Planning Inspectorate

Appeal Decisions

Site visit made on 15 October 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2026

Appeal A Ref: APP/C3810/C/24/3350946
Appeal B Ref: APP/C3810/C/24/3350947
79 Lincoln Avenue, Rose Green, Aldwick, Bognor Regis PO21 3EW

- Appeals A and B are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeals are made by Mr Lee Penson (Appeal A) and Ms Samantha Penson nee Thackray (Appeal B) against an enforcement notice issued by Arun District Council.
- The notice was issued on 13 August 2024.
- The breach of planning control as alleged in the notice is Without planning permission and within the last 10 years, the material change of use of the Land and associated operational development, by the erection and use of a building that creates an independent, separate, and self-contained, primary residence.
- The requirements of the notice are: i) Cease any residential use in the black hatched area marked "A" (as described in section 2 of this Notice), on the Land. ii) Fully remove the outbuilding in the black hatched area marked "A" (as described in section 2 of this Notice), on the Land, in its entirety. iii) Fully remove and correctly dispose of all resultant debris following the removal of the outbuilding in the black hatched area marked "A" (as described in section 2 of this Notice) and return the Land to its condition prior to development.
- The period for compliance with the requirements is 3 months from the date the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f), 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.
- Appeal B is proceeding on the grounds set out in section 174(2)(b), (c), (d), (f), and (g) of the Act.

Summary of Decisions: The appeals succeed to the extent that the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.

Applications for costs

1. Applications for costs have been made by Mr Lee Penson and Ms Samantha Penson nee Thackray against Arun District Council. These are the subject of a separate decision.

Preliminary matters and background

2. On the legal points in these appeals, the onus is on the appellants to make out their case to the standard of the balance of probabilities. Their evidence should not be rejected because it is not corroborated, and if there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. There are serious implications under the Perjury Act 1911 where a false statement is made in a statutory declaration (SD), which affects the weight I attach to precise and unambiguous claims within the SDs provided. I have also considered the evidence while being aware of the ongoing family dispute and the other issues set out in the submissions.

3. The site is owned by Susan Clinton, who resides in the main dwelling at the site with her daughter, Sophie Clinton. An outbuilding (the Building) has been erected within the rear garden and was previously lived in by the appellants and their 2 children.

4. The Council issued Lawful Development Certificates (LDCs) in respect of the site prior to the notice being issued: one where the description of the application has been provided as 'proposed erection of outbuilding for use incidental to dwelling, namely as gym, snooker room & bar' (LDC1)[1]; and one where the description of the application has been provided as 'proposed use of the outbuilding as an annexe by the family already occupying the main dwellinghouse' (LDC2)[2].

5. The Building is not as shown in the plans submitted as part of the application for LDC1 on account of its significantly different footprint and internal and fenestration layouts. Moreover, the evidence shows, as a matter of fact and degree, that the Building was erected with its current footprint and internal and fenestration layouts. The Building is similar to that shown in the plans submitted as part of LDC2, albeit with projections to the sides and front. Notably, the projection to the front contains an en suite to Bedroom 1 and a boiler, and is referred to as a plant room in Mr Penson's SD and shown in the undated photographs which accompany his SD. The Building therefore comprises a 3-bedroom dwelling with kitchen, lounge, bathroom and en suite. It is accessed from a side gate which leads to the rear garden between the main dwelling and the Building. There are no physical divisions in the garden between the main dwelling and the Building.

6. Section 192(4) of the Act states that the lawfulness of any use or operations for which an LDC is in force shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness. Neither LDC confirms nor provides a conclusive presumption that the material change of use alleged by the notice would have been lawful at any point or that the erection of the Building was lawful.

7. The evidence shows, on the balance of probabilities, that works commenced on the erection of the Building in July 2018, that it was substantially complete by September 2019, and that it was subsequently lived in by the appellants and their children. This is set out in the appellants' SDs and is consistent with much of the other available evidence.

The appeals on grounds (b) and (c)

8. To avoid repetition and in the interests of clarity I shall deal with the appeals on grounds (b) and (c) together. To succeed on ground (b) the appellants need to show that the alleged breach has not occurred, as a matter of fact. To succeed on ground (c) they need to show that the alleged breach does not constitute a breach of planning control.

9. The description of the alleged breach refers to a material change of use and associated operational development. It can be understood from the four corners of the notice that the allegation could also be described as the material change of use of the land shaded black and annotated 'A' on the plan within the notice to an

[1] The Council's ref: AW/209/18/CLP
[2] The Council's ref: AW/134/21/CLP

independent and self-contained dwelling separate to the main dwelling at the site (the MCU), and the erection of the Building as associated operational development.

10. As the Building is described as being associated with the MCU in the notice, the allegation is that the erection of the Building is ancillary to the MCU. The Council's submissions confirm its case is that the Building was erected as an independent dwelling from the outset. The Council has therefore drafted the notice in such a manner that it is alleged the Building is integral to, and part and parcel of, the MCU, rather than a separate breach of planning control in its own right.

11. It is the appellants' case that the MCU has not taken place and that the erection of the Building was not associated with the MCU. Instead, it is claimed the Building was initially erected as a 'man cave' with the benefit of planning permission granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and that the Building was then used as an annexe ancillary to the main dwelling without bringing about a material change of use from 2021, and that it has never been used as an independent dwelling.

Whether the Building was erected as a dwelling from the outset

12. Article 3(1) and Class E of Schedule 2, Part 1 of the GPDO grant planning permission for the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, amongst other things. The evidence shows the Building was not constructed in accordance with the plans which formed part of the application for LDC1, and it remains unclear whether the Building was lawfully constructed in accordance with any planning permission granted by the GPDO.

13. The Council's claims that the Building was erected as a dwelling from the outset rely on statements made by Sophie Clinton in a Planning Contravention Notice (PCN) response. The fact that the PCN was served on Susan Clinton does not take anything away from the claims made therein by Sophie Clinton because she signed that document. The PCN very clearly includes a warning that it is an offence to knowingly or recklessly give information which is false or misleading in response to the PCN. There is an ongoing family dispute, but this does not mean I should not assign appropriate weight to Sophie Clinton's claims in the PCN response, where they are sufficiently precise and unambiguous.

14. It is notable that the appellants' SDs do not provide any specific information as to how the Building was finished internally or used between September 2019 when external works were finished, and February 2021 when they had a conversation with Susan Clinton '*about changing the use of the man cave to an annex to give the daughter space*'. Reference has been made to it being used as a 'man cave' and the existing plans submitted as part of the application for LDC2 show rooms annotated 'Bar', 'Games Room', 'Gun Room', 'Dry Storage' and 'Gym', in addition to the bathroom. However, there is very little tangible evidence that the Building was ever used for such purposes, aside from the fact that the Council issued LDC2 based on those existing plans. Having considered all the evidence, it remains questionable how an outbuilding erected at a cost exceeding £100,000[3] for such purposes was subsequently altered to provide living space for a family of 4, without further explanation.

[3] Based on the invoices attached to Mr Penson's SD

15. The appellants' evidence is not therefore sufficiently precise and unambiguous to show, on the balance of probabilities, that the Building was lawfully erected and used for purposes incidental to the enjoyment of, or ancillary to, the main dwelling. On balance, the evidence shows it is more likely than not that the Building was erected as a dwelling from the outset.

Whether the MCU has taken place, and if so, whether in breach of planning control

16. On the appellants' own evidence, the Building was lived in as a dwelling separate from the main dwelling by the appellants and their children, rather than in connection with or ancillary to the use of the main dwelling prior to the notice being issued. This is clear, notwithstanding the fact that Mr Penson is the brother of Susan Clinton.

17. It is possible that the appellants may have initially lived in the Building in connection with, and ancillary to, the use of the main dwelling, but the evidence shows that a family dispute means that from at least December 2023, there was no active relationship between the people occupying the main dwelling and the people occupying the Building, other than by way of Susan Clinton and Mr Penson being brother and sister. This is not a case where there was always some interdependence between the occupiers of the Building and the main dwelling. Even if there was some interdependence previously, there was a subsequent change resulting in the appellants living in the Building independently after Susan Clinton asked them to move out and refused to communicate with them.

18. As such, the evidence shows on the balance of probabilities there has been a change in the use of the land shaded black to an independent and self-contained dwelling separate to the main dwelling, creating a new planning unit physically and functionally separate to the main dwelling.

19. I have been referred to *Uttlesford*[4], where it was held that the use of a detached garage building, with a bedroom, kitchen, and bathroom by an elderly relative of those living within the associated main dwelling as a 'granny annexe' in conjunction with the main dwelling did not create a new planning unit bringing about a material change of use. In that case, Read QC sitting as Deputy Judge commented that he did not accept that the decision has implications for proposals which are not identical on the facts. There are significant differences between the facts in that case and this, including that in this case a family of 4 was occupying the Building independently of the main dwelling from at least December 2023, whereas a single elderly relative occupied the outbuilding in *Uttlesford*, sharing her living activity in company with the family in the main dwelling.

20. I have also been referred to interactions between Susan and Sophie Clinton living in the main dwelling and the appellants and their children while they were living in the Building. The appellants' SDs refer to these comprising 'seeing' the Clintons, sharing takeaways, barbecues, and dinners in the Building and the main dwelling, contributing towards gas and electricity bills, Mr Penson fitting carpet within the main dwelling, Susan Clinton babysitting for the appellants, checking in on each other and family get-togethers. These sorts of interactions would be normal in any family relationship, but do not amount to a level of interdependence where the use of the Building could have been described as ancillary to a primary use of the site as a single dwelling.

[4] *Uttlesford DC v SSE & White* [1992] JPL 171

21. In Susan Clinton's SD, prior to the appellants occupying the Building, reference is made to life being difficult since her husband passed away, and that on that basis she wanted the appellants to live with her, communing on a regular basis, with the interdependence being crucial to her health, wellbeing and family. However, as a matter of fact and degree, the evidence shows that, from at least December 2023, there was no interdependence between Susan or Sophie Clinton in the main dwelling and the appellants in the Building. The Building was being used independent of the main dwelling, despite there being no physical boundaries within the rear garden.

22. The Building was not therefore being used as proposed in the SD of Susan Clinton. Mr Penson's SD explains they were asked to vacate the property in December 2023 and that Susan Clinton had not spoken to them since, with '*Sue's behaviour disrupting the arrangements between us and disconnecting the electricity supply*'. I also note comments from a third party, which have not been disputed, which refer to electricity to the Building subsequently being provided by an extension cable running from 83 Lincoln Avenue.

23. Therefore, from at least December 2023, as a matter of fact and degree, the evidence shows it is more likely than not that the area shaded black on the plan within the notice (the footprint of the Building) could be recognised as the site of activities which amounted in substance to a separate use both physically and functionally, creating a new planning unit[5].

24. As such, on the balance of probabilities, the MCU took place and amounted to development requiring planning permission. In the absence of any planning permission for that development, the MCU was in breach of planning control.

Conclusion on grounds (b) and (c)

25. For the above reasons, as a matter of fact and degree, I find that the alleged MCU has taken place and took place in breach of planning control, and that the Building was erected as a dwelling from the outset in association with the MCU.

26. The appeals on grounds (b) and (c) therefore fail.

The appeals on ground (d)

27. To succeed on this ground of appeal the appellants need to show, on the balance of probabilities, that, at the date when the notice was issued, no enforcement action could be taken in respect of the alleged breach.

28. The notice does not allege that a material change of use of the Building has taken place. The notice specifically refers to a material change of use of the land. Therefore, with regard to section 171B of the Act and the relevant transitional provisions[6], no enforcement action can be taken in respect of the MCU if it took place on or before 13 August 2014[7]. No enforcement action can be taken in respect of the erection of the Building if it was substantially complete on or before 13 August 2020[8].

[5] With regard to *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207
[6] The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024
[7] 10 years before the notice was issued
[8] 4 years before the notice was issued.

29. The evidence shows, as a matter of fact and degree, that the Building was substantially complete by the end of September 2019, after all plastering, plumbing, electrical and external cladding works had been completed. It may well have been extended since, but the evidence suggests any extensions (other than the forward projection) were carried out after the building was substantially complete, rather than as part of the erection of the Building as one continuous operation. The erection of the Building was therefore lawful, and no enforcement action could be taken in respect of it, on the date the notice was issued.

30. The MCU did not take place before the Building existed. The MCU was not therefore lawful, and enforcement action could be taken in respect of it, on the date the notice was issued.

31. The description of the alleged breach can be corrected, without causing injustice, by removing the reference to operational development referring explicitly to the footprint of the building shaded black on the plan within the notice. While it is often good practice, it is not essential for an enforcement notice directed at a material change of use to refer to any associated operational development which is part and parcel of the change of use within the description of the alleged breach. This remains the case even if the notice seeks the removal of that operational development, as is the case in this instance. I will address arguments relating to the demolition and removal of the Building in my reasoning on ground (f).

32. The appeals on ground (d) succeed in part, to the extent outlined above in respect of the erection of the Building, but they fail in respect of the MCU. The description of the alleged breach will be corrected accordingly.

The appeals on ground (a) and the deemed application for planning permission

33. The appellants have presented their case for the appeals on grounds (a) and (f) together. However, the arguments raised in respect of each ground of appeal would be best dealt with separately in this instance.

34. The main issues are:

- the effect of the MCU on the living conditions of neighbouring residents, with particular regard to noise and disturbance;
- whether the MCU incorporates appropriate drainage and energy efficiency measures;
- the effect of the MCU on the Pagham Harbour Special Protection Area (SPA) and Ramsar site, with particular regard to potential disturbance of protected habitats;
- the effect of the MCU on the character and appearance of the area; and
- whether the MCU provides acceptable living conditions, with particular regard to outlook and usability.

Living conditions of neighbouring residents

35. The MCU relates to the Building being occupied independent of the main dwelling. It is therefore appropriate to consider the effect of the MCU on occupiers of the main dwelling, as well as other neighbours.

36. Although access to the Building can be through the main dwelling, the evidence shows it is primarily accessed from a side gate to the rear of the main dwelling and facing 81 Lincoln Avenue, which has a post box labelled 'Dollys Den' and leads directly to the rear garden. That is how I was shown to the Building by Mr Penson during my site visit, passing close by the rear elevation of the main dwelling.

37. The Building has 3 bedrooms and was occupied by a family of 4. The frequency of comings and goings associated with its use as an independent dwelling therefore far exceeds what would normally be associated with a typical domestic outbuilding used for purposes ancillary to the main dwelling. The nature of those movements creates opportunities for noise and disturbance beyond those ordinarily expected with people accessing a residential garden space or ancillary outbuilding. Furthermore, when used for purposes ancillary to the main dwelling, it would be expected that a large proportion of movements associated with the Building would be through the main dwelling, rather than all those movements being through the side gate, off the driveway shared with No.81.

38. The shared driveway narrows in the approach to the side gate. It is an intimate space shared with occupiers of No.81, where regular comings and goings of a family living in the Building should be unexpected and are intrusive and disruptive to occupiers of No.81 on account of their proximity. Movements past windows within the rear elevation of the main house would be similarly disruptive to occupiers of that separate dwelling for the same reasons.

39. Therefore, the movement of occupiers of the Building through the side gate, close to the rear elevation of the main dwelling and the side of No.81 is likely to create unacceptable levels of noise and disturbance to occupiers of those neighbouring properties, harmful to their living conditions.

40. For these reasons the development is contrary to Policies QE SP1 and D DM1 of the Arun Local Plan 2011-2031 (2018) (ALP). These policies require development to contribute positively to the quality of the environment, to not have a significantly negative impact upon residential amenity, and to avoid causing unacceptable noise and disturbance to occupiers of nearby properties, amongst other things.

Drainage and energy efficiency

41. I have no details before me as to whether the MCU has incorporated any particular drainage or energy efficiency measures. Policies ECC SP1 and ECC SP2 of the ALP explain that all new residential development must be designed to take account of various issues, such as capacity of drainage systems and energy efficiency. It has not been demonstrated how the MCU may have complied with either of these policies. Based on everything I have read and seen, including the appellants' explanations of how the Building was erected and used, I find it unlikely that the MCU has incorporated appropriate drainage and energy efficiency measures. As there is insufficient evidence before me to demonstrate that the MCU makes appropriate provision for drainage and energy efficiency, I am unable to conclude that it complies with Policies ECC SP1 and ECC SP2 of the ALP.

SPA and Ramsar site

42. The site is within the Pagham Harbour Access Management Zone B on account of its proximity to the SPA and Ramsar site. Policy ENV DM2 of the ALP sets out that in this area all new residential development will be required to make developer

contributions towards the agreed strategic approach to access management at Pagham Harbour, amongst other things. This is to address potential disturbance of protected habitats by recreational activities associated with new dwellings within Zone B. As the MCU creates a new independent dwelling, this policy is relevant and applicable. No such contributions have been made or secured by way of legal agreement and I am not aware of any other mechanism which could appropriately secure such contributions.

43. As an SPA and Ramsar site, Pagham Harbour provides protected habitats and is a European Site, as defined by The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). As the competent authority, I would need to carry out an appropriate assessment in accordance with the Habitats Regulations if I was minded to grant planning permission for the MCU. However, as I have found conflict with the development plan in respect of other issues, there is no need for me to carry out an appropriate assessment unless other considerations indicate planning permission should be granted.

Character and appearance

44. The site is a residential plot within a residential area characterised by pairs of semi-detached bungalows with large gardens bordered by open farmland to the north. There are a range of outbuildings within rear gardens of neighbouring buildings, but these are largely imperceptible from the street and their uses are unknown. The Building is also difficult to see clearly from the street on account of its low, single storey flat roof. It will inevitably be noticeable from neighbouring properties, especially those immediately either side of the site. Nevertheless, the alleged breach, as corrected, is the MCU, not the erection of the Building.

45. As with neighbouring outbuildings, the use of the Building is not obvious to most visitors to the area. However, comings and goings associated with its use as an independent dwelling are noticeable to local residents, as outlined above in respect of the first main issue. The effect of those comings and goings on the existing residential character and appearance of the area is minimal.

46. I therefore find no harm is caused by the MCU to the character and appearance of the area, and the MCU is not in conflict with Policy D DM1 of the ALP in this regard. This policy applies primarily to operational development, but also requires, amongst other things, development to reflect the character of the site and surrounding area.

Living conditions of occupiers of the Building

47. All rooms have windows and it is easy to move between the different living spaces, including the sizeable kitchen and lounge. Outlook from the Building is therefore acceptable and it is adequately usable to provide a reasonable standard of living space for occupiers.

48. I therefore find that the MCU has not created an unacceptable living space in terms of the quality of living conditions for occupiers of the Building. The MCU is not in conflict with Policy D DM1 of the ALP in this regard, which requires development to provide acceptable outlook for occupiers, amongst other things.

Planning balance

49. The MCU causes unacceptable harm to the living conditions of residents in the main dwelling and at No.81, and it has also not been demonstrated that appropriate

drainage and energy-efficiency measures have been incorporated, contrary to Policies QE SP1, D DM1, ECC SP1 and ECC SP2 of the ALP. The MCU does not cause any harm to the character and appearance of the area and does not create unacceptable living conditions for occupiers of the Building.

50. If planning permission is refused for the MCU and if the Building remains lawfully in place, the Building could potentially be used for residential purposes ancillary to the use of the main dwelling, subject to the occupation remaining functionally connected to that dwelling. This is the appellant's fallback position, reliant on the Building being otherwise lawful. I do not need to consider what could be erected following the demolition of the Building, for reasons which will become clear below in my reasoning on ground (f).

51. The Council intended to issue an LDC confirming a proposed use of the Building as an annexe would have been lawful on the date of the application for LDC2. However, a lawful use of the Building as an annexe ancillary to the main dwelling would be very different in terms of its effect on the living conditions of neighbouring residents compared to the use of the Building as an independent dwelling. This is because occupants of an ancillary annexe would not be forced to rely solely on the side gate to access the Building, to the detriment of the living conditions of occupiers of the main dwelling and No.81. Moreover, in the case of the Building being used as an ancillary annexe, occupiers of the Building would form part of the same household as occupiers of the main dwelling.

52. The fallback position where the Building could potentially be lawfully used as an annexe does not therefore indicate that planning permission should be granted for the MCU, and I am not aware of any reasonable conditions which would make the MCU acceptable.

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

53. The MCU conflicts with the development plan as a whole and no other considerations indicate planning permission should be granted. As such, there is no need for me to carry out an appropriate assessment in respect of the effect of the MCU on the SPA and Ramsar site.

54. The appeals on ground (a) fail and the deemed application for planning permission should be refused.

The appeals on ground (f)

55. To succeed on this ground of appeal the appellants need to show that the steps required to be taken, or the activities required to cease, exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by the breach.

56. The notice requires (i) the cessation of any residential use of the area shaded black on the plan within the notice; (ii) the removal of the Building; and (iii) the removal and disposal of all resultant debris and the return of the land to its former condition. The purpose of the notice is therefore to remedy the breach, rather than to remedy any injury to amenity. I need to consider whether this purpose can be achieved with less cost and disruption.

57. The site has a lawful use for residential purposes. Step (i) is therefore excessive and needs to be varied to ensure the notice simply requires the use of the land shaded black as an independent dwelling to cease.

58. In respect of Step (ii), I have been referred to the judgment of the Court of Appeal in *Caldwell*[9], which confirms the extent of the *Murfitt*[10] principle. In short, it was held in *Murfitt* that an enforcement notice issued in respect of a material change of use can require the removal of ancillary or incidental operational development which was carried out to facilitate that material change of use, even if the operational development was carried out more than four years before the notice was issued. *Caldwell* confirms that the *Murfitt* principle does not apply where operational development is the source of, or fundamental to the material change of use.

59. For the reasons set out in my reasoning on the appeals under grounds (b) and (c), it is more likely than not that the Building was erected as a dwelling at the outset, as part and parcel of the MCU. The circumstances in this case are therefore similar to those which took place in *Caldwell*, and the Building is the source of and fundamental to the MCU. The *Murfitt* principle does not therefore apply in this instance and in these circumstances the removal of the Building would exceed what is necessary to remedy the breach alleged in the notice.

60. It is therefore necessary to delete Step (ii) of the notice. It will be a separate matter for the Council to consider whether it is capable of issuing any enforcement notices against the erection of the Building or any of its extensions, if expedient to do so, in light of my findings in ground (d).

61. I shall vary Step (i) to require the unauthorised use of the land shaded black to cease as an independent dwelling, and delete Step (ii) of the notice. Step (iii) will need to be varied accordingly. As varied, these are the minimum steps necessary to remedy the breach.

62. The appeals on ground (f) therefore succeed to the extent outlined above.

The appeals on ground (g)

63. To succeed on this ground of appeal the appellants need to show that 3 months falls short of what should reasonably be allowed for the notice to be complied with. The appellants have suggested that 12 months would be more reasonable to allow them to find a new home and resettle their children in addition to carrying out the necessary remedial works.

64. The Building is no longer occupied and I have been referred to other accommodation claimed to be available to the appellants, which has not been disputed. On the evidence, 3 months is a reasonable period for the notice, as varied, to be complied with.

65. The appeals on ground (g) therefore fail.

Overall Conclusion

66. For the reasons given above, I conclude that the appeals should not succeed, other than to the extent outlined above in respect of grounds (d) and (f). I shall uphold the enforcement notice with a correction and variations and refuse to grant planning

[9] *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467
[10] *Murfitt v SSE & East Cambridgeshire DC* (1980) 40 P. & C.R. 254, [1980] 5 WLUK 47

permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

67. It is directed that the enforcement notice is corrected and varied by:

- The deletion of the text 'and associated operational development, by the erection and use of a building that creates an independent, separate, and self-contained, primary residence' at section 3 of the enforcement notice and the substitution of the text 'shaded black and annotated 'A' on the plan referred to at section 2 of this notice to an independent and self-contained dwelling separate to the main dwelling.';
- The deletion of the text 'any residential use in the black hatched area marked "A" (as described in section 2 of this Notice), on the Land' at Step (i) of section 5 of the enforcement notice and the substitution of the text 'the use of the land in the black hatched area marked "A" (as described in section 2 of this Notice) as an independent dwelling';
- The deletion of Step (ii) of section 5 of the enforcement notice in its entirety; and
- The deletion of the text 'the removal of the outbuilding in the black hatched area marked "A" (as described in section 2 of this Notice)' at Step (iii) of section 5 of the enforcement notice and the substitution of the text 'compliance with Step (i) above'.

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

L Douglas

INSPECTOR