

**TOWN & COUNTRY PLANNING ACT
(1990) APPEAL UNDER s.174
BY E SMITH ESQ**

RELATING TO

**FURZE FARM, DUNT AVENUE, HURST,
WOKINGHAM RG10 0SY**

MLP REF: DL/25/188

MAY 2025

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1.0 INTRODUCTION

- 1.1. This appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). It is in respect of the service of an enforcement notice (EN) pertaining to the identified land and building for vehicle and caravans storage and sales business. The site comprises a single building and adjoining land at Furze Farm, Dunt Lane, Wokingham RG10 0SY.

- 1.2. This Statement sets out a description of the site and surrounds, the relevant planning history and policies; and the relating to grounds A, B, F and G. It concludes as follows:

Ground A

- There was agreement between the main parties, at planning application stage, that much of the hardstanding is lawful save for a small corner of additional development to which the appeal relates. It is also agreed that the building used in connection with the appeal is lawful and that there is no adverse impact on residential amenity as a result of the commercial operations. The position in regards to the hardstanding has changed in respect of the requirements of the EN and the approach to enforcement is disproportionate. This is contrary to the approach set out in Framework24.
- It is material that there is a recent planning permission for a sports therapy use in an adjoining building. Reference is made to this decision in so far as it pertains to the concept and planning policies relating to “rural enterprise”.

- It is further agreed that there is no material definition in planning policy or otherwise of that which constitutes a “rural enterprise”. It follows that this is a matter of judgement and one which falls to be considered on its merits by the decision-maker.
- Planning history shows that in 1994 permission was granted for the change of use of two buildings. This included an area of hardstanding. The use of the respective buildings with a limitation on external storage, has been ongoing for a number of years as part and parcel of the rural enterprise.
- One of the buildings (as extended) and the enlarged hardstanding is being used for the storage and preparation of motor vehicles, though not for maintenance purposes. This is the subject of the appeal.
- It is material that the limiting condition on the 1994 permission in so far as it relates to a restriction on external storage, was imposed “in the interests of amenity”. This is a consideration of the ongoing land use and it is shown that it has limited impact on the landscape character.
- The Statement details the principal issues for determination and relate to the concept of a “rural enterprise” which is not defined in planning policy at either national or local levels. It is one to be determined on its merits along with the effect on the landscape and matter of transportation/sustainability.
- On the issue of rural enterprise, the operational requirements and nature of motor sales are detailed. It is shown that they can and do take place in both settlements and rural areas. This operation may properly be considered as low key and its nature is not one which is alien to a rural area. Contemporary car sales (as with other retailing) is based on internet transactions and the forecourt sales concept is not implicated in this case.
- The coming and goings for car purchase are infrequent by reason of their nature and involve journeys which usually involve extensive distances, be they within or outside of settlements.
- The fall-back position is one which is both lawful and probable and must properly form part of the consideration of this application.

- There is one motor home stationed on the land as has been the case for very many years and in agreement with the owner. It is not injurious to visual amenity as is alleged in the EN.

Ground B

- There are as a matter of fact no caravan sales or storage on the land and there is a single motor home which has been stationed on a small part of the land for a considerable length of time. As such this allegation of use, as stated in the EN, has not taken place.
- The motor sales does not take place from all of the land identified by the EN.

Ground F

- The related hardstanding and external lighting which are required to be removed is not injurious to amenity. Much of the hardstanding has, in any event, been in existence as part of the rural enterprises and related permissions for a period in excess of 10 years. The requirement for this to be removed exceeds that which is reasonably necessary to remedy the alleged breach of planning control. At the same time, the external lighting is needed for periods of dusk outside of the Spring and Summer periods.
- The removal of the hardstanding and lighting would jeopardise the economic activity and safe operation of those rural enterprises on the land, which continue in accordance with the granted planning permissions.

Ground G

- The local authority has pursued the operator of the car sales in a manner which is both unreasonable and tantamount to harassment. This is the case since they were required to relocate following an appeal decision. It is extremely difficult to find sites for what is a SME and previous experience shows that a period of 12 months would be required.

- 1.3 On the basis of the foregoing the appeal use is appropriate and provides for an enterprise which can and does take place in rural areas whilst meeting the objectives of national policy. The requirements of the EN detail a caravan storage and sales use which has never taken place.

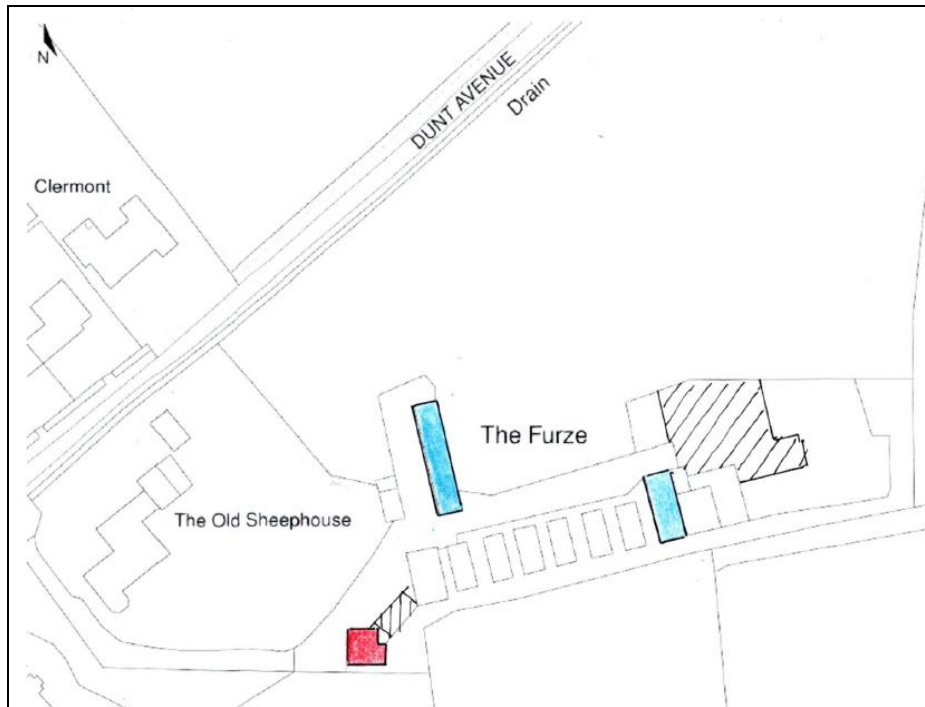
- 1.4. Moreover, the requirements are excessive in terms of the removal of external lighting and an area of hardstanding which has been in place since at least 2013.
- 1.5. The time period set out in the EN neglects the practical needs to find another site and is symptomatic of the lpa's pursuance of this business. The period should be extended to 12 months.
- 1.5 As such the EN should be quashed and the appeal should be allowed.

2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDS

- 2.1 The appeal site comprises a complex of former agricultural buildings some of which have been converted and developed for commercial use pursuant to permissions granted in 1992 and 1994. The buildings have been variously used as such by a number of occupiers since this time.
- 2.2. The access and parking areas have been provided in accordance with the planning permissions. In 2012 and 2013 the hardstanding was extended in the manner shown on the aerial images (appendix 3), so as to satisfy the needs of commercial tenants. The lpa acknowledged this position in January 2025 and accepts the lawfulness on the basis of the time limits expressed in the legislation. This leaves a small area of hardstanding on the edge of the site which is not used for the alleged purpose of motor sales and storage.
- 2.3 The extent of the hardstanding as per the 1992 and 1994 permission is shown on submitted drawing MLP/02 (appendix 4) as is the extension to this area.
- 2.4. We draw attention to the verdant enclosure which was undertaken by the appellant at the behest of the local authority in the early 1990's and has matured since this time.
- 2.5. In its wider context the appeal site is located approximately 1.5 miles from Winnersh railways station and 3.3 miles from Tywford railway station. We refer to these matters in the discussion of the main issues below.

3.0 **RELEVANT PLANNING HISTORY**

- 3.1. Planning permission was granted in 1994 for the change of use of the former poultry buildings to light industrial use. These are shaded in blue on the plan below which is also appendix 4. This is hatched on the plan below.



- 3.2 In 1992 permission was granted for the change of use of an agricultural building to a Class B1 use as a design studio and offices. This is shown in red on the plan above along with the adjacent parking.
- 3.3 In 2025 permission was granted for the use of this building as a sports therapy and massage use within Class E and the decision is attached as appendix 1. We return to this matter below in the discussion of the main issues.

4.0 **RELEVANT PLANNING POLICIES**

- 4.1. The relevant development plan policies are set out in the adopted Local Plan, which comprises the Core Strategy (adopted in January 2010) and the Managing Development Delivery DPD (adopted in February 2014). They are:

Core Strategy

- CP1 - Sustainable development
- CP3 General principles for development
- CP6 Managing travel demand
- CP9 The scale and location of development proposals
- CP11 Proposals outside of development limits
- CP15 Employment development

Managing development delivery

CC01 The presumption in favour of sustainable development

CC02 Development limits

CC03 Green infrastructure, trees and landscape

CC06 Noise

CC07 Parking

TB21 Landscape character

- 4.2. The development plan has been superseded by the many versions of the NPPF and the most recent Framework24 (December 2024). The appointed Inspector will be familiar with:

- The presumption in favour of sustainable development (7-11)
- Effective enforcement and that local authorities should act proportionately (60)
- Supporting a prosperous rural economy (88)
- Rural locations and public transport (89)
- The hierarchy of landscape designations (188)

- 4.3. The following section applies these policies and other material considerations to the determination of the development proposal.

5.0 THE MAIN ISSUES

- 5.1. The appellant's case refers to Grounds A, B, F and G.

Ground A

- 5.2 In respect of ground A the appellant reiterates the basis of the current s.78 appeal and refers to the following:

1. Is the location and use acceptable as a rural enterprise?
2. Is the impact on the landscape and countryside acceptable?

The principle of development - the rural enterprise

- 5.2. The starting point for considering the appeal on Ground A is whether the location is acceptable for this commercial land use and stemming from this the matter of sustainability. In consideration of this we refer to the following:

- What is a rural enterprise?
- The contemporary nature of car sales
- The rural location of car sales outlets
- The nature of destination purchase and access to public transport (NPPF 89)

- 5.3. National or development plan policy whilst positively encouraging the principle of "rural enterprise" as part of a prosperous rural economy, does not define that which constitutes the same. This is a matter for the decision maker and in

granting permission in March 2025 for the adjacent building (shaded red in the image above on page 5 and at appendix 1) the Officer commented:

For the proposed change of use to be considered compliant with exception 1 of policy CP11, the current use of the building would have to be associated with, and necessary to, a rural enterprise. There is no definition of that which constitutes a rural enterprise, however, it is clear that the business represents a commercial enterprise, with no intrinsic link to the countryside. It is therefore not considered to contribute to a diverse and sustainable rural enterprise within the borough, or contribute and/or promote recreation in, and enjoyment of, the countryside.

- 5.4. This is a perfectly proper approach to the determination and reflects a position where the ongoing use was considered to be contrary to development plan policy CP11 and for the reasons set out below an exception/departure to the relevant policy was determined to be acceptable.

Notwithstanding the above, the variation of condition 3 would not lead to any encroachment or expansion of development away from existing development, as it would operate within an existing building which is appropriate for conversion. Consequently, the proposal would comply with exceptions 2 & 3 of the Core Strategy.

The wording of Policy CP11 requires compliance with all three of the requirements listed above for development to be supported in principle. As the development fails to comply with the first requirement of CP11, the development is unacceptable in principle. Notwithstanding, this must be weighed against the benefits of the scheme and adjudged against the level of harm, if applicable. A summary of this matter is provided in the conclusion of this report.

- 5.5. This tension in the application of Policy CP11 is one which is frequently seen in this and other lpa's where the concept of sustainability is wrestled with the promotion of rural enterprise. In the case of the therapy use, patrons and practitioners visit the site by car and undertake treatment on a regular basis. For this to be transport sustainable the use would be better suited to a settlement location where other activities could take place (work, shopping, leisure and the like) in the same visit. Plainly this is not the case and the location, although not well served by public transport, there is no appraisal of this matter in the Officer's report.

- 5.6. In the case of the subject appeal, the car sales use is one which the lpa considered is not suited to a rural location and the basis for this approach is:

1. That it is in an unsustainable location.
2. There is a perception of a harmful urbanising effect.

- 5.7. In examining this matter, it is extremely important to appreciate the nature of the operation and it is something which Officers of the Council, with respect, have not been able to understand.

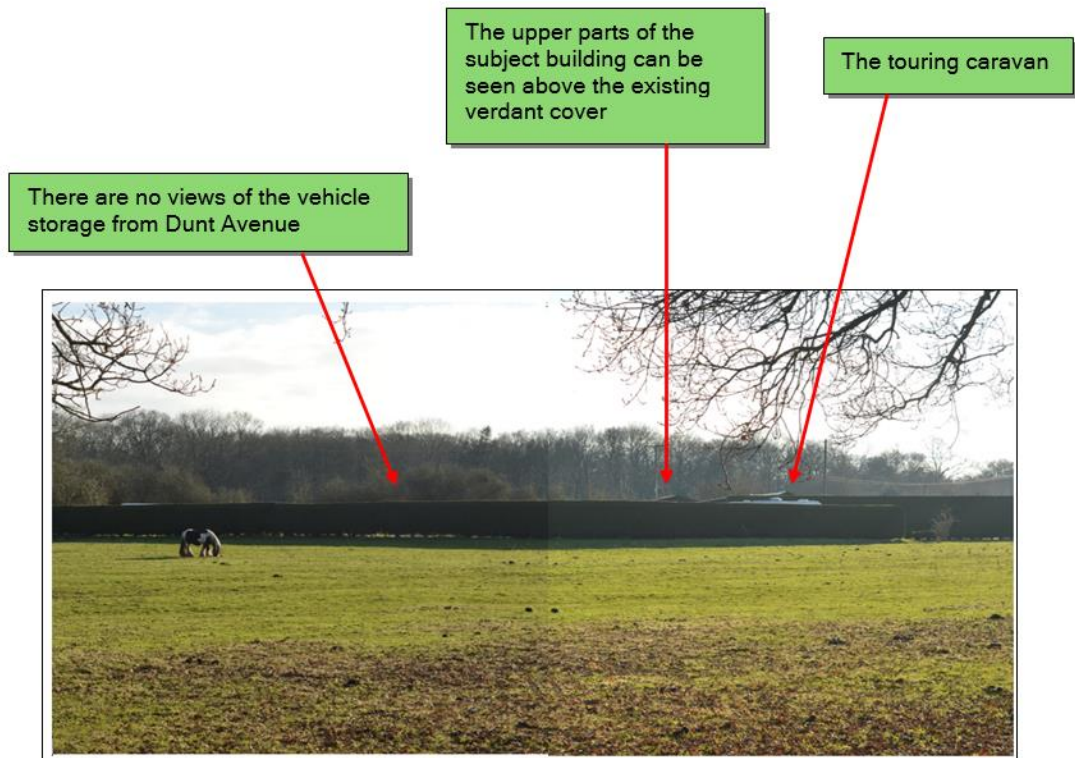
- 5.8. The use is wholly operational by internet based sales and there is no forecourt. Thus a customer who wishes to source a particular vehicle will undertake an internet search both generally and specifically to this operator. This will take place via the press such as Auto Trader where particulars of make, model, milage and price can be entered. Customers who find a suitable vehicle will reserve the car, pending a test drive and viewing.
- 5.9. In light of this process and whilst there remain forecourts in both urban and rural areas, the factor of vehicle purchase is not determined by a visit to a showroom in a settlement. This said, those wishing to buy, for example, a Citroen might decide to visit Wilmoths some 3 miles from the appeal site to examine cars which are available. This is a rural location outside of any settlement and is one of many such car sales dealers.
- 5.10. In the case of the appeal occupier (Drews Motor Company), there is no dealership franchise and the infrequent nature of the specialist purchase is such that this can take place within or outside of a settlement. We say this because those who have undertaken an internet search will have identified a suitable car. Research shows that such purchasers will travel an average of 50 miles to inspect and purchase the car and this is not determinative of location in a particular settlement, but rather the specific purchase.
- 5.11. Indeed this is the experience of Drews Motor Company who have recent customers who have travelled from Southend on Sea, Oxford, Ferndown, Andover, Chiddingfold, Warfield, Milton Keynes, Crawley. They may then make the purchase on their initial visit having undertaken internet research and travelled to the site. Additionally, Drews will be prepared to part-exchange around 1 in 5 vehicles determinative on condition and sales performance at any particular point in time.
- 5.12. The fact is that the destination purchase of vehicles is one which is not localised and given the distances involved, a rural location is no less sustainable than an urban location. If a customers travels more than 50 miles for a one off and infrequent purchase they are not reliant on a location within a town or identified settlement in the Local Plan.
- 5.13. Paragraph 89 of Framework24 is to the effect that decision-makers must recognise that sites meeting local business needs may not be well served by public transport. In such circumstances the development should be sensitive

to its surrounds and does not have an unacceptable impact on local roads. Opportunities of access by other means should be encouraged.

- 5.14. On a practical level Drews experience is that customers may make use of train stations and as is detailed above they are at Twyford with directly links to London Paddington and Reading; and at Winnersh with links to Reading and the west country. When the vehicle is purchased and there is no opportunity/request for part exchange, customers will not drive to the appeal site and will instead be offered a collection from the station or use a taxi service. As is detailed at 2.5 above the journey distances and time are limited to these stations.
- 5.15. This very same process would take place to an urban location for the infrequent and specialist purchase of a car. Thus the effect on sustainable transport is identical whether the activity takes place in an urban area or, as is the case here, close to settlements. The effect is identical unless the car sales take place immediately next to a railway station or a frequent service bus stop.
- 5.16. In sum, the location of car dealerships is one which does take place in the countryside and there are numerous examples of this occurrence. The contemporary nature of car sales unless it is for a specific make and franchise is internet led and courtyard viewing is not the principal means of purchase. Buying a car is infrequent and specialist and does not rely on proximity to public transport. Thus whilst the appeal site is actually proximate to railway stations (1.5 and 3.3 miles) and the operator offers lifts, the rural location is no less sustainable than an urban site.
- 5.17. The lpa granted permission in March 2025 for an adjacent use in the stated knowledge that it did not meet the terms of a rural enterprise and related development plan policy CP11. The case for departure acknowledges this position and the tension between policies promoting rural enterprise as set against sustainability in regards to location. These same criteria and approach can be properly applied to the appeal decision and it is reasonable for the appellants to expect consistency in approach.

The effect on character and design

- 5.18. If the position in regards to CP11 is accepted and plainly the appellant acknowledges this, then the additional CP11 and TB21 policies must be afforded weight in so far as they relate to the perception of urbanisation and effect on the landscape character. The issues are:
- Excessive encroachment or expansion away from the original buildings (CP11-(2))
 - Containment in suitable buildings (CP11-(3))
- 5.19. TB21 requires that development should not materially harm the landscape character.
- 5.20. In regards to the land use which is the subject of this appeal, there is an section in the Officer report pertaining to the existing s.78 appeal which acknowledges that the land use is not subject to wider views. It is stated that, of itself, this is insufficient grounds to allow the use and related storage. It is further stated that the 1994 permission specifically restricted outdoor storage in light of the rural location.
- 5.21. The approach of the lpa is recognised, although the fact is that the car preparation and office uses are confined to existing buildings and this is compliant, as a matter of principle, with CP11(3). The use of the land for the storage of vehicles and the single motor home, takes place for the most part on land which is allocated for parking as per the 1994 permission - see appendix 4 edged blue. Thus the parking of vehicles on this land, which is unfettered by height or type, would take place on the identified areas.
- 5.22. This area is contained by landscape which as a matter of fact was sought and provided by the appellant in the mid 1990's. Since then this has been managed and has matured in the manner which the appointed Inspector can observe. It is also shown by the photograph below and which the Inspector can observe on the site visit.
- 5.23. The appellant's case is not that the degree of containment is sufficient to allow any development and this is not an approach endorsed by the Framework. Rather it is a matter to be weighed in the planning balance and it is a strained argument to say that the degree of dispersion reflects encroachment - which it does not - or that it is "away from the original buildings" to an extent that it is harmful and contrary to the provisions of CP11.



5.24. On this basis and having regards to the particular circumstances of this case, there is no prima face conflict with CP11(2) and (3) or with TB21. In short and when set against the lawful position per the 1994 permission, there is no material harm or “urbanising effect”. Indeed the effect in visual terms is entirely similar to that which would apply to the lawful position of the 1994 permission and the lpa has no regard to this.

5.25. It is worth adding that the lpa take issue, in a separate context, with the parking of a motor home of which the upper parts can be seen above the hedge. If this is taken as a baseline then the parking of LGV’s on the lawful hardstanding would plainly have more visual effect than the ongoing car parking related to the appeal.

Ground B

5.26. The matters in relation to ground B is that there are no “caravans” stored on the identified land and, furthermore, there is no related sales business. These matters have not taken place. It follows that the EN is defective in terms of the allegation which has not, as a matter of fact, taken place.

- 5.27. In addition, the car storage and related sales does not take place on all of the identified land. The EN is imprecise and incorrect in this regard and is not capable of amendment without prejudice to the appellants. In the context of determining the planning application (and now s.78 appeal) the lpa should reasonably have noted the correct position.

Ground F

- 5.28. In respect of Ground F it is considered that the requirements of the Notice are excessive and, in the terms of Framework paragraph 60 represent a disproportionate approach to the allegation and requirements to rectify the perceived harm. This also applies to the removal of the single motor home and this is symptomatic of the excessive approach taken by this local authority.
- 5.29. Specifically, the removal of the single motor home stored on the land is not injurious to amenity and is one which is regularly found on farms or in rural areas where caravans and motor homes are stored pending occasional and seasonal use. Indeed this lpa granted permission for 20 motor homes and caravans at Islandstone Lane in March 2023.
- 5.30. This is in an identical rural location and under the same planning policy designations and demonstrates the inconsistency in approach applied by this local authority in the recent past. The decision and relative locations are attached at appendix 2.
- 5.31. In respect of the hardstanding and having regard to the operational requirements of the existing rural enterprises the aerial images at appendix 3 show that a greater part of this has been in existence for a period in excess of 10 years. Whilst not part of the allegation and, as such, is not challenged under Ground D, it is clear that the extent of the hardstanding would be lawful under application (s.192) to the local authority. This application has not been made on the basis that this was accepted at planning application stage, where the Enforcement Team Leader dated in an emails dated 17th January 2025 stated:
- “The hardstanding formed in 2013 was agreed as lawful.”*
- 5.32. Plainly this position is at odds with the requirements of the EN which are both disproportionate and excessive .

Ground G

- 5.33. As a consequence of a planning appeal decision the operator was required to relocate from their base adjoining land to their home. It took over 18 months of commercial and 'local knowledge' searches to find the current site and the lpa simply has no concept of the difficulties in finding suitable accommodation.
- 5.34. We are clear on the basis of experience that a period of 6 months is insufficient and would threaten the enterprise. Moreover, it is clear from experience that the Enforcement Team Leader has and will pursue this operator to any alternative sites which are found and are alleged to be unlawful.
- 5.35. In light of this experience a period of 12 months should be inserted in the amended EN should the other grounds fail.

6.0. PLANNING CONDITIONS

- 6.1. In terms of planning conditions pertaining to Ground A, we have regard to the tests in the Framework and Practice Guidance and suggest the following may, subject to the Inspectors consideration, be attached to a determination:

- The retention of landscaping and boundary treatments

- 6.2. There is a finite limit on the area available for car sales and the numbers vary depending on sales success and the replenishment of stock. The current operator has a requirement for no more than 20 vehicles and a limiting condition to this effect satisfies the tests of reasonableness and enforceability. Subject to the determination, we suggest the following or a similarly worded condition.

The site shall contain no more than 20 vehicles at any one time for the purposes of internet based car sales.

7.0 THE PLANNING BALANCE & GROUNDS OF APPEAL

- 7.1. Having regard to the foregoing, the following points are made by way of conclusion:

Ground A

- There was agreement between the main parties, at planning application stage, that the hardstanding is lawful save for a small corner of additional development to which this appeal relates. It is

also agreed that the building used in connection with the appeal is lawful and that there is no adverse impact on residential amenity as a result of the commercial operations. The position in regards to the hardstanding has changed in relation to the requirements of the EN and this is both unexplained and regrettable.

- There is a recent planning permission for a sports therapy use in an adjoining building. Reference is made to this decision in so far as it pertains to the concept and planning policies relating to “rural enterprise”. whilst determined on its merits it is likely to involve more journeys to undertake the related activity than would the car use which is the subject of this appeal.
- Planning history shows that in 1994 permission was granted for the change of use of two buildings. This included an area of hardstanding. The use of the respective buildings with a limitation on external storage, has been ongoing for a number of years as part and parcel of the rural enterprise.
- One of the buildings (as extended) and part of the hardstanding is being used for the storage and preparation of motor vehicles. This is the subject of the appeal notwithstanding the discrepancy in area.
- It is material that the limiting condition on the 1994 permission in so far as it relates to a restriction on external storage, was imposed “in the interests of amenity”. This is a consideration of the ongoing land use and it is shown that it has limited impact on the landscape character.
- The Statement details the principal issues for determination and relate to the concept of a “rural enterprise” which is not defined in planning policy at either national or local levels. It is one to be determined on its merits along with the effect on the landscape and matter of transportation/sustainability.
- On this issue, the operational requirements and nature of motor sales are detailed. It is shown that they can and do take place in both settlements and rural areas. This operation may properly be considered as low key and its nature is not one which is alien to a rural area.

- Contemporary car sales (as with other retailing) is based on internet transactions and the forecourt sales concept is not implicated in this case.
- The coming and goings for car purchase are infrequent by reason of their nature and involve journeys which usually involve extensive distances, be they within or outside of settlements.
- The fall-back position is one which is both lawful and probable and must properly form part of the consideration of this application.
- There is one motor home stationed on the land as has been the case for very many years and in agreement with the owner. It is not injurious to visual amenity as is alleged in the EN.

Ground B

- There are as a matter of fact no caravan sales or storage on the land and there is a single motor home which has been stationed on a small part of the land for a considerable length of time. As such this allegation of use has not taken place.
- The identified land in the EN is not used in its entirety for the alleged use. The Notice is not capable for amendment without prejudice and the lpa should have known the precise area by reference to their visits connected with the planning application.

Ground F

- The related hardstanding and external lighting which are required to be removed is not injurious to amenity. Much of the hardstanding has, in any event, been in existence as part of the rural enterprises for a period in excess of 10 years. The requirement for this to be removed exceeds that which is reasonably necessary to remedy the alleged breach of planning control. At the same time, the external lighting is needed for periods of dusk outside of the Spring and Summer periods.
- The removal of the hardstanding and lighting would jeopardise the economic activity and safe operation of those rural enterprises which continue in accordance with the granted planning permissions.

Ground G

- The local authority has pursued the operator of the car sales in a manner which is both unreasonable and tantamount to harassment. This is the case since they were required to relocate following an appeal decision. It is extremely difficult to find sites for what is a SME and previous experience shows that a period of 12 months would be required.

7.3 On the basis of the foregoing the appeal use is appropriate and provides for an enterprise which can and does take place in rural areas whilst meeting the objectives of national policy. The requirements of the EN detail a caravan storage and sales use which has never taken place and are excessive in terms of the requirement to remove lighting and an area of hardstanding which has been in place since at least 2013. The time period set out in the EN neglects the practical needs to find another site and is symptomatic of the lpa's pursuance of this business. The period should be extended to 12 months.

7.4 As such the EN should be quashed and the appeal should be allowed.