The Planning Inspectorate

Appeal Decisions

Inquiry Held on 24 & 25 August 2021
Site visit made on 24 August 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal A: APP/D3125/C/20/3256208
Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/5, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
  Summary of Decision: The appeal succeeds in part on grounds (f) and (g) and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B: APP/D3125/C/20/3256211
Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/6, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
  Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary matters

1. The siting of a mobile home for residential purposes was the subject of a previous appeal[1] and is not part of the breach of planning control alleged in either notice. However, storage of a mobile home that is not used for purposes ancillary to the agricultural use of the land or its use for the keeping of horses may form part of the breach of planning control alleged in notice 2020/5, the subject of Appeal A.

2. In the decision on Appeal A, 'the mixed use' means the mixed use of the land comprising the breach of planning control alleged in notice 2020/5. 'The original mixed use' means the mixed use of the land for agriculture and the keeping of horses and 'the former mixed use' means the mixed use of the land for agriculture, horse keeping and unrelated storage.

3. Ms Boyes-Weston, Mr Westby, Mr & Mrs Norris, Dr & Mrs Gaynor Sharp-Dent and Mr & Mrs Hare were granted Rule 6 status and were represented in the Inquiry. I shall refer to them as 'the Rule 6 party'.

4. The Inquiry sat for two days. All the evidence was affirmed at the Inquiry.

Appeal A – the appeal on ground (d)

5. The land excludes a workshop building and the former site of a residential caravan identified on the plan accompanying notice 2020/5. Other than these areas, the appeal site is a single planning unit with a variety of activities, which are neither incidental or ancillary to one another nor confined within separate and physically distinct parts.

The 10-year period

6. The passage of time required for the material change of use alleged in notice 2020/5 to become immune is normally a period of not less than 10 years ending on or before the date the notice was issued. However, in this case the Council and the Rule 6 party contend that the storage element of the mixed use would need to have been instituted on or before 18 October 2008. That date is 10 years before a previous notice[2] alleging a mixed use including a storage use was issued.

7. Section 171B(4)(b) of the Act provides that nothing shall prevent a local planning authority taking further enforcement action in respect of any breach of planning control if, during the preceding 4 years, it has taken or purported to take enforcement action in respect of that breach. This is commonly known as the 'second bite' provision and it should be interpreted to apply where the intention of the further enforcement action is broadly the same as that of the previous enforcement action, whether it was taken or purported to be taken.

8. The Council and the Rule 6 party say the currently alleged breach of planning control is broadly the same as that in the 2018 notice. Although that notice was quashed on appeal, the Council had purported to take enforcement action against the unauthorised storage of items not ancillary to the agricultural use of the land by issuing it. While the lists of items in the 2 notices differ, both incorporate the words 'including but not limited to'. However, the scope of the

[1] APP/D3125/C/18/3216210, dismissed 20 January 2020
[2] 2018/6 issued 18 October 2018 and quashed 20 January 2020 (the 2018 notice)

unauthorised storage now alleged is different, referring also to items that are not ancillary to the use of the land for the keeping of horses.

9. A more significant difference between the breaches of planning control described in the 2018 notice and the current one is the addition of the use as a motorcycling/BMX activity track. However, the Council considers it would be wrong for the storage use to evade the second bite provision on account of further unauthorised development.

10. While the Council's argument is logical, it implies an intention that is not apparent from the wording of section 171B(4)(b). The essential question is whether the 2 notices are concerned with the same unauthorised development. If the 2018 notice had been concerned with the same breach of planning control as notice 2020/5, but had described it differently, or had misdescribed the site, that would not necessarily prevent the second bite provision having effect. In this case, the difference in the description of the previous use of the land, specifically the additional reference to horse keeping in notice 2020/5, does not change what the Council wishes to cease.

11. However, section 171B(4)(b) states that the previous enforcement action must have been in respect of 'that breach', meaning the breach of planning control alleged in notice 2020/5. As a matter of fact, the mixed use constituting the breach of planning control now alleged is a different mixed use from that alleged in the 2018 notice. The addition of the motorcycling/BMX activity track use to the former mixed use represents a significant change in the character of the use and therefore in what the notices are concerned with. The degree of change goes beyond any technical defect in the 2018 notice and the intention of notice 2020/5 is therefore not broadly the same.

12. For these reasons, section 171B(4)(b) cannot apply to the mixed use comprising the alleged breach of planning control in notice 2020/5. It is therefore necessary, on the balance of probability, for the appellant to demonstrate the mixed use began on or before 18 June 2010 (the Relevant Date), 10 years before notice 2020/5 was issued, and continued for a 10-year period without significant interruption. If so, the mixed use will be immune from enforcement action.

The storage use

13. The appellant moved his business to an agricultural building at Mount Pleasant Farm (MPF) in 2001 and obtained a personal planning permission for continued use of the building as a workshop in 2004[3]. A condition restricted storage, industrial or other business use to the existing buildings, except for the associated parking, manoeuvring, loading, and unloading of vehicles. Apart from those permitted associated activities, the surrounding land was used for the original mixed use of agriculture and keeping of horses at that time.

14. An aerial image from 2006 shows 2 features that the appellant identified as shipping containers undergoing restoration. A shipping container and a static caravan are shown adjacent to the northern boundary in a photograph dated 24 January 2009. An aerial image from June 2009 shows a significant increase in storage, including 3 boats and 3 touring caravans. The shipping containers are not where they were in 2006 and the appellant began letting storage space

[3] 04/0002/P/FP, granted 16 March 2004 (the 2004 permission)

in them around this time. No evidence that any of the foregoing was ancillary to the original mixed use of the site was presented.

15. Subsequent aerial images, particularly from September 2015, May 2016, April 2017, May 2018, and May 2020, show a greater number of features spreading towards the western boundary. Nearby residents refer to a growth in storage over that period. Several of these features can be identified as vehicles, touring caravans, boats, and shipping containers. No evidence that they were ancillary to the original mixed use of the site was presented.

The motorcycling/BMX activity track use

16. Some of the aerial images include features alongside the western and southern boundaries of the site that the appellant identified as earth mounds he had formed to facilitate the motorcycling/BMX activity track use. However, while their formation may indicate an intention to use the land in that way, it cannot, of itself, demonstrate whether or when the use was instituted. Neither, if the use was instituted, can it demonstrate that it continued as a permanent use of the land for a 10-year period without significant interruption.

17. The appellant began riding motocross bikes at MPF in his youth, before he owned the site. He joined a motocross club and rode competitively between 1989 and 1991, but that does not confirm any activity at MPF. The appellant and another witness confirm that he formed a small track around that time but there is scant evidence of how often, and over what period, it was used. While the appellant states that he practiced motocross on the land in his teens, the frequency of this is not stated. His evidence does not indicate that anyone else rode there until a friend did in 2013. A witness who visited the site 2 to 5 times each year from before 2002 makes no mention of this use being carried out. It has thus not been demonstrated that such activity was more than occasional or temporary, or that it altered the character of the use of the land.

18. A meeting with the Council in September 2016 touched on the matter of permitted development rights for the temporary use of the land for motocross, described in terms of numbers of events. Class B, temporary use of land, of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) allows motorcycle racing, including speed trials, and practising for those activities, for up to 14 days in any calendar year. However, it is not recorded on how many days the land was being used as a motorcycling/BMX activity track then.

19. A witness for the Rule 6 party confirmed there were events, involving multiple riders, on 3 or 4 weekend afternoons during summer 2017 but made no mention of any such events prior to that or again until May 2020. A log of activity submitted by the Rule 6 party records that a significant change occurred then, with motorbikes being ridden for extended periods on several days each week, totalling 18 days that month. Witnesses also refer to quad bikes being brought onto the site at this time.

20. The foregoing evidence only identifies a level of motorcycling/BMX activity above the temporary use permitted by the Order during May and early June 2020. Accordingly, it has not been demonstrated that a permanent change in the character of the use, through the addition of use as a motorcycling/BMX activity track occurred before May 2020. The change that occurred then, the

addition of a use requiring planning permission, opened a new chapter in the planning history of the site.

Conclusion on ground (d)

21. There is evidence of some storage prior to the Relevant Date. However, a significant component of the mixed use, the use of land as a motorcycling/BMX track, only became apparent as development requiring planning permission in May 2020. A change in the character of the use therefore occurred that month, instituting the mixed use alleged in notice 2020/5.

22. Accordingly, it has not been demonstrated that the mixed use was instituted on or before the Relevant Date. Therefore, it is not immune from enforcement action and the appeal on ground (d) must fail.

Appeal A – the appeal on ground (a)

23. The main issues in considering the deemed planning application (DPA) in this appeal are:

- Whether the mixed use of the land for agriculture, the keeping of horses, the storage of items that are not ancillary to the use of the land for agriculture or the keeping of horses, and the use of land as a motorcycling/BMX activity track, is a use appropriate to the location.
- The effect on the landscape and the character and appearance of the area.
- The effect on the living conditions of nearby people, especially in terms of noise.
- The effect on ecology and biodiversity.
- Flood risk.
- The effect on the rural economy

Reasons

Whether the mixed use is appropriate to the location

24. Although the planning permission for the workshop use includes a condition prohibiting external storage, some items stored on the land appear to relate to the appellant's use of the workshop building for vehicle repairs. While this storage may support the effectiveness of an existing business, evidence that such support could not be provided by other means was not presented.

25. Other storage, including the commercial letting of space within shipping containers, would be more sustainably provided in locations with better accessibility. No justification has been provided for this storage at the site in land use terms. While the opportunities to locate a motorcycle/BMX activity track within or adjacent to a settlement may be limited, there is no evidence that more sustainable locations were investigated.

26. It has therefore not been demonstrated that the mixed use is appropriate for, or requires, a rural location. Accordingly, and in view of the limited accessibility of the site, it is contrary to policy OS2 of the West Oxfordshire Local Plan 2031 (the WOLP), which is the Development Plan for the area.

Landscape and character and appearance

27. The site lies within an area of flat and low-lying cultivated farmland with a good structure of hedgerows and trees. Because of the flat topography of the surrounding river corridor, there are no nearby vantage points with wide unobstructed views into the site. However, the interior of the site, and the storage within it, can be seen from parts of adjacent public rights of way, even though the appellant has removed many of the items listed in notice 2020/5.

28. While there may be a business case for some storage in connection with the appellant's use of the workshop, it has not been defined and cannot be separated from the storage use that notice 2020/5 is concerned with. By reason of its nature and scale, including large structures and objects, the storage element of the mixed use does not conserve or enhance the quality, character, and distinctiveness of the countryside.

29. The visual effect of the motorcycle/BMX activity track on the landscape and on the character and appearance of the area is considered in Appeal B below. However, the noise and other activity associated with a motorcycle circuit are at odds with the otherwise tranquil character of the rural location. While the appellant would accept a planning condition to prevent the use of non-electric motorbikes, it has not been demonstrated that the use would recognise the intrinsic character and beauty of the countryside as a result.

30. The appellant would be prepared to carry out landscape planting if the DPA were permitted and a condition to that effect has been suggested. However, it has not been demonstrated that this would mitigate the identified harm to the tranquil character of the area. The mixed use is therefore contrary to policy EH2 of the WOLP and part 15 of the National Planning Policy Framework (the Framework).

Living conditions

31. Even if there were no opportunities to locate a motorcycle/BMX track within or adjacent to a settlement, that would not mean that a rural location should be pursued if it would have an unacceptable effect on neighbouring occupiers. Video evidence of noise and dust arising from the use of the track by motorcycles was presented to the Inquiry. Noise and dust on that scale are incompatible with the adjoining residential uses, are harmful to the amenity of existing occupants, and cause them unacceptable nuisance.

32. It is suggested this could be addressed by a planning condition to prevent the use of non-electric motorbikes and requiring the track to be sprayed as part of wider measures designed to mitigate noise and dust. I have no doubt that the suggestion was made in good faith and that some improvement over the situation documented in the video could be achieved. However, no assessment of the likely effectiveness of these measures, including how they would be monitored and enforced, has been provided.

33. It has therefore not been demonstrated that harm to living conditions could be mitigated by the imposition of planning conditions. The mixed use is thus contrary to policies OS2 and EH8 of the WOLP and part 12 of the Framework.

Ecology and biodiversity

34. The site is within the Lower Windrush Valley Project Area and special attention and protection should be given to the biodiversity of this area. However, no assessment of the ecological value of the site prior to the change of use, or evidence of any harm to ecology and biodiversity arising from the mixed use has been presented. Nevertheless, it has been suggested that a net gain for biodiversity could be secured by the imposition of an appropriate planning condition if the DPA were to be granted. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

35. Much of the site is within Flood Zone 1, the area with the lowest risk of flooding. However, a significant proportion, along the northern and western fringes and including most of the area currently used for storage, is within Flood Zone 2. This part of the site is therefore at a higher risk of flooding. The approach via Chapel Lane passes through Flood Zones 2 and 3, the latter area being at highest risk.

36. The appellant's flood risk assessment concerns residential use of a mobile home, which is not the subject of notice 2020/5. No assessment relating to the mixed use has been provided. Despite the absence of an assessment specific to the DPA, it is reasonable to conclude that storage of large objects within Flood Zone 2 is likely to alter flood water flows. Furthermore, the motorcycle/BMX activity track use may draw visitors to the site, involving access through Flood Zones 2 and 3. However, the effect of these factors cannot be gauged without an assessment specific to the DPA.

37. Although it has been suggested that flood risk mitigation measures could be secured by planning condition, it has not been demonstrated that flood risk can be satisfactorily managed for the mixed use to be carried out at the site. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

The rural economy

38. The production of hay and duck eggs contributes to the rural economy, but these are agricultural activities that notice 2020/5 does not seek to end or restrict. The appellant's diversification of his business activities on the site has not only been to his benefit but has also involved the provision of support to local farm enterprises. However, it has not occurred on a site in or adjacent to a settlement and has not amounted to farm or country estate diversification. Neither has it been demonstrated to be necessary for agricultural production.

39. Accordingly, the mixed use does not accord with, and therefore cannot draw support from, policy E2 of the WOLP.

Conclusion on ground (a)

40. For the reasons given, the mixed use is unacceptable in terms of location and flood risk and through its effect on landscape, the character and appearance of the area, and living conditions. This is contrary to the Development Plan as a whole and Parts 12, 14 and 15 of the Framework. The DPA cannot draw support from policy E2 of the WOLP in terms of its contribution to the rural economy. While I have not found conflict with policy EH2 of the WOLP in

respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal A – the appeal on ground (f)

41. Although evidence was not presented in the Inquiry, the appellant had given notice that he considered the requirement to remove any storage associated with the permitted use of the workshop to be excessive. While a notice should not seek the removal of something that has the benefit of planning permission, I have already noted the inclusion of a condition preventing storage outside of the building in the 2004 permission. Accordingly, the requirement does not conflict with that permission and is not excessive.

42. The appellant had also given notice that a requirement to restore the land to agricultural purposes would be excessive in view of the long-standing use for horse keeping and the permitted use of the workshop. However, notice 2020/5 does not apply to the workshop and does not seek restoration to agricultural purposes. Instead, it seeks restoration to a similar condition as the immediately surrounding agricultural land. While the omission of a reference to the horse keeping use may constitute a misdescription, it can have no bearing on the condition of the land, which is the focus of requirements (4) and (5). Nevertheless, the description of the surrounding land can be clarified by variation without causing injustice.

43. Requirement (2) seeks the removal of items that are not ancillary to agricultural and horsicultural use of the land, but the uses are defined as agriculture and the keeping of horses in the alleged breach of planning control. The word 'horsicultural' may therefore give rise to uncertainty and it would cause no injustice to vary notice 2020/5 to refer to horse keeping instead.

44. The appeal on ground (f) succeeds to this extent.

Appeal A – the appeal on ground (g)

45. The grounds of appeal had asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/5 should instead require this to be carried out by the end of the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period.

46. Some items stored in the shipping containers are integral to the appellant's business use of the workshop, including the storage of vehicles and vehicle parts and components awaiting work. He considers he would need more than 3 months to relocate this storage without risking closure of his business and suggests an alternative minimum period of 18 months.

47. An aerial image from December 2004 indicates the appellant was initially able to carry out his business without external storage. He identified 2 shipping containers in an image from December 2006, although they were being restored at that time and there is no evidence that they were also being used for storage. While some of the more extensive storage that existed when notice 2020/5 was issued may have been in connection with the use of the workshop, the proportion has not been quantified.

48. In these circumstances, any extension of the period for compliance would apply to all storage, regardless of any business case. The suggested period of at least

18 months would be exceptionally long, tantamount to a temporary planning permission. Allowing uncontrolled storage on the present scale to remain that long would be inconsistent with my findings in the appeal on ground (a).

49. If the storage the appellant considers essential to his business use of the workshop were specified, it could be made the subject of an application to vary the condition of the 2004 permission. However, that is not to suggest that any such application could or should succeed. While 3 months is a reasonable period for an application to be progressed, there would be limited time to make alternative arrangements following a refusal. A 6-month period for compliance with requirements (2) and (3) would therefore provide a greater safeguard to the appellant's business and would not prolong the wider storage identified in the breach of planning control unnecessarily.

50. The appeal on ground (g) succeeds to this extent.

Appeal B – the appeal on ground (d)

51. To succeed on this ground, it is necessary for the appellant to demonstrate, on the balance of probability, that the engineering work to form the track was substantially completed on or before 18 June 2016, 4 years prior to the service of notice 2020/6.

52. No earth mounds that might form part of the engineering work the subject of notice 2020/6 have been identified in any aerial image pre-dating May 2016. However, the appellant states there was a small track around the perimeter of the site before this, which he altered in 2013. Photographs taken that year show bare earth mounds on the perimeter of the land and although the month in which they were taken is not stated, they show trees in leaf, suggesting the mounds were formed in spring or summer 2013. While these features cannot be seen in the aerial images from March 2013 and September 2015, neither is sharply focused.

53. One of the appellant's witnesses recalled seeing a mound, or berm, just inside the entrance gate to MPF but that is outside the area of the works identified in notice 2020/6 and is therefore not subject to its requirements.

54. Significant operations were carried out during May and early June 2020, recorded in the Rule 6 party's log of activity and in subsequent photographs taken by the Council. The last day on which engineering work, described as digging, is recorded in the log is 1 June 2020. The appellant confirmed that this work was carried out with the aid of 2 other people and using an excavator to re-grade the land.

55. For these reasons, the engineering work constituting the breach of planning control was not substantially completed on or before 18 May 2016 and is therefore not immune from enforcement action. The appeal on ground (d) fails accordingly.

Appeal B – the appeal on ground (c)

56. The appellant contends that the engineering work alleged to amount to the construction of an outdoor dirt track, including the formation of earth mounds, was not new development but was repair and maintenance of an existing track. The earlier track he described was around the perimeter of the land and thus very different in form and siting from the track the subject of notice 2020/6.

57. There is some overlap between the 2 near the western perimeter but it has not been demonstrated that a track had previously existed where the great majority of the engineering work was undertaken in May and June 2020. It is probable that some material from the previous track was incorporated in the new one. However, as a matter of fact and degree, that would have been part of the formation of the new track, not the repair or maintenance of an earlier one.

58. The engineering work of constructing the outdoor dirt track, including the formation of earth mounds, is development requiring express planning permission by reason of section 55(1) of the Act. There is no evidence that such permission has been granted and the work is therefore in breach of planning control.

59. For these reasons, the appeal on ground (c) must fail.

Appeal B – the appeal on ground (a)

60. The main issues in considering the DPA in this appeal are:

- The effect of the track, including the formation of earth mounds, on the landscape and the character and appearance of the area.
- The effect on ecology and biodiversity.
- The effect on flood risk.

Reasons

Landscape and character and appearance

61. Like the storage use considered in Appeal A, the track can be seen in some views from adjacent public rights of way. The topography of the track is markedly different from the surrounding flat landform of low-lying cultivated farmland. It therefore does not conserve or enhance the quality, character, and distinctiveness of the countryside.

62. The appellant would accept a condition requiring landscape planting if the DPA were to be allowed but no indication of what planting might be achieved, and how it might screen the track has been provided. Accordingly, it has not been demonstrated that the identified harm could be suitably mitigated by the imposition of planning conditions and the track is therefore contrary to policy EH2 of the WOLP and part 15 of the Framework.

Ecology and biodiversity

63. Notwithstanding the site's location within the Lower Windrush Valley Project Area, there is no assessment of the ecological value of the site prior to the works being carried out. However, neither has evidence of any harm to ecology and biodiversity arising from them been presented. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

64. The track is partly within Flood Zone 2, where there is a medium risk of flooding. While the formation of mounds was accompanied by excavation, the change in the landform has the potential to alter the flow of water in a flooding

event. As with Appeal A, the only assessment of flood risk is in respect of a matter that is not alleged in notice 2020/6 and is therefore of limited value.

65. Without a flood risk assessment specific to the site and the DPA, it has not been demonstrated that flood risk can be satisfactorily managed with the track in place. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

Conclusion on ground (a)

66. For the reasons given, the track is unacceptable in terms of its effect on landscape, the character and appearance of the area, and its potential effect on flood risk. This is contrary to policies EH2 and EH7 of the WOLP and Parts 14 and 15 of the Framework. While I have not found conflict with policy EH2 of the WOLP in respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal B – the appeal on ground (g)

67. As with Appeal A, it was originally asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/6 should instead refer to the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period and the appeal on ground (g) must fail.

Appeal A – Conclusion

68. For the reasons given above, I conclude that the appeals on grounds (d) and (a) should not succeed and the appeals on grounds (f) and (g) should succeed. I shall uphold enforcement notice 2020/5 with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Conclusion

69. For the reasons given above, I conclude that the appeal should not succeed. However, and in keeping with my findings on ground (f) in Appeal A, a variation should be made in requirement (1) to acknowledge the use for keeping of horses. I am satisfied that no injustice would arise from this.

70. Subject to this variation I shall uphold enforcement notice 2020/6 and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal A – Formal Decision

71. It is directed that enforcement notice 2020/5 is varied in section 5 by:

- The deletion of the words "horsicultural use" and the substitution of the words "horse keeping uses" in (2);
- The insertion of the words "and horse keeping" after the word "agricultural" in (4); and
- The insertion of the words "and horse keeping" after the word "agricultural" in (5).

- The deletion of the words "3 months" and the substitution of the words "6 months" in the sub-heading setting out the period for compliance with requirements (2) and (3).

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

Appeal B – Formal Decision

73. It is directed that enforcement notice 2020/6 is varied in section 5 by the insertion of the words "and horse keeping" after the word "agricultural" in (1).

74. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Prickett and Jan Clements
They called
Matthew Prickett
Jan Clements
Malcolm Davis

FOR THE LOCAL PLANNING AUTHORITY:

Charles Merrett of Counsel
He called

Chris Wood PG Dip TP	Senior Planning Appeals Officer, West Oxfordshire District Council

FOR THE RULE 6 PARTY:

Steven Sensecall BA (Hons) Dip TP MRTPI	Partner, Carter Jonas LLP
He called	
Carole Boyes-Weston	
Greg Sharp-Dent	
Nicola Brock BA Hons Dip TP MRTPI	Partner, Carter Jonas LLP

Documents submitted at the Inquiry

1 Enlarged copies of aerial images
2 Alternative enforcement notice plan
3 The log of activity referred to in Carole Boyes-Weston's statement
4 Appeal decisions APP/Q3115/C/18/3201871 & 3201874 relating to land known as Ten Acre Farm, Beckley, Oxfordshire

Documents submitted following the Inquiry

1 The Council's comments on conditions
2 The Rule 6 party's comments on conditions
3 High Court transcript of R (oao Lambrou) v SSCLG [2013] EWHC 325 (Admin)

Annex to appeal decision ref APP/D3125/C/20/3256208

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, a material change of use of the land (not including the building and area coloured blue and green respectively) from a mixed use of agriculture and the keeping of horses to a mixed use of (i) agriculture; (ii) keeping of horses; (iii) storage of non-agricultural items that are not ancillary either to the agricultural use of the land or to its use for the keeping of horses, including but not limited to the following items: non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and (iv) use as a motorcycling/BMX activity track.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 1 week of the date on which this notice comes into effect

(1) Cease the use of the land as a motorcycling/BMX activity track.

Within 3 months of the date on which this notice comes into effect

(2) Remove those items that are not ancillary to the agricultural and horsicultural use of the land, including non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and

(3) Cease the use of the land for storage.

Within 4 months of the date on which this notice comes into effect

(4) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and

(5) Reinstate the land used for storage to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and

(6) Remove from the land any excess soil and/or other materials that are not derived from the site and that have been used to create the motorcycling/BMX activity track.

Annex to appeal decision ref APP/D3125/C/20/3256211

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the carrying out of works to form an outdoor dirt track including the formation of earth mounds, on the part of the land coloured brown on the attached plan.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 4 months of the date on which this notice comes into effect

(1) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and

(2) Remove from the land any excess soil and/or other materials that are not derived from the site and have been used to create the motorcycling/BMX activity track.