



Appeal Decisions

Hearing held on 12 & 13 April 2023

Site visit made on 13 April 2023

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal A Ref: APP/X0360/C/22/3294935

The Vale, Forest Road, Binfield RG40 5QY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr David Drew against an enforcement notice issued by Wokingham Borough Council.
 - The notice was issued on 7 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to a mixed use of residential; and a vehicle storage, sales and maintenance business.
 - The requirements of the notice are to:
 - i) Cease the unauthorised mixed use of "the Land" for residential purposes and vehicle storage, sales and maintenance.
 - ii) Remove all vehicles and equipment and residential paraphernalia associated with the unauthorised use from "the Land".
 - iii) Demolish the building shown in the approximate position outlined in blue on the attached plan.
 - iv) Excavate the foundation of the building referred to in iii above.
 - v) Break up the hardstanding shown shaded in pink on the attached plan and return the land to its former condition prior to the breach by re-seeding using grass seed at 50 grammes per square metre.
 - vi) Remove the fence, posts and gate shown by the green line from between points 'A' and 'B' on the attached plan.
 - vii) Break up the hardstanding shaded in yellow and return the land its former condition prior to the breach by re-seeding using grass seed at 50 grammes per square metre.
 - viii) Permanently remove all resultant materials associated with steps (iii), (iv), (v), (vi) and (vii) from "the Land".
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/X0360/C/22/3299591

The Vale, Forest Road, Binfield RG40 5QY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr David Drew against an enforcement notice issued by Wokingham Borough Council.
- The notice was issued on 3 May 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of two dwellings.
- The requirements of the notice are to:
 - i) Demolish dwelling 1 shown in the approximate position outlined in pink on the attached plan including breaking up all foundations

- ii) Demolish dwelling 2 shown in the approximate position outlined in blue on the attached plan and associated domestic store including breaking up all foundations.
 - iii) Disconnect and excavate all services to the unauthorised dwellings.
 - iv) Excavate the hardstanding in the approximate location coloured orange on the attached plan.
 - v) Remove the resultant materials from carrying out steps (i to iv) from 'the Land'.
 - vi) Remove the closeboarded fence, posts and gate from between points 'A', 'B' and 'C' also shown by the green line, annotated on the attached plan.
 - vii) Cease the use of "the Land" for residential purposes and remove all vehicles and residential paraphernalia associated with the residential use from "the Land".
 - viii) Return "the Land" to its former condition prior to the breach by re-seeding using grass seed at 50 grammes per square metre.
 - The period for compliance with the requirements is: Twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary Decision: Appeal A

1. The appeal is dismissed and the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.

Summary Decision: Appeal B

2. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

Appeal A: Grounds (d) & (e)

3. Although the appellant initially appealed under grounds (d) and (e), it was confirmed in writing prior to the hearing that the appellant does not wish to pursue these grounds of appeal. They shall therefore not be considered further.

Appeal B: Ground (c)

4. There was some discussion during the hearing as to whether the appeal building, Dwelling 2, was constructed under permitted development rights, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(the GPDO). However, during the hearing the appellant conceded that Dwelling 2 was used as a dwelling house in breach of planning control and as such, they do not wish to pursue this ground of appeal.

The Planning Unit

5. Appeals A and B both concern land off Forest Road, to the north of the dwelling known as Cherry Trees. The site is owned by the appellant, with the northern part occupied by a garage building, parking areas and lawned areas, and the southern part occupied by Dwelling 1 (referred to hereon in as 'The Vale') and Dwelling 2. The plan attached to the enforcement notice for Appeal A, covers the northern part and the plan attached to the enforcement notice for Appeal B covers the southern part.
6. The enforcement notice for Appeal A, which alleges a material change of use, only covers part of the site owned by the appellant. Generally, when

considering a material change of use, the materiality of change should be assessed in terms of the whole site concerned. I therefore raised matters concerning the planning unit with the parties during the hearing.

7. It was established in *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207 that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes.
8. During the hearing, the appellant confirmed they consider the appeal site and the land to the south, which incorporates The Vale and the building known as 'Dwelling 2' comprises a single planning unit. The Council, conversely, considers there to be two planning units: one comprising the mixed use of residential, vehicle storage, sales and maintenance business; and the other comprising the residential property The Vale) and 'Dwelling 2'.
9. The appellant points out that there is a single unit of ownership and occupation across both sites by the appellant. The appellant owns and resides in The Vale, uses Dwelling 2 as part and parcel of his occupation of The Vale and owns and operates the car sales business, employing two individuals.
10. The Council has provided me with photographs of the site(s) prior to the service of the enforcement notices. Although removed by the time of my site visit, close boarded fencing had been erected between the area of land used for car sales and the residential property known as The Vale.
11. From the photographs provided, it appears that the fencing did not extend the full width of the plot and did therefore not prevent occupants of The Vale accessing the car sales area. Given the nature and quantity of items stored within the building, I consider it highly likely that occupants of The Vale would wish to retrieve items, as required, from the building.
12. Although there is some delineation between the two areas, they are not physically distinct, nor are they occupied for different and unrelated purposes. The occupant of The Vale may use the northern section of the site predominantly for car sales, however, they also use it for residential purposes and whilst such usage could be considered storage if used in isolation, its use, in my view, is clearly as part of the residential use of The Vale.
13. I acknowledge that car sales and residential uses are different in kind and that car sales are not commonly found in residential curtilage, however, there is no suggestion that the car sales business is ancillary to the residential use, rather, by the Council's own suggestion, there is a mixed use which has been formed.
14. As a matter of fact and degree, therefore, I consider the planning unit comprises the entire site, the area occupied by the car sales, as identified in the plan attached to the enforcement notice for Appeal A, and the area occupied by Dwellings 1 and 2, as identified in the plan attached to the enforcement notice for Appeal B.
15. It was discussed at length during the hearing whether it is necessary to correct the plans attached to the enforcement notices and a number of iterations of such plans were provided. I have considered whether it is necessary to correct the notices to include a plan which shows the entire planning unit. However, an enforcement notice does not have to be directed at the whole planning unit or

indeed to identify it. As such, I consider it is unnecessary to amend the plan attached to the enforcement notice.

Appeal A: Gate/Gateposts

16. The Council advise that there are a gate and gateposts within the site which have not been identified in the steps as requiring removal and requests that the requirements are amended to include the removal of the gate. Although the Council has raised this under ground (f), I consider it should be considered under 'Preliminary Matters' so that the implications of any correction can be considered fully through the various grounds of appeal. The appellant confirmed during the hearing that they do not object to the inclusion of the gate within the requirements.
17. It is clear from the requirements of the notice that the Council is seeking to ensure that the land is restored to its condition prior to the breach. The notice includes the requirement to remove all residential paraphernalia from the land which, in this case, could reasonably be considered to include the gate and gateposts. As such, I consider it is unnecessary to correct the notice.

Appeal A: Ground (b)

18. An appeal under ground (b) is made on the basis that the matters alleged in the notice as constituting a breach of planning control have not occurred. The main thrust of the appellant's case under ground (b) is that there is no residential use of this part of the site and that maintenance has not taken place.
19. However, as set out above, I have found the appeal site comprises a mixed use. The residential use of the site, as part of that mixed use, has occurred as a matter of fact and so the appeal under ground (b) must fail in that respect.
20. The appellant states that there is no commercial works to cars, customers do not present cars to be serviced or maintained, what takes place is limited to the preparation of cars for sale. The Oxford Learners Dictionary defines maintenance as the act of keeping something in good condition by checking or repairing it regularly.
21. The Council has provided me with photographs of cars in the garage, which show a hydraulic lift present in the building. I was also able to see the lift during my visit. I also saw that there are various tools and equipment within the building which, in my experience, would be used in the course of maintaining a car, such as an angle grinder, screwdrivers, bolts, paints and oils.
22. While I don't doubt that the appellant does not bring cars in for the purposes of servicing and maintaining, given the facilities and equipment present within the building, I consider it highly likely that some maintenance takes place prior to presenting cars for sale. However, such maintenance is, in my view, highly likely to be ancillary to the sale of cars and so does not need to be identified in the allegation. I shall delete reference to maintenance in the allegation. The appeal under ground (b) succeeds to that extent.

Appeals A & B: Ground (a)

23. The appeals under ground (a) are made on the basis that planning permission ought to be granted for the matters stated in the notices. Since there is a commonality between the issues of the two appeals, I shall deal with them together.

Main Issues

24. The main issues of the appeal schemes are:

- Whether the appeal sites are a suitable location for the appeal schemes, having regard to their accessibility; and
- The effect of the appeal schemes on the character and appearance of the countryside; and
- With respect to Appeal A only, the effect of the appeal scheme on the living conditions of neighbouring occupants; and
- With respect to Appeal B only, whether Dwelling 2 provides satisfactory living conditions for existing and future occupants.

Reasons

Suitability of location

25. The appeal site is located off a section of Forest Road which is not served by footpaths or street lighting, outside any defined settlement for the purposes of policy CC02 of the Wokingham Borough Adopted Managing Development Delivery Local Plan Document (2014) (MDD). As a consequence, occupants of the dwelling and visitors to the car sales business are likely to rely on private vehicle.
26. The National Planning Policy Framework (2021)(the Framework) seeks to ensure that appropriate opportunities to promote sustainable transport modes can be taken up. However, the location of the appeal sites limit opportunities to minimise the need to travel by private car, contrary to policy CP1 of the Wokingham Borough Core Strategy Development Plan Document (2010)(the CS), which supports proposals which demonstrate how they support opportunities for reducing the need to travel, particularly by private car and policy CP3 of the CS, which seeks to ensure that proposals are, amongst other things, accessible and the advice contained within the Wokingham Borough Design Guide (2012)(WBDG), which seeks to encourage walking, cycling and public transport use.
27. Policy CP11 of the CS sets out that in order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside development limits will not normally be permitted. Exceptions include where it contributes to diverse and sustainable rural enterprises within the Borough, or in the case of other countryside based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside. Replacement dwellings and affordable housing are also identified as exceptions.
28. Vehicle sales and storage premises are not typically considered rural enterprises and in my experience are more usually located in urban areas. The Vale and Dwelling 2 are not replacement dwellings, nor would they meet the definition of affordable housing. Neither appeal scheme therefore meets the requirements of policy CP11, a matter which is not disputed by the appellant.

29. Planning permission F/2003/8509 was granted on 26 March 2003 for the change of use of residential garage to use for storage of cars for sale. The permission was a personal one and the number of cars that could be stored at the site at any one time was restricted to 5 and any storage was limited to within a building, which has now been demolished.
30. I have been provided with the officer report for the application F/2003/8509, which advises that policy WRE2 in principle allows the re-use and adaptation of rural buildings subject to criteria. The officer found compliance with the various criterion set out in the policy, subject to the inclusion of conditions, and recommended approval. However, the policy context has since changed and policy WRE2 is no longer of relevance.
31. Moreover, the appeal scheme is materially different to the approved scheme as it would not involve the re-use or adaptation of an existing building and is in a different location. There is no suggestion that the permission remains extant and given that the building within which the cars were to be stored has been demolished, it would no longer be possible to comply with the conditions attached to the permission. It does not, therefore, weigh in support of the appeal scheme.
32. The appellant uses the internet as his principal sales platform, which limits visitors to the site. Nevertheless, individuals wishing to inspect or purchase a vehicle would still need to visit the appeal site. Furthermore, the appellant's employees are likely to need to access the appeal site by private vehicle. The appellant suggests limiting the duration to 5 years, or some shorter duration that I may deem appropriate.
33. The Planning Practice Guidance (PPG) advises on the circumstances where it may be appropriate to impose a temporary condition, where a trial run is needed to assess the effect of the development on an area; where it is expected that the planning circumstances will have changed in a particular way by the end of the temporary period; and to enable the temporary use of vacant land or buildings prior to longer-term proposals coming forward.
34. The mixed use has been operational for some time, and I see no reason why a further trial run would be necessary in this case. The planning circumstances of the appeal site are not expected to change and whilst the personal circumstances of the appellant are expected to change, this is not in my view sufficient justification to impose a temporary condition.
35. As such, I do not consider it would be reasonable to impose such conditions. Furthermore, limiting its duration would in no way improve its accessibility. Consequently, I consider the car sales element is contrary to policies CP1, CP3 and CP11 of the CS, policy CC02 of the MDD, the Framework and the advice contained within the WBDG, the requirements of which are set out above.
36. While the car sales business generates employment, I see no reason why it would not be possible to locate such a business within one of the defined settlements identified in policy CC02, particularly since the appellant utilises the internet as his principal sales platform. Such matters do not, therefore, outweigh the harm arising from the location of the business outside any defined settlement or from the reliance on private vehicle.

37. With respect to the residential use of the sites, planning permission was granted at the site, on appeal¹, on 29 July 2015 for the demolition of commercial outbuildings, formation of additional access and erection of one detached dwellinghouse. An application for reserved matters, reference 161905, was approved by the Council on 8 May 2017. An application, reference 212270, to vary condition 2 to alter certain approved details, including fenestration, was approved on 19 August 2021.
38. The approved design is broadly in line with what has been built on the ground, however, an overlay of the approved building and the building as constructed shows that The Vale has been constructed further to the north and further to the east. The difference in position is so significant it cannot be said to comply with the details as approved. Given the overlap between the approved dwelling and the dwelling as built, it would not be possible to build out both buildings within the site.
39. As such, in my view, the planning permission is no longer extant and there is no fallback. Nevertheless, the circumstances regarding surrounding development have not significantly changed since the Inspector's decision in respect of APP/X0360/W/15/3005714 and whilst the outbuildings have been removed, the appellant did so in the belief that he was implementing the approved scheme.
40. The demolition of the dwellinghouse would result in the appellant losing his home. While it may be possible for the appellant to secure accommodation off-site, the dwelling has been designed and constructed to meet the appellant's family's long-term health needs and enables him to provide care for his family. These are matters to which I afford significant weight.
41. I am mindful that the enforcement procedure is intended to be remedial rather than punitive. In my view, the circumstances surrounding the construction of the building and the appellant's personal circumstances outweigh the modest harm arising from the location of the dwelling outside any defined settlement and the likely reliance of its occupants on private vehicle.
42. Occupants of Dwelling 2 would also be reliant on private car and would generate vehicular movements. However, the Inspector only granted permission for a single dwelling and the circumstances which weigh in support of The Vale do not, in my view, justify the retention of a second separate dwelling.
43. Significantly, the appellant does not wish to retain Dwelling 2 as a separate dwelling but wishes to use it as an ancillary building to the use of The Vale. Restricting the use of the building in this way would address the conflict with policies CP1, CP3 and CP11 of the CS and policy CC02 of the MDD.

Character and appearance

44. The appeal sites are located off Forest Road, in a generally rural area and are accessed via a private drive between Cherry Trees and Harp Farm. The site is bound by mature vegetation and comprises a substantial brick built dwelling, 'The Vale', a single storey dwelling 'Dwelling 2' and a single storey building, which I shall refer to as 'the garage' with a gravelled parking area, upon which

¹ APP/X0360/W/15/3005714

around 30 cars were parked at the time of my site visit. There is also a tractor store, which is not attacked by either notice.

45. Harp Farm, to the west of the appeal site, comprises a series of substantial buildings which are clad in green metal sheeting. While the buildings are no longer in agricultural use, from the evidence before me, it seems likely they were erected on this basis and subsequently changed use, either under the provisions of the Town and Country Planning (General Permitted Development) Order or as a result of planning permission.
46. To the east of the appeal site is a site known as Rehoboth, which was granted planning permission in 2012 for the erection of a building, manège and associated works. There is a condition which requires the approved works to be removed where the use of the building for community purposes ceases, which was included in recognition of the special justification for the building for community use and in the interests of maintaining the landscape quality and rural character of the area, amongst other things.
47. The appeal site is located within an area which is identified as Ashridge Farmed Clay Lowland, which is characterised by a rural farmed landscape with open arable fields, pasture, mature hedgerow trees with scattered farmsteads and manor houses. Policy TB21 of the MDD seeks proposals that retain or enhance the character and features that contribute to the landscape. The Council advise that demand for residential and commercial development resulting in linear development along straight roads is a key issue affecting this landscape character area.
48. Policy CP11 of the Wokingham Borough Core Strategy Development Plan Document (2010)(the CS) sets out that in order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside development limits will not normally be permitted. Policy CP1 of the CS also seeks development which maintain or enhances the high quality of the environment, and policy CP3 supports development which is of an appropriate scale of activity, mass, layout, built form, height and character to the area. The Framework seeks decisions which recognise the intrinsic character and beauty of the countryside
49. Although there are no significant views of the appeal sites from Forest Road or the A321, the appeal buildings can be seen above hedgerows from the road linking Forest Road to Warren Farm. Furthermore, as found by my colleague in respect of appeal APP/X0360/W/16/3159457, which concerned a motor vehicle repairs unit and associated building at Unit 2 Warren Farm, visibility from public vantage points is not the only consideration when assessing the effect of a scheme on the character and appearance of an area.
50. The appeal site comprises a substantial area which is utilised for the parking of vehicles. I acknowledge that, given the presence of intervening vegetation there are limited public views of the parking area, which limits the harm arising to the appearance of the area. While there is likely to be limited parking in association with the residential use of the site, I saw that around 30 vehicles were parked in association with the sale of cars. The parking of such a significant number of vehicles is not characteristic of a rural area.
51. While I note there is commercial development either side of the appeal site, the circumstances surrounding the permissions at Harp Farm and Rehoboth are

very different. Furthermore, the garage building does not relate well to development either side of it. Although the buildings at Harp Farm are substantial, they do not extend as far north as the garage building.

52. Despite its relatively modest height, the garage building projects well above the surrounding hedgerows and is clearly visible from a number of vantage points along the road leading to Warren Farm. When viewed from these vantage points, the building appears to project further into open countryside. This is harmful to the character and appearance of the area, contrary to policies CP1, CP3 and CP11 of the CS, policy TB21 of the MDD and the Framework, the requirements of which are set out above.
53. Dwelling 2, by contrast, due its limited height and wooden cladding, does not appear a dominant feature and relates well to other buildings along this part of Forest Road. The Vale, appears more prominent compared with Dwelling 2, due to its size and brick construction. However, views from the public domain are at distance and seen against the backdrop of the adjacent buildings at Harp Farm and Cherry Trees.
54. As such, the building does not appear to encroach into open countryside beyond the existing buildings, which helps preserve the character and appearance of the area. Furthermore, the design of the building is one which the Council has previously deemed to be acceptable in this general location. It would be possible to secure additional landscaping by condition, which would ensure the limits of the residential use is clearly defined and prevent encroachment, in accordance with policy CC03 of the MDD, which seeks high quality landscaping.
55. Thus, for the reasons given above, I find that the dwellings do not harm the character and appearance of the area and there is no conflict with policies CP1, CP3 or CP11 of the CS or policies CC03 and TB21 of the MDD in this regard.

Living conditions: Appeal A

56. Access to the appeal site is gained via the side of Cherry Trees, a residential dwelling. Policies CP1(8) of the CS and CC06 of the MDD both seek to protect sensitive receptors from noise impacts and policy CP3(a) of the CS seeks to ensure development is not detrimental to the amenity of adjoining land users.
57. The occupants of Cherry Trees and Harp Farm House have written in support of the appeal. The occupant of Cherry Trees advises that no noise nuisance occurs, and they do not perceive there to be a great deal of "comings and goings" to the site.
58. Although the letters are not signed and witnessed, I have no reason to doubt their authenticity. While the occupant of Cherry Trees may only have resided at the property for a limited period of time, had the business generated significant noise which is harmful to living conditions, I would expect there to be some record of complaint.
59. The access road is limited in width and so I would expect vehicles travelling along it to be moving at a very limited speed. Furthermore, only one vehicle is likely to be using the access track at a time given its limited width, which is likely to limit noise and disturbance to occupants of Cherry Trees or The Vale. It would be possible to limit hours of operation of the car sales business by

condition, which would ensure that any noise and disturbance is limited to daytime hours.

60. As a consequence, I consider there is no harm to living conditions arising from the appeal scheme and no conflict with policies CP1 and CP3 of the CS and CC06 of the MDD, the requirements of which are set out above.

Living conditions: Appeal B

61. Dwelling 2 is a modest, single storey building constructed of timber. The Council has estimated the dwelling to be around 44 square metres. The building is laid out with a kitchen area and living area, which leads to a bedroom area, which was used for the storage of drums at the time of my visit, off which is a shower room. Although there was no bed at the time of my visit, the building has all the facilities for day-to-day living and in my view is a dwelling.
62. Policies CP1 and CP3 of the CS both seek functional schemes and Policy TB07 of the Wokingham Borough Adopted Management Development Delivery Local Plan document (2014) sets out the minimum gross internal floor space for a 1 bedroom flat of 50 square meters (sqm). These standards are also identified in the Wokingham Borough Council Design Guide Supplementary Planning Document (2012). The Council has also drawn my attention the Technical Housing Standards – Nationally Described Space Standard (2015).
63. Significantly, during the hearing, the appellant accepted that Dwelling 2 does not meet the relevant space standards, nor are they seeking retention of the building as a dwelling. The appellant wishes to retain the building to use in conjunction with the residential use of The Vale. I do not consider the size of the building is so excessive that it could not be used as ancillary to the enjoyment of The Vale.
64. As set out above, it would be possible to restrict the use of the building by condition so that it is only used in conjunction with residential use of The Vale. This would address concerns regarding the provision of internal and external space and ensure no conflict with policies CP1, CP3 and TB07 in this regard.
65. I have considered whether it would be necessary for the appellant to remove facilities from within the building, such as the kitchen or bathroom to prevent the use of the building as a self-contained dwelling. However, I consider a condition requiring that its use is ancillary to the use of the main dwelling would address any conflict with policy and is therefore sufficient in this case.

Other Matters

66. The Council has drawn my attention to policy CC01 of the MDD, which sets out a presumption in favour of sustainable development. It is not suggested that the policies which are relevant to the appeals are out of date and so the policy is not determinative in this case.

Conditions: Appeal B

67. The dwellings have already been constructed and are in use. As such, there is no need to include a condition requiring the development is carried out in accordance with approved plans. As set out above, I consider it is necessary to

include a condition to ensure that Dwelling 2 is used as ancillary to the enjoyment of The Vale and not as a separate dwelling.

68. Although the wider site is bound by mature vegetation, I consider it is necessary to secure further landscaping to define the residential land and limit the potential for encroachment. I shall therefore include a condition to require the submission and implementation of a scheme.
69. The Council suggest the inclusion of a condition to restrict permitted development rights within the site. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
70. Although the rights afforded by the GPDO would allow the property to be modified or extended, there are limitations and conditions which restrict what can be done. Given the relatively limited views of the appeal site from the public domain, I consider the limitations contained within the GPDO would ensure that any development carried out under permitted development rights would not significantly harm the character and appearance of the countryside and so a condition is unnecessary in this instance.

Ground (a) Conclusion

71. With respect to Appeal A, I find the appeal site is an unsuitable location for the car storage and sales business element of the mixed use, which increases reliance on private vehicle and harms the character and appearance of the area. While I have had regard to the planning history of the site and the provision of employment, I consider these do not outweigh the harms I have found. Consequently, the appeal under ground (a) must fail.
72. With respect to Appeal B, although there is some conflict with policy as a result of the location of the appeal site outside a defined settlement, I consider the circumstances which led up to the deviation from the previous approvals and the personal circumstances of the appellant outweigh the modest harm that arises from any reliance on private vehicle and conflict with policy. Subject to the inclusion of conditions, to ensure, amongst other things that Dwelling 2 is not to be used as a separate dwelling, I consider the appeal under ground (a) should succeed.
73. Since I have concluded that planning permission should be granted for the scheme submitted under Appeal B, grounds (f) and (g) do not fall to be considered. I shall however consider grounds (f) and (g) in relation to Appeal A.

Ground (f)

74. An appeal under ground (f) is made on the basis 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 the matters stated in the notice, or as the case may be, to remedy any injury to amenity which has been caused by any such breach.
75. The Council has confirmed that the purpose of the notice is to remedy the breach and given the requirements, which include returning the land to its former condition before the breach took place, this is clearly the case.

76. The main thrust of the appellant's case under ground (f) is that, absent the mixed use, the building could be used in connection with the residential property known as 'The Vale'. As set out above, I have found that the building itself, although limited in height, harms the character and appearance of the area as a consequence of its projection away from existing buildings along Forest Road. Allowing the building to be retained for residential use, whether incidental or as part and parcel of the residential use of The Vale, would not remedy the breach and would fail to address this harm.
77. Although I have found it unnecessary to amend the enforcement notice plan, the plan includes land which in my view forms the curtilage of the residential dwelling known as The Vale. As set out under ground (a), I have found it is the parking of vehicles in association with the car sales element of the mixed use which is harmful to the character and appearance of the area.
78. Since I have found that planning permission should be granted for the dwelling, I consider it would be excessive to require that the residential use of the site, to the south of the line marked A-B on the enforcement plan to cease. I shall vary requirements i) and ii) of the notice in line with the wording set out on Document 12 submitted during the hearing.
79. With respect to the fencing marked A-B on the enforcement plan, the appellant suggests that since it has now been removed, the requirement to remove it is no longer necessary. I agree it is unnecessary to retain this requirement and shall vary the notice accordingly.

Ground (g)

80. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
81. The appellant requests that the compliance period for demolition of the building is extended to 18 months and the hardstanding element is extended to 2 years to enable the appellant to wind up his car sales business and implement his planned retirement.
82. As set out above under ground (a), I have found that the appeal site is an unsuitable location for a car sales business and that the development harms the character and appearance of the area. I have also found that a temporary permission would be unacceptable.
83. Nevertheless, the appeal site provides employment for the appellant and two employees. Although it would be possible for the appellant to remove the building and various equipment from the land within three months, this is unlikely to give the appellant sufficient time to relocate the business.
84. Extending the compliance period to 12 months would give the appellant sufficient time to relocate the business, should he choose to do so, or for the employees of the business to find alternative employment, should the appellant choose to cease trading.
85. Thus, for the reasons given above, I consider it would be reasonable and proportionate to extend the compliance to 12 months. The appeal under ground (g) succeeds to that extent.

Appeal A: Overall Conclusion

86. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control and the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on grounds (f) and (g) succeed to that extent.

Appeal B: Overall Conclusion

87. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice, subject to conditions. The appeal on grounds (f) and (g) do not therefore fall to be considered.

Formal Decisions:

Appeal A

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

- At section 3, the deletion of ‘, sales and maintenance’ and the substitution of the words ‘and sales’ so that it reads ‘Without planning permission, the material change of use of the Land to a mixed use of residential; and a vehicles storage and sales business.’
- At section 5, requirement i), the deletion of ‘, sales and maintenance’ and the substitution of the words ‘and sales’ and the insertion of ‘, save for the residential use of the land to the south of the line marked A-B’.
- At section 5, requirement ii), the insertion of ‘, save from the land to the south of the line marked A-B’.
- At section 5, delete requirement vi).
- At section 5, delete requirement vii).
- At section 5, delete reference to requirements vi) and vii) from requirement viii).
- At section 6, delete ‘Three’ and insert ‘Twelve’ as the time for compliance.

89. Subject to the correction and variations above, the appeal is dismissed and the enforcement notice is upheld.

Appeal B

90. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of two dwellings at The Vale, Forest Road, Binfield, RG40 5QY as shown on the plan attached to the notice and subject to the following conditions:

- (a) The dwellings hereby permitted shall be removed and all materials resulting from the demolition shall be removed within six months of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a scheme for landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, any trees or plants which within a period of 5 years from the date of planting that dies, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- (b) Dwelling 2 hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Vale, Dwelling 1.

M Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Scott Stemp	Counsel
Tony Thorpe	Tony Thorpe Associates Town Planners
Karen Jones	Partner at Blandy & Blandy Solicitors
Emily Boorman	Trainee Solicitor at Blandy & Blandy Solicitors
David Drew	Appellant
Lynne Drew	Occupant of The Vale

FOR THE LOCAL PLANNING AUTHORITY

Matt Lewin	Counsel
Helen Maynard	WBC Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING:

- Document 1: Hearing Notification letter
- Document 2: Statement of Common Ground
- Document 3: Planning history of Rehoboth
- Document 4: Planning history of Harp Farm
- Document 5: Updated conditions with appellant's comments for Appeal B
- Document 6: Updated conditions with appellant's comments for Appeal A
- Document 7: Map showing view points suggested by parties
- Document 8: Revised enforcement plan showing both sites
- Document 9: Revised enforcement plan showing land to the north of lines A-B
- Document 10: Revised enforcement plan showing land to the south of lines A-B
- Document 11: Plan showing extent of hardstanding to be removed (Appeal A)
- Document 12: Suggested wording for requirement 5i)
- Document 13: Suggested wording for landscaping condition
- Document 14: Amended wording for hours of operation condition
- Document 15: Amended wording for the use of dwelling 2
- Document 16: Revised enforcement plan showing land to the south of lines A-B