
Appeal Decisions

Site visit made on 2 July 2014

by Roland Punshon BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 September 2014

Appeal Refs:

**APP/D2320/A/13/2210500,
APP/D2320/A/13/2210506 and
APP/D2320/A/13/2210517**

Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ

The 3 appeals are made under section 78 of the Town and Country Planning Act 1990 against grants of planning permission subject to conditions.

The 3 appeals are made by S & A Wignall against the decisions of Chorley Borough Council.

Appeal A:

- The application Ref 12/00253/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.
- The development permitted is use of Building C as wood workshop with landscape gardening workshop use to be retained.
- The conditions in dispute are Nos 2, 3 and 4 which state that:

2. The 'wooden doors' installed over the existing roller shutter door to the west elevation of Building C shall be retained in perpetuity unless replaced by doors of similar size and specification.

3. The 'wooden doors', roller shutter door and access door to the west elevation of Building C shall remain permanently closed when any operations are being carried out within the building.

4. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).

- The reasons given for the conditions are:

2 and 3. To ensure the amenities of neighbouring residential properties are protected and in accordance with the National Planning Policy Framework and Policy (sic) EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.

4. To protect the amenity of local residents and in the interests of preserving

the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

Appeal B:

- The application Ref 12/00254/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.
- The development permitted is change of use of Building B for storage purposes.
- The conditions in dispute are Nos 5, 6 and 7 which state that:

5. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).

6. The use of Building B hereby permitted as a store shall be restricted to the hours between 08.00am and 18.00pm on weekdays, between 08.00am and 13.00pm on Saturdays and there shall be no operation on Sundays, Bank Holidays or any Public Holiday.

7. The use of Building B hereby permitted shall be as a store, in connection with the applicant's landscape gardening business and shall only enure for the benefit of the applicant 'S & A Wignall'. Building B shall be used for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that use class in any subsequent instrument revoking or re-enacting that Order).

- The reasons given for the conditions are:
 - 5. To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*
 - 6. To safeguard the amenities of local residents and in accordance with the National Planning Policy Framework, Policy 17 of the Adopted Central Lancashire Core Strategy and Policies EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.*
 - 7. To protect the amenity of local residents and the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*

Appeal C:

- The application Ref 12/00255/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.

- The development permitted is change of use of land for storage and recycling in connection with landscape gardening business.
- The conditions in dispute are Nos 2, 3, 4 and 6 which state that:

2. No storage shall take place on the site (identified by the blue edged line shown on the approved location plan) other than within the areas defined: storage clamps; storage area; tractor, trailer, digger and implement store or storage bins (identified on the approved plan ref. 411/20A). Any storage within these defined areas shall not exceed the height of the existing storage clamp walls.

3. The use of land hereby permitted for storage and recycling shall be restricted to the hours between 08.00am and 18.00pm on weekdays, between 08.00am and 13.00pm on Saturdays and there shall be no operation on Sundays, Bank Holidays or any Public Holiday.

4. There shall be no operation of wood chipping equipment within the Jumps Farm site as identified by the red and blue edged lines on the approved location plan (ref. 1944-6).

6. The use of the storage and recycling area hereby permitted shall only be in connection with the landscape gardening business and shall only enure for the benefit of the applicant S & A Wignall.

- The reasons given for the conditions are:

2. To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area and Green Belt. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

3. To safeguard the amenities of local residents and in accordance with the National Planning Policy Framework, Policy 17 of the Adopted Central Lancashire Core Strategy and Policies EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.

4. On the basis of the Mitigation measures detailed in Section 9 of the Noise assessment, dated 2nd May 2013 (which have not been tested by evidence); it is considered the modification of the acoustic barrier (to a minimum height of 3m as required) would result in significant detrimental harm to the visual amenity and openness of the Green Belt. Conversely, if the development were to proceed without the required mitigation measures to the acoustic barrier, the development would result in a likelihood of complaints and therefore significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. The use of land for purposes of storage and recycling in connection with the applicant's landscape gardening business including the wood chipper would result in significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. Furthermore, the effect of wood chipping has not been established at other points within the wider Jumps Farm site and so the resulting impact on neighbour amenity cannot be quantified.

The condition is therefore required in accordance with the National Planning

Policy Framework, the Noise Policy Statement for England, Policy 17 of the Adopted Central Lancashire Core Strategy, Policy EP20 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the Emerging Local Plan (2012-2026).

6. To protect the amenity of local residents in accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for use of Building C as wood workshop with landscape gardening workshop use to be retained at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00253/FUL, made on 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 2, 3 and 4 imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new conditions set out in the Conditions Appendix (A) to this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for change of use of Building B for storage purposes at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00254/FUL, made on 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 5, 6 and 7 previously imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new condition set out in the Conditions Appendix (B) to this decision.

Appeal C

3. The appeal is allowed and planning permission is granted for change of use of land for storage and recycling in connection with landscape gardening business at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00255/FUL, made on the 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 2, 3, 4 and 6 imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new conditions set out in the Conditions Appendix (C) to this decision

Application for costs

4. An application for costs was made by the appellants against the Council. The costs application is the subject of a separate Decision.

Procedural matters

5. Paragraph 206 of the National Planning Policy Framework (NPPF) sets out the 6 tests which should be applied when planning conditions are imposed.

Conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. On 6 March 2014 the advice in Circular 11/95 – *The Use of Planning Conditions in Planning Permissions* was cancelled on the launch of the government’s latest Planning Practice Guidance. The appeals were submitted when the Circular was in force. My decisions will be made on the basis of the up-to-date Guidance.

Background

6. The appeal premises comprise a former poultry farm in the village of Bretherton. The agricultural use appears to have ceased some time ago and a landscape gardening business became gradually established on the site of the poultry sheds. The site is located in the Green Belt and within the Bretherton Conservation Area.
7. The site is adjoined by the gardens of residential properties. The previous poultry farm use would have caused some degree of nuisance to the neighbours. The Council does not argue that the replacement of the poultry farm use by the landscape gardening use is unlawful. The commercial uses on site are confined to 3 buildings – Buildings A, B and C, a yard at the rear of Building C and the yard areas surrounding the buildings. Paddocks and fields at the rear of the site and a house on the site frontage, all of which are in the ownership of the appellants, do not appear to be used in connection with the commercial activities.
8. It cannot be reasonably expected that a business of this sort could be operated without there being some degree of noise which is audible to near neighbours – a point which is accepted by the Council. I have made my decisions on this basis.

Appeal A

Main Issues

9. I consider that the main issues in Appeal A are:
 - Whether conditions 2, 3 and 4 are precise, reasonable and necessary to protect the amenities of neighbouring residential properties; and,
 - Whether condition 4 is precise, enforceable, reasonable and necessary to ensure that the character and appearance of the Conservation Area is not harmed.

Reasons

Condition 2

10. Building C is located towards the rear of the site and is separated from open fields at the rear by a concrete storage yard – the subject of Appeal C. At the time of my site visit the building was used partly for storage and other purposes associated with the landscape gardening business and partly for the manufacture of garden sheds. Access to the building was gained by a roller shutter door and personnel door in the western elevation which faced towards a residential property on the adjacent site – Church House Barn. A second pair of wooden doors had been installed which closed over the roller shutter door.

Inside the building were 2 bench saws which were used by the shed manufacturers and a powered kindling splitting machine used by the landscape gardening business.

11. As part of the original planning application the appellants submitted a report by a specialist noise consultant. This concluded that, given the distance between Building C and Church House Barn it was very likely that, at the normal usage times, the noise of the operation would be completely inaudible to the occupiers of the dwelling and most unlikely to present any level of noise nuisance at all. It also concluded that one set of doors over the main entrance – either the roller shutter or the wooden doors – would be entirely adequate to provide sufficient noise insulation.
12. The Council has produced no specialist evidence to dispute these findings. Whilst the Council's Environmental Health officers visited the shed manufacturing operation on many occasions when it operated from another building on site – a building much closer to Church House Barn – a statutory nuisance was not identified. The Council claims that the appellants' noise evidence is, in part, contradictory. However, I consider that the Council has misinterpreted the evidence. I do not consider that, at any point, the evidence suggests that it would be necessary for both sets of doors over the main access to the building to be kept closed at the same time to prevent nuisance. In my view the evidence is clear that either set of doors would deliver the necessary mitigation and that any condition should therefore only require one set to be closed. This can be secured without the retention of the wooden doors. In these circumstances I do not consider that Condition 2 is necessary to prevent unacceptable noise nuisance to the occupier of Church House Barn and other neighbouring residential properties. I have, therefore, deleted Condition 2.

Condition 3

13. The appellant's specialist noise consultant report states that the key issue was to ensure that the doors – whether it be either the roller shutter or the wooden doors but also including the personnel door - remained closed during any noisy operation in order to reduce the potential for noise nuisance. I agree with these findings. However, Condition 3 does not restrict itself to keeping the doors closed during 'noisy operations' but requires the doors to be kept closed at all times when all operations are taking place in the building. Clearly some of these operations will generate little or no noise. In these circumstances I do not consider that the condition, as worded, is reasonable or necessary to prevent noise nuisance.
14. The Council argues that a condition which requires the doors to be kept closed during only 'noisy operations' would be unenforceable. I disagree. Given the distance between Building C and Church House Barn, I do not consider that the use of hand tools including hand held powered drills, hand saws, etc would be unacceptably audible to the neighbours. I understand that complaints have been received in the past about the noise generated by hammering. However, whilst the neighbours may be able to hear the sounds of hammering, given the distance between Building C and the nearest dwelling, I do not consider that normal hammering would cause noise levels sufficient to cause unacceptable nuisance. I have therefore concluded that Condition 3 should be replaced by a condition which requires that the doors remain closed whilst powered wood cutting and shaping tools are being operated. Powered nailing machines can

produce considerable noise and, whilst these were not being employed at the time of my site visit, I have tailored the condition to require the appellants to seek the Council's permission to use such machines should this be required.

Condition 4

15. The appeal drawings show Building C and an adjacent yard area outlined in red and other land in the ownership of the appellant outlined in blue. However, the area outlined in blue includes the appellant's house on the road frontage and some paddock land at the rear. The blue line extends off the submitted drawing and there is no way of knowing how far it extends. Condition 4 seeks to control activities on the blue-edged land but clearly such a condition cannot pass the test of precision when the full extent of the land is unclear. There is no suggestion that either the house at the front of the site, its gardens or any of the paddocks at the rear have ever been used as part of either the landscape gardening business or the shed manufacturing operation. A separate permission would therefore be required if any of this land was used by the businesses. In these circumstances I consider that condition 4 should be limited to controlling the use of land which is currently used for commercial purposes. The appellant has submitted a plan which shows by a blue edge the area which is used by the businesses operating on site. However, this excludes a yard area adjacent to Building B. The appellant claims that this land is used for 'general use', not associated with either the landscape gardening or woodworking businesses. At my site visit I was unaware that that the appellant considered that, in effect, here were 3 commercial uses on the site. Even so, a properly formulated planning condition would only seek to control this land so far as its use by the wood working business is concerned. It would not impose restrictions on the land's use for any other lawful purpose. In these circumstances I consider that condition 4 should refer to the area in commercial use and the appellants have provided a plan ref. 1944-3CM which also encloses by a blue line the additional area to which I refer. My decisions will be based on this plan.
16. I consider that condition 4 as drafted also fails the test of precision and enforceability in that it makes no reference to the area of extended parking which is part of the submitted proposals and seeks to prevent industrial, display or storage activities display across the whole of the blue-edged area. This area includes land which could be legitimately used for these purposes by the appellants' landscape gardening business or for other lawful purposes. I accept that there are sound planning reasons for imposing this type of condition both in the interests of the amenity of local residents and the effect on the Conservation Area. In the absence of a condition, noisy activities could be undertaken in close proximity to nearby dwellings causing nuisance by reason of noise and a more cluttered, untidy appearance of the site could be harmful to the village character of the Conservation Area. In these circumstances I have deleted condition 4 as drafted by the Council and replaced it with a condition which satisfies the tests of necessity, precision, enforceability and reasonableness.

Conclusions – Appeal A

17. In these circumstances I am satisfied that that Appeal A should be allowed. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20

and HT7 of the adopted Chorley Borough Local Plan Review. I conclude, therefore, that Condition 2 should be deleted and that Conditions 3 and 4 should be deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF.

Appeal B

Main Issues

18. I consider that the main issues in Appeal B are:

- Whether conditions 5 and 7 are precise, reasonable, enforceable and necessary to protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area; and
- Whether condition 6 is precise, reasonable and necessary to safeguard the amenities of local residents.

Condition 5

19. Condition 5 seeks to impose restrictions which are similar to those which the Council sought to impose through condition 4 of the Appeal A permission and suffers from similar shortcomings in terms of precision. I have seen no evidence to suggest that the landscape gardening business or other commercial activity has ever extended beyond the site edged blue on plan ref 1944-3CM which has been provided by the appellant and, if the condition is required at all, I am satisfied that its requirements should be limited to that area only.

20. However, it would appear that Building B has been used since about 2004 as a store in connection with the landscape gardening business with the benefit of planning permission 04/00752/COU. Although the building was used for a period for woodworking purposes with the benefit of a temporary planning permission, the use would revert to storage in connection with the landscape gardening business at the expiration of that temporary permission. The Council does not dispute that the site can be used lawfully for landscape gardening purposes. In these circumstances I do not consider that a condition which would, in effect, place more onerous limitations on the authorised use of the wider site is reasonable – especially in circumstances where the storage use of Building B may, in itself, be authorised. I have therefore deleted condition 5.

Condition 6

21. As I have pointed out above the authorised use of Building B appears to be as a store in connection with the landscape gardening business with the benefit of planning permission 04/00752/COU. That permission was subject to a condition which limited the hours during which landscape gardening operations on the site could take place. However, condition 6 as imposed on the appeal permission seeks to limit control to uses taking place in or at Building B. I will deal with the appeal on that basis.

22. The Council has suggested an alternative to condition 6 which seeks to control hours during which loading, unloading and other landscape gardening activities can take place in Building B. I agree that this condition would be more reasonable than the original condition 6. However, its reference to 'other landscape gardening activities' would prevent operations which generate little

- or no noise. As such I do not consider that, even in its reworded form, condition 6 meets the test of necessity.
23. The only remaining vehicle access door to Building B is in the eastern elevation, facing directly away from Church House Barn. Nonetheless, even storage activities can be noisy when vehicles are being loaded or unloaded. Given the proximity of the building to the adjacent dwelling, I consider that a suitably worded condition which limits hours during which vehicle loading and unloading can take place would be necessary to prevent unacceptable nuisance.
24. I understand that the appellants occasionally use the building for the storage of their private cars in times of inclement weather. However, this was not mentioned in application 12/00254/FUL which was made to the Council. The Council has not therefore had the opportunity to fully consider such a proposal. I can only deal with the appeal on the same basis as the proposal was considered by the Council. In these circumstances I cannot formulate a condition which would permit the storage of private cars in Building B. If private cars are stored in the building then there is likely to be a breach of any condition which limits use of the building to the purposes for which the appellants sought planning permission. However, in all cases the Council would need to consider whether the taking of enforcement action to remedy the breach was expedient in all the circumstances.
25. In these circumstances I have deleted condition 6 as drafted by the Council and replaced it with a condition which satisfies the tests of necessity, precision, enforceability and reasonableness.

Condition 7

26. The Planning Practice Guidance makes clear that planning permission runs with the land and that it is rarely appropriate to provide otherwise. Conditions which limit the benefits of permission to an individual should be scarcely employed. I accept that, in the absence of condition 7, Building B could be rented out to another person who could use it for the permitted purpose. However, I can see no sound reason for assuming that this would inevitably cause additional nuisance to the neighbour or would harm the character or appearance of the Conservation Area. Use of the building by another person would simply replace one storage use by another. There is no certainty that activity levels would be changed in a way which would cause harm. In these circumstances I have deleted condition 7 as being unnecessary.

Conclusions – Appeal B

27. In these circumstances I conclude that Appeal B should be allowed and that Conditions 5 and 7 should be deleted and that Condition 6 should be deleted and replaced by a condition which satisfies the tests set by paragraph 206 of the NPPF. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20 and HT7 of the adopted Chorley Borough Local Plan Review or Policy 17 of the Adopted Central Lancashire Core Strategy.

Appeal C

Main Issues

28. I consider that the main issues in Appeal C are:

- Whether condition 2 is precise, reasonable, enforceable and necessary to protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area and of the Green Belt;
- Whether condition 3 is precise, reasonable and necessary to safeguard the amenities of local residents;
- Whether condition 4 is precise, reasonable and necessary to safeguard the amenities of local residents and to protect the openness and visual amenity of the Green Belt; and
- Whether the wording of condition 6 is precise, reasonable and necessary to protect the amenity of local residents.

Condition 2

29. The yard at the rear of Building C is hard-surfaced and has been divided to provide storage clamps. The same problems of precision and enforceability which arise with condition 4 of Appeal A arise with this condition. I have already dealt with the issue of the blue-edged land in paragraphs 15 and 16 above. This issue could be resolved by reference to the site boundary shown on the plan ref 1944-3CM submitted by the appellants. I also consider that condition 2 is imprecise, unenforceable and unreasonable in that it seeks to prevent storage uses across the whole of the land in the appellant's ownership when, at least, some of this land could legitimately be used for storage.
30. In my opinion there are sound grounds for seeking to ensure that the storage of loose materials and recycling activities are confined to a specific area. If such materials were to be stored indiscriminately across the site there would be clear potential for noise nuisance being caused to neighbours and for the current tidy appearance of the site to degenerate to a point where harm to the Conservation Area and to the visual amenity of the Green Belt would result. However, I can see no sound reason for preventing the use of other parts of the site for parking or for the storage of other than loose materials. In these circumstances I have reworded condition 2.

Condition 3

31. I consider that condition 3 fails to meet the tests of precision, necessity and reasonableness in that it would, if applied as worded, require all stored materials to be removed from the site except during the working day. Clearly that is not a reasonable requirement and is unnecessary to protect the amenities of neighbours. The Council has suggested an alternative condition which seeks to confine the limitation which is being imposed to loading and unloading activities.
32. The yard area is some distance away from the nearest residential properties. I am not persuaded that, given the distances involved and the presence in some cases of intervening buildings, the noise generated by storage uses in what is a relatively small yard would be sufficient to cause the degree of nuisance to the

neighbours which would make the condition necessary. In these circumstances I have deleted condition 3.

Condition 4

33. Part of the appellant's recycling activities involves the chipping of tree waste to provide wood chips. In normal circumstances this would be undertaken on site as the transportation of wood chips is likely to be easier than the transportation of more bulky tree waste. However, there are occasions when the appellant wishes to carry out the chipping operations on site.
34. In my experience wood chipping machines generate significant levels of noise when being operated. The Council has sought specialist advice on noise and this recommends that operation of the machine would be likely to result in complaints. However, it advises that, provided the size of the chipping machine is limited and that it is only operated for limited periods in a specific location alongside a 3 metres high acoustic barrier, the levels of noise experienced by neighbours would be below the threshold where complaints would be likely. The Council has expressed concerns over its own evidence stating that it has not been substantiated by further evidence to demonstrate that the suggested mitigation measures would be successful.
35. I can only make my decisions in this case on the evidence before me. The Council's own evidence indicates that, with mitigation and limitations, the use of an appropriately sized chipping machine should not cause noise nuisance. There is no clear evidence to refute this position. The Council argues that the conditions suggested by the noise specialists may not be enforceable and could be unreasonable. I do not agree. Whilst I accept that the suggested conditions are very restrictive and require modification in order to meet the NPPF tests, I am satisfied that they are enforceable and, when the Council's alternative is to prevent all use of the chipping machine, I do not consider that they can be viewed as unreasonable.
36. The proposed mitigation measures are only likely to be successful in preventing nuisance if a 3 metres high acoustic barrier is provided around part of the storage area. The appeal site is in the Green Belt and the NPPF advises that, in such locations, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The erection of a fence is an engineering operation which may not be inappropriate development provided that the openness of the Green Belt is preserved and it does not conflict with the purposes of including land in the Green Belt. The proposed 3 metres high fence would replace an existing solid fence which is about 1.5 metres high. No land which is currently open would therefore be lost by increasing the height of the fence. I do not consider that this increase in height of the fence would conflict with any of the purposes of including land in the Green Belt. The proposed fence would not, therefore, amount to inappropriate development in the Green Belt.
37. The appellant could erect a 2 metres high fence without needing planning permission. I accept that a 3 metres high fence would have more effect on the visual amenity of the Green Belt and, in particular, would enclose a public footpath which runs alongside the yard. However, any views from the footpath to the east would be across a storage yard and I am not persuaded that, in these circumstances, the harm to the visual amenity of the Green Belt which

would occur would be sufficient to make the fence (or a fence of a suitable alternative design) unacceptable.

38. Given that I have found that the increase in height of the fence would not amount to inappropriate development in the Green Belt and that any harm to the visual amenity of the Green Belt which would occur would not be sufficient to make the fence unacceptable, there is no need for the appellant to show very special circumstances to justify the development.
39. In these circumstances I conclude that condition 4 should be deleted and should be replaced by the conditions set out in the attached Appendix.

Condition 6

40. I have dealt with the issues surrounding 'personal' conditions in respect of condition 7 of Appeal B above. My reasoning and conclusions in respect of that condition apply equally to condition 6 of Appeal C. I conclude that the condition should be deleted as being unnecessary and unreasonable.

Conclusions – Appeal C

41. In these circumstances I conclude that Appeal C should be allowed and that Conditions 3 and 6 should be deleted and that Conditions 2 and 4 should be deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20 and HT7 of the adopted Chorley Borough Local Plan Review, Policy 17 of the Adopted Central Lancashire Core Strategy and the *Noise Policy Statement for England*.

Roland Punshon

INSPECTOR

Conditions Appendix

(A)

Appeal A

Delete Condition 2.

Delete condition 3 and replace by:

The doors in the western elevation of Building C shall be kept closed at all times when powered machines for the cutting, sawing and shaping of wood (excluding electrically powered hand drills) are being operated within the building. No powered nailing machines shall be employed without the prior written permission of the local planning authority.

Delete Condition 4 and replace by:

The wood working operations hereby permitted shall be carried out entirely within Building C. No wood working operations or display or storage of goods or materials associated with the wood working operations shall be carried out on that part of the application site set aside for car parking and hatched red on plan 1944-5 or on any other part of the land edged blue on the plan ref 1944-3CM.

(B)

Appeal B

Delete Condition 5

Delete Condition 6 and replace by:

The storage use of Building B shall be limited to the storage of vehicles, machinery and materials employed in connection with the landscape gardening business which operates from the site. No loading or unloading of vehicles shall take place within the building and no vehicles shall be moved into or out of the building at any time outside the hours of 08.00 to 18.00 on Mondays to Fridays inclusive and 08.00 to 13.00 on Saturdays and at no time on Sundays, Public or Bank holidays.

Delete Condition 7

(C)

Appeal C

Delete Condition 2 and replace by:

All open storage of loose materials, recycling of materials and storage of machinery associated with these activities shall be confined to the site shown edged red on plan ref: 1944-6. The storage of materials shall be confined to the areas shown as storage clamps, storage area and storage bins on drawing 411/20A. All loose materials including soil, sand, stone, mulch and woodchip shall be confined to the indicated storage clamps and shall not exceed the height of the storage clamp walls.

Delete Condition 3.

Delete Condition 4 and replace by:

A continuous and imperforate acoustic barrier with a minimum height of 3 metres and a minimum mass of 12kg/m² shall be erected on the line marked yellow on Figure 3 of the Noise Assessment undertaken by Miller Goodall Environmental Services and dated 2 May 2013 before any wood chipping operations are commenced on the site. Details of the design of the fence shall accord with the details in part 10 of the Miller Goodall Environmental Services Noise Assessment or with alternative details which have been submitted to and approved in writing by the local planning authority before its installation is commenced. Once provided the acoustic fence shall be retained for so long as wood chipping operations are being carried out on the site.

Wood chipping machinery shall only be operated in the area shown shaded solid red on Figure 3 of the Noise Assessment undertaken by Miller Goodall Environmental Services and dated 2 May 2013. All wood chipping operations hereby permitted on the site shall be carried out employing a chipping machine which is petrol driven with a maximum power rating of 20 horsepower. No wood chipping machine with a different specification shall be employed on the site except where a full specification has been submitted to and approved in writing by the local planning authority before the machine is first used.

All wood chipping operations hereby permitted on the site shall be carried out between the hours 1500 and 1700 on Mondays to Fridays inclusive and at no other times. The wood chipping operation shall not be carried out for more than 1 hour (measured either cumulatively or continuously) during these permitted times.

Delete Condition 6.