



ET Planning

Statement of Case

Client:

Susan Elgar

Bluebell Farm

Commonfield Lane, Wokingham, RG40 4PR

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APPENDIX 1: ENFORCEMENT NOTICE

APPENDIX 2: RELEVANT PREVIOUS APPEAL DECISIONS

1. Introduction

1.1. This statement is submitted following the issuing of an Enforcement Notice dated 4th December 2024 (Council Reference: **RFS/2022/087794**) by Wokingham Borough Council for an alleged breach of planning control at Land at Bluebell Farm Commonfield Lane Barkham RG40 4RP. A copy of the Enforcement Notice is included with the appeal documents (Appendix 1).

1.2. The alleged breach is outlined as follows:

"Without planning permission, the material change of use of the Land for the storage of caravans including associated fencing."

1.3. As set out in the following sections, the Appellant is appealing the Notice on grounds b), c), a), f) and g) under Section 174 of the Town and Country Planning Act (as amended).

1.4. This Statement of Case will focus on the matters raised within the Enforcement Notice and elaborate on the details submitted within the Statement of the Grounds of Appeal.

2. Site Location & Description

2.1. "The Land" is located within Bluebell Farm, accessible from the southern side of Commonfield Lane. The wider site features two C3 dwellinghouse units and their respective curtilages.

2.2. Bluebell Farm is not within any designated settlement boundary. The locality features residential development comprising dwellinghouses and a

residential caravan park at adjacent Honeysuckle Lodge and Pine Lodge which provide 8 pitches for Gypsies and Travellers.

- 2.3. The opposite side of Commonfield Lane is the boundary of the Arborfield Garrison Strategic Development Location (SDL) where new dwellings have been built and occupied. In the wider area, there are also several single caravan pitches as well as the larger residential mobile home park at Robinson Crusoe and California County Park, both located along Nine Mile Ride to the south.
- 2.4. The southeast boundary of the wider site adjoins an area of woodland known as Longmoor Bog. It is a Site of Special Scientific Interest (SSSI). The site is also within 5km of the Thames Basin Heath Special Protection Area.
- 2.5. The red lined area, "*The Land*", as referred to within the Enforcement Notice, entails a hardstanding surface with five caravans, numbered 2-6 on the Enforcement Notice, and a fence spanning from caravan 2 to caravan 4.

3. The Ground b) Appeal

- 3.1. This ground of appeal states that the matters alleged in the Notice have not occurred.
- 3.2. In this regard, the Enforcement Notice claims a “*material change of use of the Land for the storage of caravans including associated fencing*” has occurred. The allegation refers to the presence of caravans 2-6 found on the Land.
- 3.3. Explicitly the Notice seeks to enforce against a B8 storage use pertaining to five caravans on the Land and the associated fencing.
- 3.4. However, it is evident this matter has not occurred in the case of Caravan 2, which is used by the tenants of Bluebell Farm for recreational travel and on various holidays.
- 3.5. When not in use for travel, Caravan 2 is stored at Bluebell Farm, on land associated with and of ancillary use to the dwellinghouse. As seen within the Enforcement Notice, the area where Caravan 2 is stored on Bluebell farm falls within the Land the Notice is issued on. However, the character of the storage for this caravan is separate from the other four on the Land – it is incidental to the wider lawful C3 Use Class of the site.

For absolute clarity the wider site of Bluebell Farm is a single planning unit (C3 dwellinghouse with its curtilage) but benefitted from Permitted Development Rights under Schedule 2, Part 5, Class A of the GPDO where five touring caravan units would have been lawful. The condition of this PD Right is as follows (with ET Planning emphasis):

"Development is permitted by Class A subject to the condition that the use is discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site are removed as soon as reasonably practicable".

- 3.6. Unlike Classes B and C of this part of the GPDO there is no condition restricting Class A from being within the curtilage of a dwelling.
- 3.7. This PD Right (when lawfully complied with) meant a separate planning unit (akin to an F.2 Use Class) would be formed and would revert back to the C3 use when cease. This use discontinued when static mobile homes were kept in place of touring units – instead of reverting to a C3 use class the use class changed to B8.
- 3.8. The Notice therefore by targeting unit 2 (within the red line), targets beyond the B8 use. The B8 use (the bReach) has only occurred in relation units 3-6 and therefore, the breach as alleged has not in fact occurred.

As such, it is evident no material change of use occurred in the storing of caravan 2 as it is incidental to the residential use of the dwelling (no change in use class) being used for the recreational use of the tenants of a residential dwelling within Bluebell Farm.

3.9. It is therefore requested that the Inspector should make the following corrections to ensure the Enforcement Notice does not over enforce on caravan 2. This will include amendments to the red boundary line of the Land so it does not include the land caravan 2 is stored on, as well as the following changes to the Notice:

- The breach should be amended to read as follows: *"Without planning permission, the material change of use of the land for the storage of four caravans including associated fencing"*.
- Step ii in section 5 (What you are required to do) should read as: *"Remove from the Land caravans labelled 3-6 outlined in blue on the attached Plan"*.

3.10 Such a correct would not prejudice the Appellant. It is requested Ground B is partially upheld.

4. The Ground c) Appeal

4.1. This Ground of Appeal states the works do not constitute a breach of planning control, and is contingent on the ground B appeal. This ground of appeal overlaps to an extent with Ground F, which is detailed later in this section (as the requirements of the Notice do not seek to remedy the breach of storage but residential use).

4.2. As a result of the Ground B a consequential Ground C has occurred, since the retention of a single caravan for ancillary residential purposes is not defined as development by the Act.

4.3. Section 55(1) of the Town and Country Planning Act 1990 (as amended) (TCPA) defines development as *'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'*.

4.4. According to section 29 (1) of the Caravan Sites and Control of Development Act 1960, a caravan or mobile home is defined as:

"..any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether towed, or being transported on a motor vehicle or trailer) and any motor vehicles so designed or adapted but does not include-

a) Any railway rolling stock which is for the time being on rails forming part of a system, or

b) Any tent;"

4.5. Caravan 2 is a touring caravan which can be towed around or transported with the aid of another vehicle. It is designed and adaptable to serve as a habitable space, therefore complying with the definition of a caravan as stated in the Act.

4.6. Its mobile nature ensures the caravan cannot be defined as a building. Therefore, it cannot be classified as development as per Section 55(1) of the Town and Country Planning Act.

4.7. Moreover, as clearly outlined within the ground B appeal of this statement of case, caravan 2 is of an ancillary use to the existing residential use of one of the dwellinghouses on Bluebell Farm (within the lawful planning unit). The caravan is used for recreational travel and vacations by the residents of one of the dwellinghouses. It is incidental to the enjoyment of the dwellinghouse.

4.8. When not in use, caravan 2 is stored on Bluebell farm within the Land identified by the Enforcement Notice.

4.9. However, since caravan 2 is of an ancillary use to the existing dwellinghouse, the storage of the caravan does not constitute development either. The land it is stored is also not subject to a change of use to the

land as it is ancillary to the existing residential use found at Bluebell Farm. Therefore, the land it is stored on is still of a C3, residential use and no planning permission needs to be sought for storing it.

4.10. As such, no breach in planning control has occurred in relation to caravan 2 found on 'The Land'. Its presence on the land does not constitute a breach in planning control that requires planning permission. Therefore, the red line found on the enforcement Notice is incorrect and should be amended to not include the area where caravan 2 is being stored on the Land.

4.11 Such a correct would not prejudice the Appellant. It is requested Ground B is partially upheld.

5. The Ground a) Appeal

5.1. This ground of appeal is concerned with whether planning permission should be granted. This statement of case will establish how the storage of the caravans on the Land is in accordance with the relevant policies of the Wokingham Borough Local Plan. It will expand on the compliance with local policies below, and the material considerations in favour of granting planning permission for the appeal development.

5.2. The Wokingham Local Plan comprise of the Wokingham Core Strategy (adopted January 2010) and the Wokingham Borough Development Plan

(adopted February 2014), which hold full weight in the determining of planning applications in the area.

5.3. The National Planning Policy Framework (*'the Framework'*) is a material planning consideration of significant weighting.

5.4. Within the Enforcement Notice it is stated the storage of the caravans and the relevant associated works enforced against ***'represents an unacceptable encroachment of development into the open Countryside and is harmful to the immediate character of the Land'***. As such, it is claimed the breach is conflicting with the National Planning Policy Framework (2023), and Core Strategy Policies **CP1**, **CP3**, and **CP11'**.

5.5. It is clear the rationale behind the Notice purely pertains to the character of the countryside, as per Policies **CP1**, **CP3** and **CP11**. The compliance of the alleged development with the above policies is outlined below.

5.6. The Appellant's case on ground (a) comprises two sequential arguments:

- firstly, that the development complies with the Development Plan as a whole in the first instance and that planning permission should be granted without delay having an acceptable impact to the character of the area and the countryside (including the principle policy of CP11);

– secondly, should the Inspector consider the development does not comprise with the Development Plan, material considerations exist to outweigh this harm. In both cases planning permission should be granted.

Location of Development in the countryside

5.7. **Policy CP1** (Sustainable Development) outlines that for planning permission to be granted, development should promote environmental sustainability, reduce pollution and resource use, minimize flooding risks, support recycling, avoid harming agricultural land, and include energy-efficient and zero-carbon features.

5.8. The only reference to character requirements within the policy is point 1, which states the need for development proposals to '*maintain or enhance the high quality of the environment*'.

5.9. **Policy CP3** (General Principles for Development) requires development proposals to be appropriate and functional to their location, without detrimentally impacting their surrounding landscape or character.

5.10. Specifically in relation to the influence on the character and the environment, the only point of **Policy CP3** which is relevant is point a, which expects planning permission to be granted for proposals that:

a) Are of an appropriate scale of activity, mass, layout, built form, height, materials and character to the area together with a high quality of design without detriment to the amenity of adjoining land users including open spaces or occupiers and their quality of life

5.11. **Policy CP11** (Proposals outside Development Limits (including countryside)) seeks to explicitly protect the “*separate identity of settlements*” and “*maintain the quality of the environment*”. It then states that proposals outside the development limits (in the countryside) will ‘**not normally**’ be permitted except where it meets several specific exceptions.

5.12. Various appeal decisions (Appendix 2) previously highlighted that if a development protects the separate identity of settlements and maintains the quality of environment it is an acceptable development in terms of **Policy CP11**, even if it does not fall under any of the specific exceptions listed in the policy – even without the example appeal decisions there is no doubt the wording of ‘not normally’ is a deliberate insertion of flexibility in the policy.

5.13. In short, any development can be acceptable in terms of CP11 where it achieves the policy’s objectives of protecting the separate identity of settlements and maintaining the quality of the environment.

5.14. All policies CP1, CP3 and CP11 seek to 'maintain' the quality of the environment and it is considered the development achieves this as it does not detract from the existing quality of the countryside setting.

5.15. Bluebell Farm is surrounded by trees and vegetation, and is enclosed by boundary treatment from the main road delineating the curtilage of the dwelling from the wider countryside. All of the above features offer screen into the site.

5.16. As such, the Land subject to this appeal and the lawful development within the site of Bluebell Farm cannot be considered to be in a prominent siting nor exhibit any rural quality which would contribute to the quality of the environment.

5.17. The Land is considered to be previously developed land (being in the countryside and lawfully in the curtilage of the dwellinghouse outside a built up area) and the development does not coincide with the removal from any landscape features.

5.18. Therefore, the proposal does not negatively influence the character of the environment, rather maintain it by ensuring the storage of the caravans at the site is not visible beyond the site by neighbouring properties and open spaces, and does not detract from the surrounding character, and as such, maintaining the overall quality of the countryside environment.

5.19. There is also a recurring presence of caravans and mobile home pitches within the immediate environment of Bluebell farm (all within the countryside). Figure 1 comprises aerial imagery that highlights the various mobile home and caravan sites located in proximity to the Land.

5.20. As shown overleaf, caravan and mobile homes are present, varying in scale from individual pitches to large scale sites are a common and prevalent feature of the locality. They are all in site which feature hard standing and entail minimal landscaping features.

5.21. As such, the change of use of the Land at Bluebell Farm to a B8 storage use of caravans draws on the character features of locality. The storage activity is an existing feature of the local character and is of an appropriate scale and material use. This maintains the quality of the environment where the land is in, keeping to its context and drawing on its surrounding features.



Figure 1: Caravan and Mobile Homes around the site (Source: Google Maps)

5.22. The change of use to B8 storage will not result in any built form. It seeks to utilise previously developed land, and hardstanding and fencing which was previously associated with the lawful use of the land (and have been present for over 10 years. Hence, the change of use will not result in a loss of landscaping, greenery or vegetation or anything that could be described as intrinsically beautiful countryside. Therefore, the development maintains the quality and character of the Land and its surrounding.

5.23. Regardless of the temporary nature of the previous recreational use, it should be noted that the presence of 5 caravans has not been in congruous to the site in the past and the storage of 5 mobile homes would therefore not be an alien feature within the site nor this area of the countryside (notwithstanding neighbouring sites).

5.24. As such, the presence of caravans on the same Land for storage purposes would be deemed acceptable in planning terms on character grounds (including that of the countryside). The change of use for storage of caravans does not significantly differ from the previous holiday touring caravans use of the site.

5.25. Therefore, it is evident the proposed change of use of the land will maintain the quality of the environment, without harming the local character. It does not propose for further built form development, loss of countryside elements, or an unacceptable encroachment of development or harm to the character of the Land (only developing PDL). Instead, it draws on the common uses of the locality and seeks to utilise previously developed land which accommodate a similar use. Resultantly, contrary to the rationale behind the issuing of the Notice, the change of use of the land to B8 for the storage of the caravans meets the requirements of **policies CP1, CP3 and CP11** insofar as maintaining the quality of the environment.

5.26. The second requirement of Policy CP11 is for development to seek the protection of the separate identity of settlements, the change of use to B8 storage seeks to use previously developed land and proposes no built form. It does not seek to expand further from the previously developed land, and as such, it would not erode any undeveloped gaps between settlements.

5.27. The protection of the gap between separate settlements is ensured further by Bluebell Farm's immediate proximity to the adjoining SSSI classification. This forms a natural barrier to the site and planning policy resists the grant of planning permission that would remove it. As such, its retention in perpetuity can be reasonably assumed. The SSSI presents a barrier which protects the separation between the settlements.

5.28. The Finchampstead Neighbourhood Plan strives to address settlement gaps by protecting gaps within the settlement from development, in **Policy GS1** (Key Local Gaps and Green Wedges). This policy explicitly identifies Key Local Gaps to serve this purpose of protecting countryside gaps (and Green Wedges) which are visualised in Figure 2.

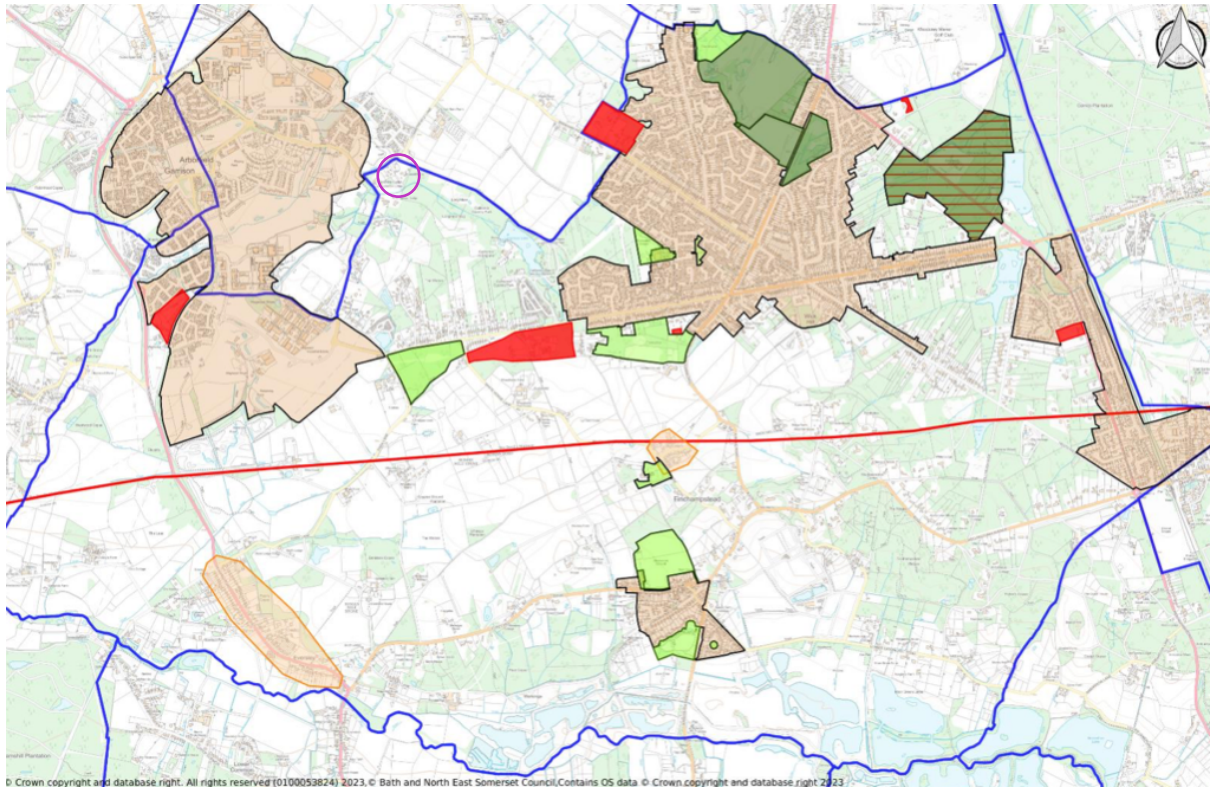


Figure 2: FNDP Policy Map showing Key Local Gaps, Local Green Spaces, supported areas for development and informal built areas outside Development Locations- appeal site shown in purple circle (Source: Finchampstead Neighbourhood Development Plan)

5.29. Notably, the Land subject to this appeal is not considered as a Key Local Gap or Green Wedge, further highlighting the minimal contribution the Land has towards the countryside and this specific purpose as a whole. As such, this policy evidences the fact that the proposal would not harm the separation of settlements.

5.30. Therefore, the proposal fully complies with the requirements of **Policy CP11** by ensuring the protection of separate settlement identity and the prevention of encroachment into the open countryside.

Material Considerations

5.31. However, if the inspector disagrees on the compliance of the proposal with the Development Plan, material considerations exist to outweigh this harm and ensure the grant of permission as per Section 38(6) of the Planning and Compulsory Purchase Act 2004.

5.32. Should the Inspector consider the development does not “maintain” the quality of the environment as worded in the of Policies **CP1**, **CP3** and **CP11**, it is crucial to highlight the outdated nature of both these policies.

5.33. According to the National Planning Policy Framework Paragraph 135c,
*“Planning policies and decisions should ensure that developments are **sympathetic** to local character and history, including the surrounding built environment **and landscape setting**, whilst not preventing or discouraging appropriate innovation or change (such as increased densities)”*

5.34. It is crucial to note the wording emphasises that development is not required to maintain the same character as exists. The Framework only seeks to apply this protection to Valued Landscapes in Paragraph 187.a however, Paragraph 187.b is clear that development in the countryside has a lower bar of ‘recognising’ its intrinsic character and beauty (a lower level of protection)..

5.35. It is evident that **Policy CP1** and **Policy CP3** are outdated in nature as they seek to 'maintain' the character of all countryside. They are significantly more restrictive in comparison to the national policy, which only seeks to be 'sympathetic' and 'recognise' the general countryside.

5.36. To further substantiate this it should be noted that the Core Strategy was drafted prior to the first iteration of the Framework and under PPS7 where countryside policy had sought to protect all areas of the countryside 'for its own sake'. The Framework upon its adoption in 2012 departed from this and this is best exemplified by the following passage of **Telford and Wrekin v Secretary of State for Communities and Local Government and ANOR [2016] EWHC 3073** (paragraph 47 – with ET Planning emphasis): *"In my judgement, the Inspector did not err in law in concluding that Policy CS7 was not in conformity with the NPPF and so was out-of-date. It is a core planning principle, set out in NPPF 17, that decision-taking should recognise "the intrinsic character and beauty of the countryside...This principle is reflected throughout the NPPF e.g. **policy on the location of rural housing**...designation of Local green Space...protection of the Green Belt...**However, NPPF does not include a blanket protection of the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development...**"*

5.37. As such, it is recommended that limited weight should be given to these policies in the decision-making process should the Inspector not consider to 'maintain' the quality of the environment.

5.38. Therefore, the requirements of **Policy CP11** are significantly more restrictive and non-reflective of the national policy requirements in relation to the countryside. It is reflective of the outdated national policies which previously sought the protection of the countryside, but this is no longer the case.

5.39. The above is particularly relevant to note as the Notice explicitly states harm is caused via the "encroachment of development into the open countryside". It is relevant to note that the only policy that protects the countryside from encroachment is that of the Green Belt (as per paragraph 143 of the Framework). The site is not green belt and therefore, the fact the development has an acceptable landscape impact (regardless if this is considered to reach the higher bar of 'maintaining' the quality of the environment) means there is no harm to weigh against the concern of 'encroachment'.

5.40. It should be noted that **Policy CP11** comprises part of the Spatial Strategy of the Development Plan, comprising the areas that are not within designated settlements. This is informed by out of date housing targets and

allocations and therefore, the areas of countryside which CP11 apply to are out of date. This is particularly relevant with the realisation of the Arborfield Garrison SDL sited on the opposite side of the road of Commonfield Lane.

5.41. As such, any non-compliance with **CP1, CP3, and CP11** can only be given **limited weight** in the planning balance.

5.42. It is however, acknowledged that the benefits of the scheme are limited however, paragraph 124 of the NPPF seeks for Previously Developed Land or 'brownfield' land to be utilised as much as possible which the development would do. Whilst of a small scale the mobile homes need to be sold and stored somewhere whilst not in a residential use and doing so on a site that would not have any meaningful harm to the countryside would be a benefit on this matter.

5.43. Should the Inspector still not consider the effective use of PDL to outweigh any alleged harm the imposition of a temporary permission would be proportionate and relevant particularly as there is a current live appeal **APP/X0360/W/24/3356397** which would redevelop the site to a residential mobile home use. A temporary permission would allow adequate time for either this appeal to be concluded and commenced which in turn would remove the alleged breach through the redevelopment works.

5.44. A temporary permission also allows for an adequate timeframe for the mobile homes to be either sold or arrangements made to store them at another location. However, it should be noted at the time of writing there is no known appropriate location they can be stored; the caravans are owned by the occupier of Bluebell Farm and timeframes are uncertain on this matter. As such, a temporary permission to last either until the development in appeal APP/X0360/W/24/3356397 is implemented and completed, or if the determination of that appeal this is unknown at the time of determination of this enforcement appeal, then a period of 3 years.

Conclusion

5.45. This section of the full Statement of Case has demonstrated compliance and acceptability of the change of use of the Land into storage in terms of planning policy. The development would be in keeping with the local character of the area and the countryside by proposing a similar use to those existing in proximity and create for no further harm by repurposing previously development countryside land without proposing for further built form. The land is also hidden from the street scene and is separated from the open countryside thanks to trees, vegetation and woodland, ensuring that it will not result in encroachment of the countryside. Therefore, the proposal fully complies with national policy and policies **CP1**, **CP3** and **CP11**.

5.46. Material considerations also exist to outweigh any harms should this be necessary as such planning permission should be granted and the ground (a) appeal should be allowed.

6. The Ground f) Appeal

6.1 This ground of appeal states that the steps required by the Enforcement Notice are excessive and go beyond the scope of what is required to remedy the harm caused by the change of use as alleged in the Notice on the date of issue.

6.2 The requirements of the Notice are listed as follows:

- i) Cease the use of the Land for storage purposes*
- ii) Remove from the Land all caravans, including those labelled 2-6 outlined in blue on the attached Plan*
- iii) Disconnect all pipes and cables in connection with the supply of water, gas, electricity and foul drainage and the disposal of sewage in respect of the caravans identified at step ii) above.*
- iv) Remove from the Land the fencing in the approximate position marked by a black line on the attached Plan.*
- v) Remove any resulting materials from carrying out steps ii, iii and iv above from the Land.*
- vi) Restore the Land to its former conditions before the breach took place.*

- 6.3 Point i of the list states the use of the land for storage purposes should cease. However, as clearly outlined in the ground B and ground C appeal, Caravan 2 is ancillary to the residential use of Bluebell Farm, and therefore no storage purpose has occurred in its case. This should be altered to only target mobile homes 3-6.
- 6.4 Regarding point ii, once again, as the presence of caravan 2 has been clearly demonstrated as lawful owing to its ancillary residential use, the wording should be amended to not include caravan 2.
- 6.5 Prior to the storage use of the Land, the Land was used for the lawful use of touring caravans.
- 6.6 Ancillary to the lawful caravan use of the Land, pipes and cables for gas, electricity, water, foul drainage and sewage disposal were placed for the use of touring caravans. These were all works that were authorised as part of the license to the recreational caravan use (separate to the permission granted by the GPDO). The Notice targeting a storage use cannot therefore target the services that serve a previous lawful use on the site.
- 6.7 In fact, these services were part of a separate use (not B8) means by definition the Notice would be going further than required to remedy the breach as these services do not relate to a storage use.

Similarly, the fence was erected to separate the garden of the existing dwellinghouse and the caravan site, and hardstanding was placed to provide a stable, level surface for the parking and movement of caravans. Whilst it is acknowledged no ground (d) appeal has been submitted these operations have been in situ in excess of 10 years and are not ancillary to the storage use being targeted by the Notice.

6.8 The above is particularly relevant as the Notice is seeking to remove these elements via the 'Murfitt' principle however, as per (***Secretary of State for Levelling-up, Housing and Communities v Caldwell* [2024] EWCA Civ 467**) the Murfitt principle can only target ancillary development (and not facilitative) to the targeted change of use. Whilst the hardstanding, services and fencing are not facilitative to the targeted storage use neither are they ancillary and the Notice goes beyond the confines of the Murfitt principle in this regard.

6.9 As such, the matters subject to points iii- vi of the Enforcement Notice requirements are not necessary to remedy the storage use. The only requirements that are necessary are i. and ii.

6.10 The Appellant's case is only step i) and ii) pertaining to 4 of the 4 caravans is reasonable and necessary to regularise the alleged breach.

6.11 There is a further concern regarding the lack of clarity and specifics in points v and vi.

6.12 The referencing to '*resulting material*' in point v does not specify what is specifically required to be removed in the remedying of the breach. This can raise the question of how it can confirm when the breach has been fully resolved as it is unclear as to what would classify as resulting material. It is not clear whether the LPA expects the removal of hardstanding as well as the services or just the areas required to remove said services.

6.13 Finally, point vi requires for the land to be restored to its 'former condition before the breach took place'. Again whether this is accounting for the previous lawful uses is unclear and it is indistinguishable what that would specifically require.

6.14 Therefore, it is questioned, what would be considered sufficient to comply with the requirements of point vi.

7. The Ground g) Appeal

7.1. This Ground relates to the compliance time period of the enforcement Notice. The Appellant was given a three-month period from when the Notice was served to:

- i. Cease the use of the Land for storage purposes.*
- ii. Remove from the Land all caravans, including those labelled 2-6 outlined in blue on the attached Plan.*
- iii. Disconnect all pipes and cables in connection with the supply of water, gas, electricity and foul drainage and the disposal of sewage in respect of the caravans identified in step ii) above.*
- iv. Remove from the Land the fencing in the approximate position marked by a black line on the attached Plan.*
- v. Remove any resulting materials from carrying out steps ii, iii and iv above from the Land.*
- vi. Restore the Land to its former conditions before the breach took place.*

7.2. The prescribed timeframe for compliance with the enforcement Notice is considered to not be sufficient for the execution of all the above steps, as the Appellant is dependent on third parties.

7.3. To remove the caravans from the site, the Appellant would require third parties to either be interested in purchasing the caravans or having the facilities to dispose of the caravans are necessary. Considering there are

five caravans to be removed from the site, this process can be a time-consuming matter, and likely will take longer than the prescribed three months in the Notice.

- 7.4. This matter also applies to the disconnecting of all electricity, gas, water, and fouled drainage, the removal of fencing and any resulting materials, and the restoration of the Land to its previous condition, as third-party specialist would need to be outsourced to carry out these processes.
- 7.5. In addition, it must be considered that the disconnecting of all electricity, gas, water and fouled drainage from the Land would primarily require for the caravans to be relocated. However, if the caravans cannot be bought prior to the scheduling removal and disconnecting of all the services, the caravans would have to be placed elsewhere on Bluebell Farm.
- 7.6. This will be considered unlawful storage once again, as the rest of the site is still of a C3 use.
- 7.7. As such, a period of at least 6 months for compliance with steps ii to vi is requested to allow the adequate time to fulfil the requirements of the Notice.

8. Conclusion

8.1. The Appellant submits this appeal under grounds b), c), a), f), and g), as set out above.

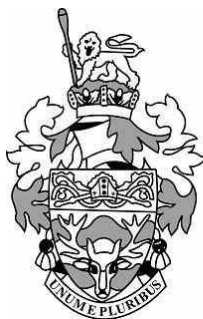
8.2. In conclusion, the development is not considered to be harmful to the character of the area. It is modest and visually keeps to the surrounding character of the locality. It is requested the appeal be allowed.

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WOKINGHAM BOROUGH COUNCIL

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE Material Change of Use and Operational Development

ISSUED BY: WOKINGHAM BOROUGH COUNCIL (the Council)

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the Land described below. It is expedient to issue this notice, having regard to the provisions of the development plan and to all other material planning considerations. The Explanatory Note at the end of this notice and the enclosures to which it refers contain important additional information.

2. **THE LAND AFFECTED**

Land at Bluebell Farm Commonfield Lane Barkham RG40 4RP shown edged by a red line on the attached plan ('the Land').

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, the material change of use of the Land for the storage of caravans including associated fencing.

4. **REASONS FOR ISSUING THIS NOTICE**

- i) It appears to the Council that the above breach of planning control has occurred within the last ten years.
- ii) The storage of caravans and associated works represents an unacceptable encroachment of development into the open Countryside and is harmful to the immediate character of the Land. As such the unauthorised development conflicts with the National Planning Policy Framework 2023 and Wokingham Borough Adopted Core Strategy 2010 Policies CP1, CP3 and CP11.
- iii) To remedy the breach of planning control.

5. WHAT YOU ARE REQUIRED TO DO

- i) Cease the use of the Land for storage purposes.
- ii) Remove from the Land all caravans, including those labelled 2-6 outlined in blue on the attached Plan.
- iii) Disconnect all pipes and cables in connection with the supply of water, gas, electricity and foul drainage and the disposal of sewage in respect of the caravans identified at step ii) above.
- iv) Remove from the Land the fencing in the approximate position marked by a black line on the attached Plan.
- v) Remove any resulting materials from carrying out steps ii, iii and iv above from the Land.
- vi) Restore the Land to its former condition before the breach took place.

6. TIME FOR COMPLIANCE

The time period for compliance with all steps set out in paragraph 5 of this notice is three (3) months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **15 January 2025** unless an appeal is made against it beforehand.

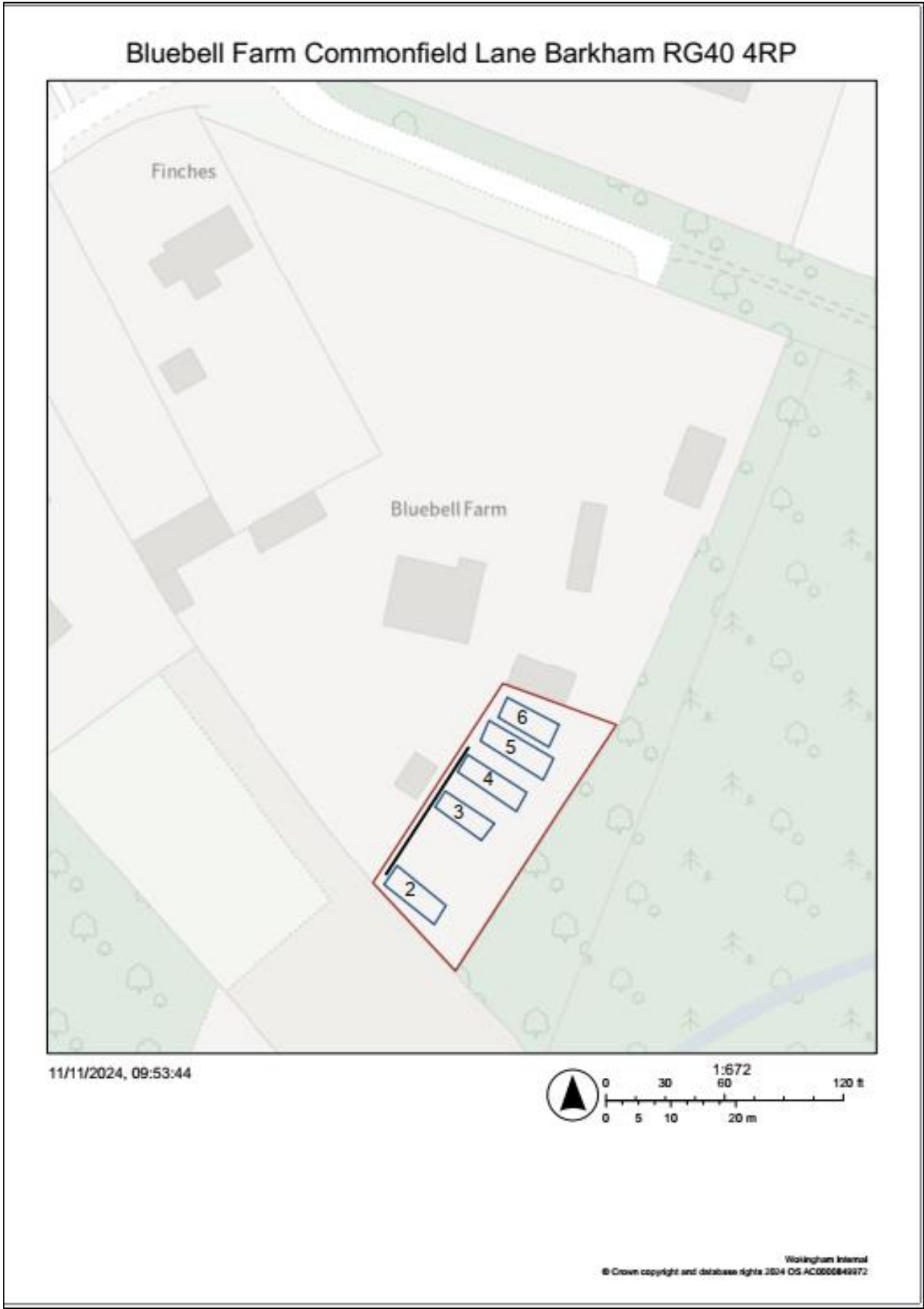
Dated: 04 December 2024

Signed:



.....
Trevor Saunders
Assistant Director of Place Based Services
Wokingham Borough Council
PO Box 157
Civic Offices
Shute End
Wokingham
RG40 1WR

PLAN



EXPLANATORY NOTE

WOKINGHAM BOROUGH COUNCIL has issued an enforcement notice relating to land at Bluebell Farm Commonfield Lane Barkham RG40 4RP and you are served with a copy of this notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of this Explanatory Note.

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. You can appeal against this Notice, but any appeal must be received or posted in time to be received by the Secretary of State before the date specified in paragraph 7 of the Notice. **Please see the sheet from The Planning Inspectorate at the end of this document headed 'THIS IS IMPORTANT' which tells you how to make an appeal.**

The Planning Inspectorate produce a booklet entitled "Making your Appeal" which sets out your rights and the procedure to be followed. You can obtain this booklet either from Planning Inspectorate or from their Customer Support Unit by phoning 0117 3726372. The grounds on which an appeal may be made are set out in section 174 of the Town & Country Planning Act 1990. You will find an explanation of the grounds in the "Making your Appeal" booklet.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds (not all of these grounds may be relevant to you)

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice, and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring, you to do so within 14 days.

FEE PAYABLE FOR THE DEEMED APPLICATION

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £1156.00. You should pay this fee to the Local Planning Authority.

Joint appellants need only pay one fee.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against the Enforcement Notice, the Notice will take effect on the date specified in paragraph 7 indicated above and you must then ensure that the required steps for complying with it, and for which you may be held responsible are taken within the period/s specified in paragraph 6 of the Notice. Failure to comply with an enforcement notice that has taken effect is a criminal offence and can result in legal proceedings and or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

In accordance with the legislation, this Enforcement Notice has been served on the following individuals/organisations:

Name & Address of Persons Served	Method
William Elgar Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
Susan Olive Phoebe Patricia Elgar Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand

The Owner/Occupier Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Occupier Caravan 2 Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Occupier Caravan 3 Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Occupier Caravan 4 Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Occupier Caravan 5 Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Occupier Caravan 6 Bluebell Farm Commonfield Lane Barkham Wokingham Berkshire RG40 4RP	By Hand
The Company Secretary National Westminster Bank PLC Mortgage Centre PO Box 123 Greenock PA15 1EF	By Post

The legislative provisions for enforcement notices and appeals

The powers of local planning authorities to issue enforcement notices, expressions used in the enforcement of planning control and the right of appeal to the Secretary of State against enforcement notices are in sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991. These provisions are stated in full below.

Section 171A.

(1) For the purposes of this Act -

- a. carrying out development without the required planning permission; or
- b. failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

(2) For the purposes of this Act -

- a. the issue of an enforcement notice (defined in section 172); or
- b. the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.

(3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

Section 171B.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent -

- a. the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
- b. taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority has taken or purported to take enforcement action in respect of that breach.

Section 172.

(1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them -

- a. that there has been a breach of planning control, and
- b. that it is expedient to issue the notice, having regard to the provisions of the development plan to any other materials considerations.

(2) A copy of an enforcement notice shall be served -

- a. on the owner and on the occupier of the land to which it relates: and

b. on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place -

- a. not more than twenty-eight days after its date of issue; and
- b. not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 173.

(1) An enforcement notice shall state -

- a. the matters which appear to the local planning authority to constitute the breach of planning control; and
- b. the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are -

- a. remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its conditions before the breach took place; or
- b. remedying any injury or amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require -

- a. the alteration or removal of any buildings or works;
- b. the carrying out of any building or other operations;
- c. any activity on the land not to be carried on except to the extent specified in the notice: or
- d. the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to a subsection (7), is as similar as possible to the demolished building.

(7) A replacement building -

- a. must comply with any requirement imposed by any enactment applicable to the construction of buildings;
- b. may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
- c. must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (1) and (2)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the

activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where -

a. an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

b. all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where -

a. an enforcement notice requires the construction of a replacement building; and

b. all the requirements of the notice with respect to that construction have been complied with,
planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A.

(1) The local planning authority may -

a. withdraw an enforcement notice issued by them; or

b. waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the powers of the local planning authority to issue a further enforcement notice.

Section 174.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds -

a. that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

b. that those matters have not occurred;

c. that those matters (if they occurred) do not constitute a breach of planning control;

d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

e. that copies of the enforcement notice were not served as required by section 172;

f. that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

g. that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made either -

a. by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

b. by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing -

a. specifying the grounds on which he is appealing against the enforcement notice; and

b. giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who -

a. on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and

b. continues so to occupy the land when the appeal is brought.

Section 175.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may -

a. require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

b. specify the matters to be included in such a statement;

c. require the authority or the appellant to give such notice of such an appeal as may be prescribed;

d. require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Where an appeal is brought under section 174 the enforcement notice shall subject to any order under section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

Section 176.

(1) On an appeal under section 174 the Secretary of State may -

- a. correct any defect, error or misdescription in the enforcement notice; or
- b. vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.

(3) The Secretary of State -

- a. may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
- b. may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a),(b), or (d) of section 175(1) within the prescribed period.

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177.

(1) On the determination of an appeal under section 174, the Secretary of State may -

- a. grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
- b. discharge any condition or limitation subject to which planning permission was granted;
- c. determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if -

- a. any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
- b. references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it related to the form of the certificate), (6) and (7) and 194.

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where -

- a. the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
 - b. any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
 - c. the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,
- then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.



The Planning Inspectorate

Customer Support Team
Temple Quay House
2 The Square Temple Quay
Bristol BS1 6PN
Direct Line: 0303 444 5000
Email: enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:

- ☐ on-line at the Planning Casework Service area of the Planning Portal
(<https://acp.planninginspectorate.gov.uk/>); or
- ☐ sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:-

- ☐ the name of the local planning authority;
- ☐ the site address; and
- ☐ the effective date of the enforcement notice

We MUST receive this BEFORE the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms

Appeal Decision

Site visit made on 6 June 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/X0360/W/21/3288075

Long Meadow Farm, Edneys Hill, Wokingham RG41 4DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Beech against the decision of Wokingham Borough Council.
 - The application Ref 212317, dated 6 July 2021, was refused by notice dated 20 October 2021.
 - The development proposed is change of use of existing land from agricultural to residential garden.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of existing land from agricultural to residential garden at Long Meadow Farm, Edneys Hill, Wokingham RG41 4DS in accordance with the terms of the application, Ref 212317, dated 6 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be retained in accordance with plan reference TQRQM21186183952965 (dated 5 July 2021).
 - 2) Unless within 3 months of the date of this decision a scheme for the landscaping of the boundaries of the site (which shall specify species, sizes, spacing and numbers of trees/shrubs to be planted) is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the first planting season following approval of the scheme, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. Any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. The change of use of the appeal site has already partially taken place, having been excavated and cordoned off from the surrounding agricultural land. The development is therefore retrospective in nature.
3. The development is proposed to be used in conjunction with a residential barn conversion which was approved under permitted development rights in 2016¹. Whilst disputed by the parties, any arguments relating to the extent of the

¹ Application reference 160392, dated 23 March 2016

curtilage of the barn conversion are outside of the scope of this appeal, as this appeal relates to a separate parcel of land.

4. I am cognisant of a number of ongoing enforcement appeals relating to the wider property. For the avoidance of doubt, this appeal relates solely to the appeal against refusal of planning permission for the change of use of agricultural land to residential garden.

Main Issue

5. The main issue is whether the proposed development would represent a suitable use within the countryside, with particular regard to any associated effect on the character and appearance of the surrounding area.

Reasons

6. The appeal site comprises a parcel of agricultural land within an area designated as open countryside, and sits just south of the converted residential barn referred to above (which is known as Long Meadow Farm). The wider property includes a separate detached garage to the south-west of the barn dwelling, as well a further outbuilding south of the garage. Whilst much of the area surrounding the appeal site is agricultural in nature, it is nonetheless punctuated by a scattering of residential properties. These include Botany House which borders the appeal site to the east, the gardens of which project beyond the appeal site's southernmost boundary.
7. Notwithstanding the lawfulness of the southernmost outbuilding within Long Meadow Farm, the arrangement of built form leaves a strip of land to the rear of the main house, which runs alongside the ancillary outbuildings. This means much of the appeal site is surrounded by development, as opposed to open countryside. The gardens to Botany House to the east (which project beyond the southern boundary of the appeal site), together with the mature boundary treatments in between, further compound this sense of enclosure. In turn, and notwithstanding that the appeal site extends beyond the southern elevation of the outbuilding, this degree of physical and spatial integration would allow the development, including any associated domestic paraphernalia, to assimilate effectively with the fabric of the wider property, without appearing to encroach into the open countryside.
8. Moreover, owing to the topography of the surrounding land, the appeal site is situated within a natural dip in the landscape, where much of the neighbouring land (particularly to the north-west and west) slopes gently upwards away from the site. As a result, the garden is barely visible from Edneys Hill to the north, nor from the agricultural fields to the west. This means any views from these locations out towards the open landscape to the south are not unduly disrupted by the development. Whilst the development is more readily apparent directly south, I am satisfied that any actual or perceived impact from this location can be adequately mitigated by a suitable landscaping scheme, which can be secured by condition.
9. In policy terms, Policy CP11 of the Council's Core Strategy² says that, subject to exceptions, development proposals in the countryside will not "*normally*" be permitted. Whilst the development does not fall squarely within any of the

² Wokingham Borough Local Development Framework, Adopted Core Strategy, Development Plan Document, January 2010

prescribed exceptions, there is no blanket ban on development in such locations, and the development would still broadly align with the Policy's objectives of preserving the separate identity of settlements and maintaining the quality of the environment.

10. For these reasons, I am satisfied that the development does represent a suitable use within the countryside, without causing undue harm to the character and appearance of the surrounding landscape. The development would be consistent with the objectives of Policies, CP1, CP3 and CP11 of the Council's Core Strategy, which seek to protect the countryside from inappropriate development and/or encroachment. The development would also accord with Policies CC03 and TB21 of the Council's MDD Local Plan³, which again promote the protection of the borough's green infrastructure. Finally, the development would be consistent with guidance in the Council's Design Guide SPD⁴ and the National Planning Policy Framework 2021 (Framework), both of which place emphasis on the protection of countryside.

Other Matters

11. Whilst the Council has cited a number of appeal decisions in which encroachment into the countryside was deemed to be harmful, each case must be assessed on its own merits. In this instance, the surrounding built form and natural topography of the appeal site allow the development to integrate effectively with the host property, without materially harming the surrounding countryside.

Conditions

12. As two separate site plans were submitted in connection with the appeal application, I have included a plans condition for clarity over the area in which the change of use is permitted.
13. I have included a condition requiring approval and implementation of a landscaping scheme for the boundaries of the site. This is to ensure the development integrates effectively with the surrounding countryside, particularly when viewed from land immediately south of the site. There is a strict timetable for compliance because permission is being granted retrospectively, so it is not possible to use a negatively worded condition to secure the approval and implementation of the scheme before development takes place. The wording of the condition will therefore ensure the development can be enforced against if the requirements are not met.
14. Whilst the Council has suggested a condition to restrict the erection of any further outbuildings or ancillary structures within the appeal site under permitted development rights, the Planning Practice Guidance is clear that such restrictions should only be used in exceptional circumstances. I am not persuaded that this is necessary in this instance, as any such development would be read in the context of the residential development to which it relates.

³ Wokingham Borough Development Plan, Adopted Managing Development Delivery, Local Plan, February 2014

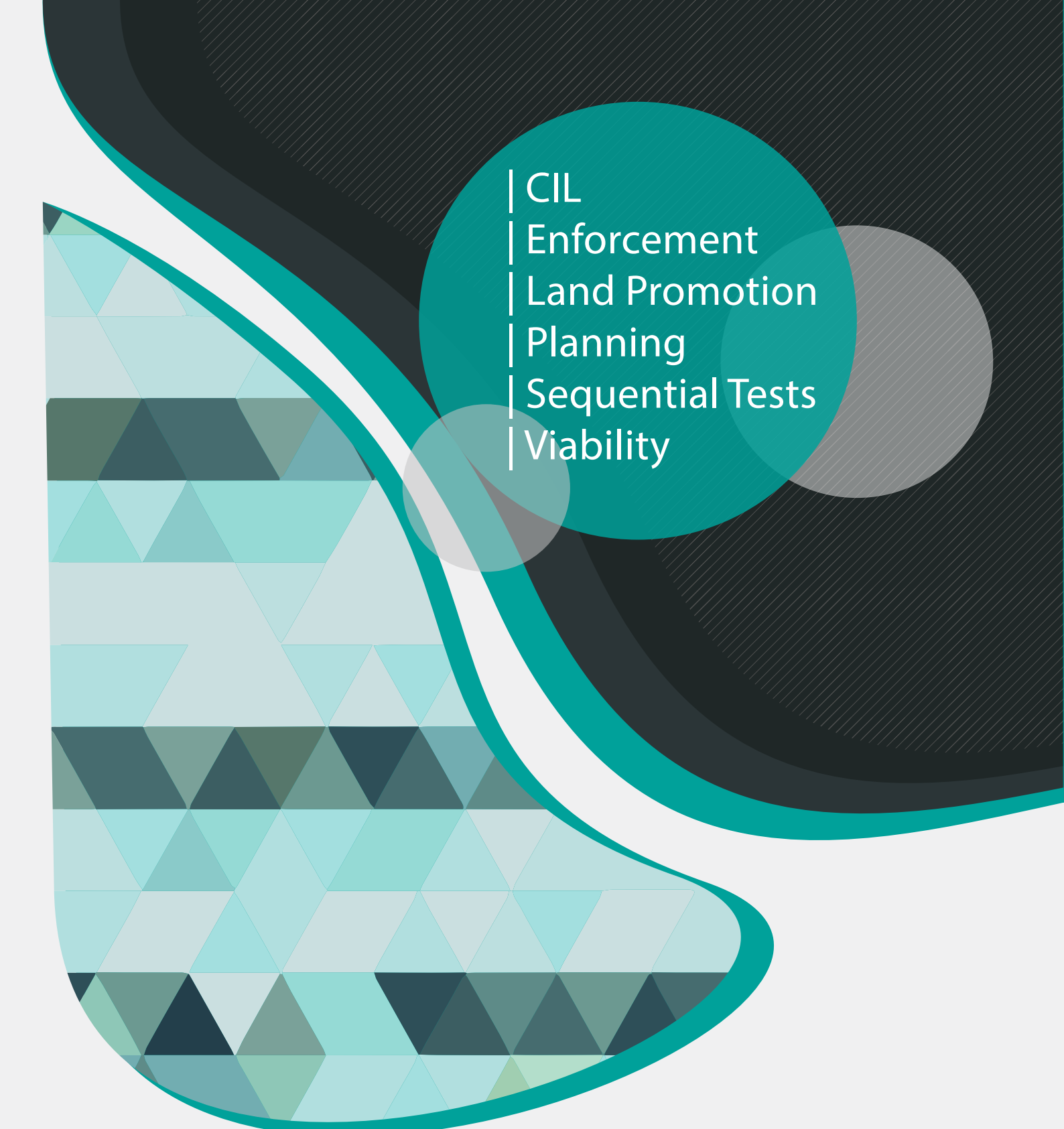
⁴ Wokingham Borough Council, Borough Design Guide, Supplementary Planning Document, June 2012

Conclusion

15. For the reasons given above, and having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be allowed.

James Blackwell

INSPECTOR



| CIL
| Enforcement
| Land Promotion
| Planning
| Sequential Tests
| Viability

Contact

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