is professionally operated and provides valued equine services, the evidence shows that it operates primarily as a mobile farriery business. The frequency and scale of on-site equine care, including overnight stays, are limited and do not demonstrate a consistent or unpredictable requirement for continuous residential supervision, thus they are an ancillary element of the business.
41. Although on-site residence would offer practical advantages and personal reassurance, planning policy requires a significantly higher threshold to be met. In this case, the evidence does not show that the enterprise cannot function effectively without on-site accommodation, or that alternative management arrangements or nearby accommodation could not reasonably be met elsewhere.

42. Accordingly, the use of the building for residential purposes is contrary to Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the LP1. These policies limit new residential development in the countryside to that which requires a countryside location and cannot reasonably be accommodated elsewhere. There is also conflict with Policy DM25 of the LP2, guidance contained within the Rural Worker Dwellings Advice Note (2022) and the aims of the Framework and Policy 2.1 of the Farndon Neighbourhood Plan.

Planning Conditions

43. The development allowed by this appeal is restricted to the construction of a building for agricultural or equestrian purposes, and therefore most of the conditions discussed at the Hearing have limited relevance. I do, however, consider that in the circumstances, it is necessary to provide a condition to qualify the use of the building for planning purposes and to provide clarity for the appellants. It is also deemed reasonable to control any external lighting due to the location of the building in the countryside.

Conclusion on ground (a) and the Deemed Planning Application

44. For the reasons given, and having taken all other matters into consideration, I conclude that the appeal should succeed in part only and I will grant planning permission for the construction of the building, but otherwise I will uphold the notice with variations and refuse to grant planning permission in respect of the residential use of the building.
45. Section 180(1) of the 1990 Act provides that the requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission granted for the same development, or part of it. While it is common practice to leave the requirements of the notice in place in such cases and allow the planning permission to override the notice where there is inconsistency, for the purpose of clarity, I shall remove the requirements from the notice.

Appeals A and B on Ground (f)

46. An appeal on ground (f) is made on the basis that the steps required by the notice to achieve its stated purpose exceed what is reasonably necessary. Under section 173(4) of the 1990 Act an enforcement notice may have one of two purposes. They are either (a) to remedy the breach of planning control, or (b) to remedy any injury to amenity. In this case, the notice expressly identifies its purpose as that in section 173(4)(a), namely, to remedy the breach of planning control.
47. Taking account of the appellants' submissions on this ground of appeal regarding the retention of the building and its use. I have considered the case for the residential use and rejected it. The outcome on ground (a) is that the appeal succeeds in part regarding the construction of the building and the requirements are varied to reflect the outcome. Accordingly, the appeal on ground (f) is successful to that degree.

Appeals A and B on Ground (g)

48. An appeal on ground (g) concerns whether the periods for compliance are unreasonable. The appellants argue that the compliance period for requirement (i) is unreasonably short in the event either the residential use is not allowed or if the building is not granted planning permission. The necessity to find alternative and

suitable accommodation for the family and relocate within a period of 9 months is considered unreasonable. A period of 12 months is sought instead.

49. The compliance period must balance the need to provide adequate time to complete the required actions while ensuring that the adverse effects of the breach are not unnecessarily prolonged. Considering that the notice, as amended, does not seek the demolition of the building, and in the absence of evidence as to why the time would be insufficient to search for alternative accommodation, I consider that it strikes an appropriate balance by offering sufficient opportunity for compliance and supporting the effective enforcement of planning control.
50. Accordingly, the appeal on ground (g) fails.

S A Hanson

INSPECTOR

APPEARANCES

For the Appellants

Mr Peter Frampton	Director, Framptons Town Planning Ltd
Mr Philip Williams	Barrister, 33 Bedford Row, London
Mr James Curtis	Appellant
Mrs Rachel Curtis	Appellant

For the LPA

Mr Brian Leonard	Principal Planning Officer
Ms Michelle Hewitt	Planning Enforcement Officer

Interested Parties

Mr Philip Jones, Wirral Riding Centre
Mr Christopher Norman
Mr John Youed, Brookhouse Farm

Documents submitted at the Hearing:

Information relating to Wirral Riding Centre and 'Changing Lives Through Horses'
Hearing notification letters