

Part I

Executive Member: Councillor Perkins

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 21 JULY 2016
REPORT OF THE DIRECTOR (GOVERNANCE)

S6/2015/1105/FP

WARRENWOOD MANOR, HORNBEAM LANE, BROOKMANS PARK, HATFIELD,
AL9 6JF

RETENTION OF SINGLE STOREY STORAGE BARN, OPEN HORSE WALKER
AND ASSOCIATED FENCING

APPLICANT: Mr Nigel Brunt

(Hatfield East)

1. Site Description

- 1.1 The application site is located approximately 2km to the south of the village of Essendon. It forms part of the wider Warrenwood site which extends to 24.05ha.
- 1.2 Access to the site is via Kentish Lane (B158), which serves the site, a number of cottages and also forms a public bridleway. The wider site comprises of a dwellinghouse and associated buildings including a garage, to the south of Kentish Lane, which serves the site.
- 1.3 The application site is to the north of this lane and comprises of an existing 16 box stable building, the proposed storage barn to the front of the site and open horse walker and associated fencing located to the rear of the stable building. The remaining land surrounding the site is predominately arable and equestrian, although to the south is a manège and area of hardstanding, the subject of application S6/2015/1106/FP, under consideration, and an area of land that is required to be remodelled, the subject of application S6/2015/1107/MA, also under consideration.

2. The Proposal

- 2.1 This application seeks planning permission for the retention of the single storey storage barn and open horse walker and its associated fencing. The proposed storage barn is located to the front of the existing 16 box stable building, which does not form part of this application. It has a maximum height of approximately 5m, a width of approximately 12m and a maximum depth of approximately 6m. The barn is required to accommodate straw, hay, sawdust and manège and together with tractors and equipment associated with the equestrian use of the land and stables.

2.2 The open horse walker is to the rear of the stable building and is circular with a post and rail fence 1.65m in height. Fencing is proposed that links the horse walker to the stables.

3. Reason for Committee Consideration

3.1 This application is presented to the Development Management Committee because Councillor Sarson has called the application in on the following reasons;

- *“Building on Green Belt without permission;*
- *To be used as a commercial venture;*
- *Have the highway authorities made any comments; and*
- *The buildings are detrimental to the surrounding residents.”*

4. Relevant Planning History

Previously called Meadow Cottage, and also known locally as ‘Spike Island’. Spike Island and the adjacent land were purchased by Andrew Perryment (Rose Limited) in 1998.

- 4.1 S6/1998/129/AG Barn for general storage purposes in connection with the agricultural use of the land – Determined no objection and no further details required 09 Mar 1998.
- 4.2 S6/1999/372/FP Change of use of land to equestrian with associated ménage, rides and landscaping – approved 09 Aug 1999.
- 4.3 S6/1999/993/FP 24 timber loose boxes on concrete bases for equestrian use – refused 04 Jan 2000. Reported to PCC 06 Apr 2000 when enforcement authorised.
- 4.5 S6/2000/1492/FP Erection of 20 box stable building – refused 05 Jan 2001 but after appeal lodged against non-determination within 8 weeks.
- 4.6 S6/2009/2556/MA - Change of use to equestrian with associated manège, rides and landscaping – Granted conditionally on 21 January 2010.
- 4.7 S6/2009/2574/FP - Erection of new dwelling, three bay garage block, garden store together with retention and alteration of the existing stables, landscaping and all other ancillary works, following demolition of partially constructed dwelling, adjoining stables and garage blocks - Granted conditionally in January 2010.
- 4.8 ENF/2015/0004 – Operational development/MCOU – Open enforcement investigations relating to the erection of 24 floodlights on 8 poles around manège, use of site for commercial livery, use of stables for residential purposes and importation of waste.

- 4.9 S6/2015/1106/FP - Retention of parking area for cars and horseboxes, horse holding area and manège area with associated fencing and lighting. Pending Consideration
- 4.10 S6/2015/1107/FP- Retention of modified land levels and further land remodelling to agreed contours. Pending Consideration.

5. Planning Policy

- 5.1 National Planning Policy Framework (NPPF) March 2012
- 5.2 Welwyn Hatfield District Plan 2005
- 5.3 Supplementary Design Guidance, February 2005
- 5.4 Supplementary Planning Guidance, Parking Standards, January 2004

6. Site Designation

- 6.1 The site lies within the Metropolitan Green Belt, Brickendon Wooded Slopes Landscape Character Area and Wildlife Site as designated in the Welwyn Hatfield District Plan 2005.

7. Representations Received

- 7.1 The application has been advertised by means of neighbour notification letters and site notice. One comment has been received from Follyfoot Farm, Woodfield Lane which can be summarised as;
- Objects to the application;
 - The landfilling is a disgrace;
 - The land is many meters above the lay of the land and in some places 20m higher
 - The size of the manège is bigger than is acceptable especially as it has been built of Green Belt land;
 - The block paving has total disregard for the Green Belt and is not in keeping with anything in the area; and
 - The lighting is unacceptable and floods nearby woodland which disturbs wildlife.

8. Consultations Received

- 8.1 No objections have been received from **Hertfordshire County Council Transport, Programmes and Strategy**.

9. Parish Council Representations

- 9.1 Essendon Parish Council has concerns to the proposed development stating:

'We are very concerned about a number of aspects of this development, not the least of which is the apparent lack of the necessary public consultation. Our clerk has no record of Essendon Parish Council being consulted on previous related applications, our awareness of the development stemming from observing the many hundreds of lorries that went into and tipped on to the site over very many months.

When we expressed our concern at this, WHBC LPA simply assured us it had received permission. We gather that the end result does not accord with that planning permission.

Of more concern is that local residents along Hornbeam Lane, who suffered much of the mud and disruption to their amenity with the hundreds of tipper lorries passing through, many dozens a day, were also not consulted. When they queried this with the LPA, they inform us they were told that there was a field between them and the development, so they were not neighbours and there was no need for the LPA to consult with them. Given what they have endured, this seems to us to be an unreasonably restricted interpretation of the LPA's statutory duty in this regard, contrary to natural justice and, together with the apparent failure to consult with the Parish Council, displaying a distressing regard for the democratic and community basis for the planning system. This will not do. Further to this, we are now informed that the said intervening field is owned by the applicant. There was, therefore, no legitimate basis for the LPA to refuse to consult with these neighbouring properties. Now that the above applications are before us, we assume to legitimise the landfill and the change of use from domestic to commercial use, we have received a number of plans printed on A4. We find these difficult to read in view of which we must leave it to the LPA to arrive at a determination on the contouring, horse walker and storage building. What is of concern to us is the change of use for these equestrian facilities from a domestic to a commercial use. Local residents inform us that commercial use is already being carried out, with gymkhanas, noisy PA systems and the everyday impact of the commercial letting of stabling facilities with attendant noise, disruption and heavy traffic along Hornbeam Lane. The Parish Council would not be concerned if the facilities were for domestic use attached to the main residence. Now this new commercial use is causing demonstrable harm to the quality of life and amenity of the residents along Hornbeam Lane. As such we strongly object to the change of use of the facilities to a commercial use. We have been e-mailed by our Borough Councillor, Bernard Sarson, who has called these applications in such they will be considered by the Planning Committee. We understand that affected residents want to address that committee and, given the above circumstances, we would hope that they will receive every assistance from the LPA's offices.'

10 Analysis

10.1 The main planning issues with this application are:

1. Principle of development in Green Belt (GBSP1, RA10, RA21, SDG and National Planning Policy Framework (NPPF))

2. The quality of the design (D1, RA21, SDG and NPPF)

3. Other Material Planning Considerations

i) Highway and Parking (M14, RA21 and SPG)

ii) The potential impact on the residential amenity of adjoining neighbours (D1, R19, RA21, SDG and NPPF)

iii) Representations

iv) Other Matters

1. Principle of development in Green Belt

10.2 The site is within the Green Belt wherein only specified developments will be permitted. The lawful use of the application site is as an equestrian use which was granted permission from application S6/2009/2556/MA. That application granted planning permission for a change of use of land to equestrian with associated manège rides and landscaping. Additionally, the existing stable block located on the application site, was originally granted planning permission under application reference S6/2009/2574/MA and latterly under S6/2012/2656/MA. That stable building however has not been built in accordance with the approved plans, although it is not the subject of this application. Nevertheless, the approved stable block was conditioned to be used for a non commercial use and only in conjunction with the residential development to the south of the site to restrict the use of the building to one compatible with the area and to minimise the intensity of use of the site.

10.3 With regard to the proposed horse walker, stable block and post and rail fencing surrounding the proposed horse walker, these are buildings as defined by section 336 of the Town and Country Planning Act which states:

“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;’

Subsequently paragraph 89 of the National Planning Policy Framework (NPPF) is applicable which sets out that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

10.4 Paragraph 79 of the NPPF identifies openness and their permanence as the essential characteristics of Green Belt whilst Paragraph 80 lists the five purposes of Green Belt. One of the five purposes includes; to assist in safeguarding the countryside from encroachment which is considered the most relevant.

10.5 Policy RA21, Leisure and Tourism in the Countryside, of the Welwyn Hatfield District Plan, is applicable. It advises that proposals for recreational development, which may include changes of use in the countryside will be permitted subject to complying with certain criteria. Criteria i) and iii) of that policy state that;- the proposed use is in accordance with Green Belt policies;

and that the proposed use would not have an adverse effect on the character and other environmental assets of the countryside, which echoes national policy listed above.

- 10.6 With regard to the proposed storage barn, this is located to the front of the existing stable building and sits alongside the boundary with Hornbeam Lane. The barn is required to accommodate straw, hay, sawdust and manure and together with tractors and equipment associated with the equestrian use of the land and stables. The applicant advises that storage of hay and straw inside the stables is not possible, due to the lack of access for a mechanical load lifter.
- 10.7 The permitted stable building can accommodate stabling for 16 horses together with two tack rooms, a feed and hay store, office, store, staff rest room and toilet and shower facilities. That building has recently been constructed and it would seem unusual that it was not designed and built to enable access for the storage of hay and straw and provide the appropriate storage facilities that are required for the equestrian use. Nevertheless, the stable building comprises an area to store the required feed for the horses and from a site visit there is an area to the side of the stable building which also provides storage for hay. There is no specific evidence submitted to explain, albeit the lack of access for a mechanical load lifter, why sawdust and manure and the equipment associated with the equestrian use are unable to be stored in the stable building. From observations based from a site visit and the evidence available, the openings for the proposed storage barn are similar to the stable building. Furthermore, from the site visit the store building was also being used predominately for storage of smaller items such as wheel barrows, which could reasonably be located in the stable building. Therefore without further justification for the store building together with justification for its size, in officer's judgement the argument put forward would appear flawed. Accordingly it is considered that the proposed store building is not necessarily required for outdoor sport and recreation and is therefore not appropriate.
- 10.6 Further to the above, the NPPF also requires an assessment of the impact of the development to the openness and purposes of the Green Belt and Criteria i) and iii) of Policy RA21 of the District Plan echoes that stated in national policy. Therefore in this regard, the application site is an open piece of land where the permitted stable building is set back from Hornbeam Lane. The proposed store barn is located alongside the boundary with that Lane. The area in which the store is located was originally free from built development which contributed to the openness of the Green Belt. The new building clearly reduces the openness of the site by virtue of the presence of built form. Additionally the store building extends and spreads the existing built development on the site adding to the urbanising effects of the overall development in this rural location. The building is not well contained within the site, forward of the existing stable building and visible from Hornbeam Lane. This does not assist in safeguarding the countryside from encroachment, one of the five purposes of including land in the Green Belt.

- 10.7 Accordingly the proposed store building is inappropriate development in the Green Belt.
- 10.8 With regard to the proposed horse walker, this is associated with the existing stables which can accommodate up to 16 horses and it allows up to six horses to be exercised on days when they are not being ridden. Given that it would be used in association with the horses at the permitted stables and equestrian use, it is considered to be an appropriate facility for outdoor sport and outdoor recreation. Additionally the proposed fencing is considered acceptable in relation to the proposed use. Therefore the question to be addressed is whether the horse walker and fencing have a greater impact on the openness of the Green Belt and the purposes of including land within it, as set out in both the NPPF and Criteria i) and iii) of Policy RA21 of the District Plan (listed above).
- 10.9 Given the general character of the area is a typical rural location with gently undulating land it is considered that the horse walker, which would measure approximately 20m in diameter, has little visual impression in the wider landscape and due to its nature and scale does not impact on the openness or purposes of including land in the Green Belt. It is therefore considered appropriate development in the countryside.
- 10.10 Dealing with the proposed fencing, this comprises of two rows of 1.65m high post and rail fencing, which are associated with the equestrian use at the site. The only physical structure being the post and rail fencing which, when viewed individually, by virtue of its build and form does not significantly impact upon the openness or the purposes of the Green Belt. Additionally the post and rail fencing at 1.35m high which links the horse walker with the existing circulation area to the north east of the existing stables, has little visual impression in the wider landscape and due to its nature and scale does not impact on the openness or purposes of the Green Belt.
- 10.11 Accordingly whilst the proposed horse walker and fencing are appropriate, the proposed store building is inappropriate development in the Green Belt. The Framework says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the NPPF outlines that '*when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*'. It is therefore necessary to consider whether the development causes any other harm and whether there are any other considerations relevant to the overall balance.
- 10.12 It is accepted in case law that there is no prescribed list of what might constitute very special circumstances. It may be that a single aspect of a proposal may itself be a very special circumstance (VSC) sufficient to justify development or it may be that a number of circumstances may cumulatively amount to very special circumstances. As Lord Justice Pill said in *South*

Bucks District Council v Secretary of State for Transport, Local Government and the Regions [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): “It is of the essence of very special circumstances that the applicant establishing them is in a very special category.”

- 10.13 The Framework advises in Paragraph 81 the importance of retaining and enhancing the landscapes, visual amenity and biodiversity of Green Belts. In addition, Chapter 7 of the NPPF emphasises the importance of good design in context and, in particular, paragraph 64 states permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions. Furthermore, as the site is located within Brickendon Wooded Slopes Landscape Character Area, Policy RA10 (Landscape Regions and Character Areas) is applicable which outlines that proposals for development in the rural area will be expected to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area. Policy D2 (Character and Context) outlines that the Council will require all new development to respect and relate to the character and context of the area in which it is proposed.
- 10.14 The Welwyn Hatfield Landscape Character Assessment outlines that within Brickendon Wooded Slopes Landscape Character Area, there are extensive views out over wooded valleys and the Lea Valley to the north, where views out are frequently screened by small blocks of woodland or hedges. The site is located within a rural landscape which is predominately agricultural, albeit the site is within an equestrian use. The proposed store is prominent from surrounding views and provides no opportunity to retain and enhance landscapes or the visual amenity of the area. It introduces further built form to an area that is predominately rural with minimal built form. Whilst appreciated that the proposed store would be located near to the existing stable building, the cumulative amount of built form at the site impacts on the rural character of the area, further urbanising the site and subsequently does not add to the context of the area in which it is proposed. This adds further harm to that identified above.
- 10.15 Therefore having considered those factors that are found to weigh against the proposal against the considerations put forward by the applicant as weighing in favour of the development, namely that that storage of hay and straw inside the stables is not possible due to the lack of access for a mechanical load lifter, would not clearly outweigh the harm that the proposed development would cause. It is therefore considered that this consideration does not carry significant weight in the context of this application. Therefore the justification put forward does not individually or collectively clearly outweigh the harm to the Green Belt such as to justify the development on the basis of very special circumstances.
- 10.16 Accordingly the proposed development would conflict with the NPPF and Policies RA10, RA21 and D2 of the Welwyn Hatfield District Plan.

2. The quality of the design

- 10.17 Local Plan Policies D1 (Quality of Design) aims to ensure a high quality of design. This policy is expanded upon in the Council's Supplementary Design Guidance (SDG) which requires the impact of a development to be assessed giving regard to the bulk, scale and design of the proposal. Furthermore, criterion (v) of Policy RA21 refers to new building reflecting the local rural character on terms of design, massing and materials. In addition, Chapter 7 of the NPPF emphasises the importance of good design in context.
- 10.18 The proposed development would form part of an existing equestrian use. It is a single storey, open sided traditional cart shed constructed of oak framing over a facing brick base with light stained weatherboarding and a plain clay tiled roof over.
- 10.19 Its overall design and appearance reflects the rural locality and is of an appearance that would be expected to be found in such a locality. Additionally the materials match those used on the main stable building.
- 10.20 With regard to the proposed horse walker this is a typical feature found within rural areas and is not considered to detract from this rural locality. Additionally, the fencing is low level and wooden and of an adequate design for this rural locality.
- 10.21 Accordingly the proposed development is visually acceptable and satisfactory in design. The development therefore complies with the NPPF and policies D1 and RA21 (v) of the Welwyn Hatfield District Plan 2005 and the adopted Supplementary Design Guidance.

3. Other Material Planning Considerations

- 10.21 *i) Highway and Parking (M14, RA21 and SPG)*
The proposed development is accessed via Hornbeam Lane and would not result in the need for any additional parking on site or impact to result in any significant harm in terms of highway safety.
- 10.23 *ii) The potential impact on the residential amenity of adjoining neighbours (D1, R19, RA21 and NPPF)*
Policies D1 and R19 and the Supplementary Design Guidance aim to preserve neighbouring amenity. In addition, guidance in paragraph 17 of the NPPF is to always seek to secure high quality design and good standard of amenity for all existing and future occupiers of land and buildings.
- 10.24 The site is located in a relatively secluded location some distance from other residential properties. Given the nature of the proposals, it is not considered that they cause any further impact to their residential amenity than the existing equestrian use. Accordingly no objections are raised with regard to Policies D1, R19 and RA21 of the Local Plan, the NPPF or the SDG.

10.25 ii) Biodiversity (R15, RA21 and NPPF)

The physical building works that are proposed as part of the development would not impact upon biodiversity (and wildlife sites) and is therefore acceptable.

10.26 iii) Representations

Essendon Parish Council's representation refers to matters which are under consideration under applications S6/2015/1106/FP and S6/2015/1107/MA. Therefore, whilst their comments are not associated with the proposed development under this application, they are dealt with in those applications, which are also being presented to Members at this Development Management Committee meeting.

10.27 iv) Other Matters

With regard to the existing stable building on site, officers are aware that this has not been built in accordance with the approved plans. Those differences include alterations to doors and windows at ground level and the insertion of a first floor. With regard to the windows and doors, it is not considered expedient to take enforcement action given that those alterations are considered acceptable. With regard to the first floor however, officers have previously had concerns that this was being used as residential accommodation. However in a Planning Contravention Notice returned by the applicant and received by the Council on 29th April 2015 it was stated that the stables were not being lived in. If however, as outlined in *Welwyn Hatfield Council v. SoSCLG & Beesley* (2011) in an appropriate case the principle of public policy is that a person should not benefit from their own wrong. It [the wrong doing] can therefore be relied upon to defeat [i.e. refuse] an application for a certificate of lawful use. Therefore, in the event that it is found that the first floor is being used as residential accommodation, officers would have been deliberately misinformed that a residential use is not at first floor and therefore enforcement action would be able to be taken if appropriate.

11. Conclusion

11.1 The proposed storage barn would be inappropriate development in the Green Belt and thus harmful to it. As required by paragraph 88 of the NPPF, this is given substantial harm. The proposal is therefore contrary to the NPPF and Policies RA10, RA21 and D2 of the District Plan together with the SDG.

11.2 With regard to the proposed horse walker and post and rail fencing these are not considered to materially harm the openness or the purposes of including land within the Green Belt and are therefore appropriate development. The impacts of the proposal have been considered on the amenity of neighbouring dwellings and on other relevant material considerations. It has been concluded that the proposal is acceptable in terms of the above. In those respects, the development is in accordance with relevant policies within the adopted Welwyn Hatfield District Plan 2005, the adopted Supplementary Design Guidance and the relevant provisions of the NPPF.

12. Recommendation

12.1 It is recommended that planning permission be refused for the following reason:

1. The site is designated as Green Belt in the Welwyn Hatfield District Plan. The proposed storage barn does not constitute an appropriate facility for outdoor sport and recreation and does not preserve the openness of the Green Belt and conflicts with the purposes of including land within it. It is therefore inappropriate development in the Green Belt. Additionally, the storage barn does not retain and enhance the rural landscape and visual amenity of this part of the Green Belt and subsequently does not enhance the beneficial use of the Green Belt. The Local Planning Authority does not consider that there are any other considerations that exist that would clearly outweigh the harm by reason of its inappropriateness, and any other harm to justify the development on the basis of very special circumstances. Accordingly the proposed development is contrary to the National Planning Policy Framework and Policies RA10, RA21 and D2 of the Welwyn Hatfield District Plan 2005 and the Council's Supplementary Design Guidance.

Refused Drawing Numbers:

703/LP1 & 703/201 & 703/202 & 703/203 & Land Survey received and dated 24 June 2015

Positive and Proactive Statement

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

13. Enforcement Recommendation

13.1 Should the Development Management Committee, agree with officer's recommendation to refuse this planning application it is recommended that enforcement action is authorised. This recommendation should not prejudice the Development Management Committee from making a different decision.

13.2 That the Head of Planning authorises the service of a planning enforcement notice under Section 172 of the Town and Country Planning Act 1990 requiring the recipient(s) to take the following steps, and to take any other further action, including prosecution proceedings if necessary, to rectify the breach of planning control.

Reasons why it is expedient to commence prosecution proceedings:

1. The site lies within the Green Belt as defined in the Welwyn Hatfield District Plan 2005 wherein there is a presumption against inappropriate development other than where very special circumstances that outweigh the harm to the Green Belt can be demonstrated. The storage barn erodes the openness of the Green Belt and therefore does not accord with the fundamental aim of Green Belt Policy as defined within paragraph 79 of the National Planning Policy Framework nor is it covered by any of the exceptions listed within paragraphs 89 or 90. As a consequence, it is inappropriate development and therefore harmful to the Green Belt. Furthermore, it is considered that there are no very special circumstances that exist to justify this inappropriate development, and the resultant harm caused to the Green Belt. The development is therefore contrary to the National Planning Policy Framework's policies on development within the Green Belt.
2. The storage barn does not retain and enhance the rural landscape, nor does it preserve the visual amenity of this part of the Green Belt. It has extended and spread the built form on the site which has had a cumulatively negative impact on the rural character of the area. The storage barn is therefore contrary to policies D2 and RA10 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

14. Requirements

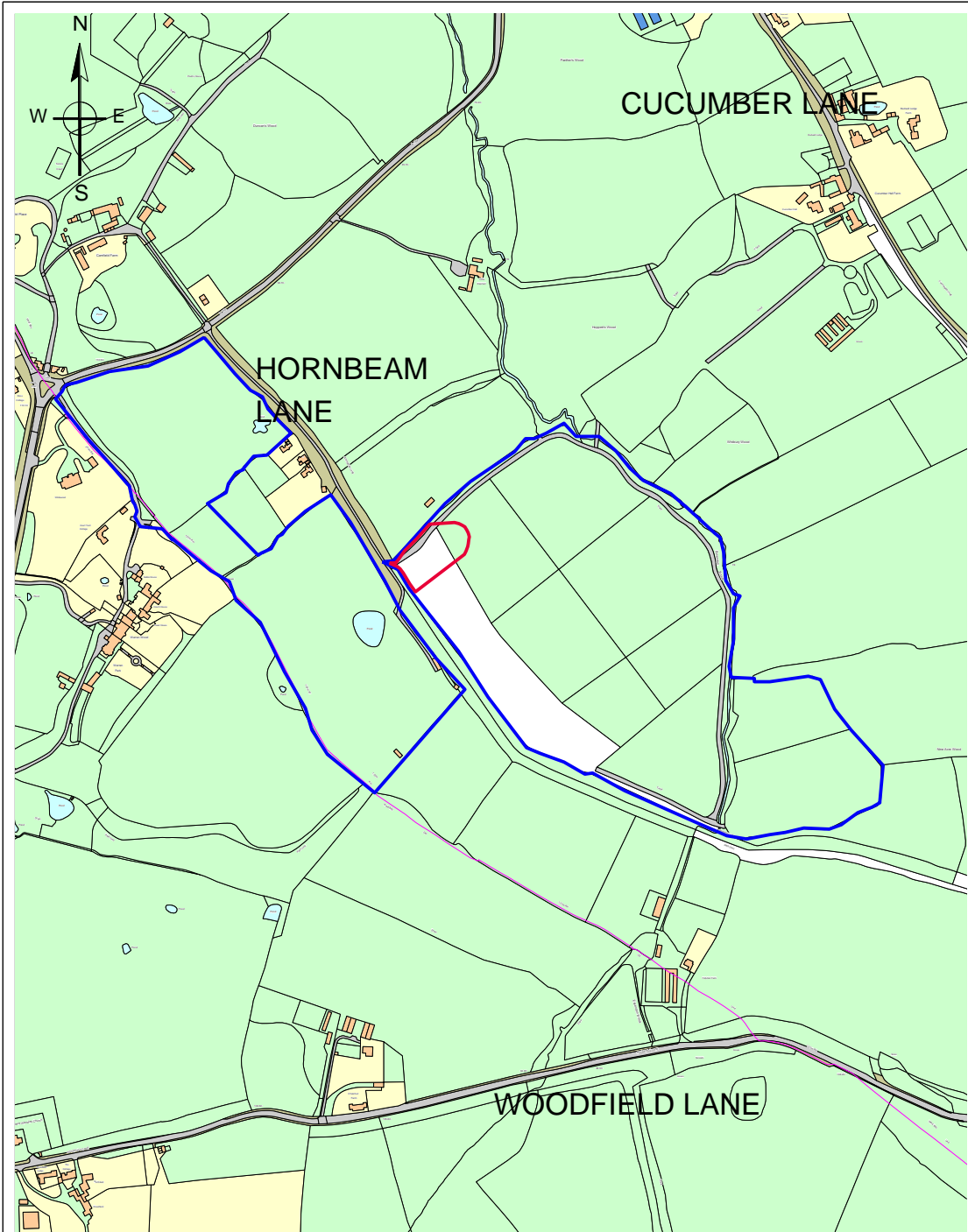
- (a) Demolish and completely remove the unauthorised storage barn, including all foundations and services.
- (b) Remove all resultant materials and debris from the land caused by demolition of the storage and restore the land back to its previously state.


Time Limit

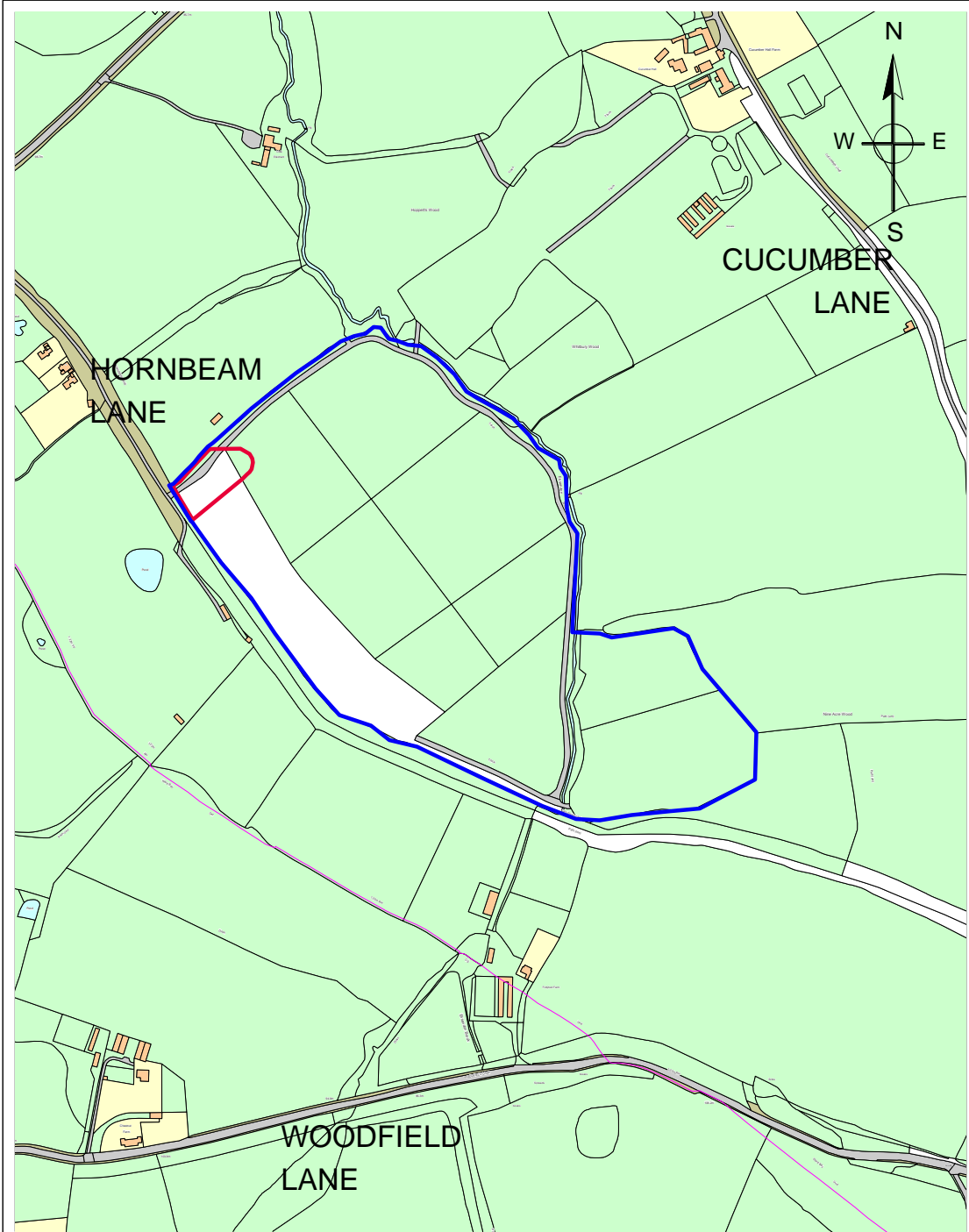
Officers consider that the following period is appropriate to enable the above steps to be taken: 6 Months


Sarah Smith, (Strategy and Development)
Date 24/06/2016

Expiry Date: 22/07/2016



 Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE	Title: Warrenwood Manor, Hornbeam Lane, Brookmans Park		Scale: DNS
	Project: DMC Meeting		Date: 2016
		Drawing Number: S6/2015/1105/FP	Drawn: Andrew Windscheffel
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 Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE	Title: Warrenwood Manor, Hornbeam Lane, Brookmans Park		Scale: DNS
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