Annexe 1

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GU7 1HR

Your Ref: EN/2004/8 & 9

Our Ref: APP/R3650/C/04/1160262
APP/R3650/C/04/1160263

Date: 15 December 2005

Dear Sir/Madam

TOWN & COUNTRY PLANNING ACT 1990
APPEALS BY HALL HUNTER PARTNERSHIP AND HALL HUNTER PARTENSHIP
SITE AT TUESLEY FARM, TUESLEY LA, GODALMING, SURREY, GU7 1UG

I enclose a copy of our Inspector's decision on the above appeal(s) together with a copy of the decision on an application for an award of costs.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

Please note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly.

If you have any queries relating to the decision please send them to:

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Yours faithfully

Mr Kevin Carpenter

EDL2(BPR)

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Appeal Decisions

Inquiry opened on 1 February 2005

Site visits made on 12 May 2005, 8 &.9 August 2005

by G P Bailey MRICS

an Inspector appointed by the First Secretary of State

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Date

15 DEC 2005

Appeal A: APP/R3650/C/04/1160262

Tuesley Farm, Tuesley Lane, Godalming, GU7 1UG

- 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 Hall Hunter Partnership against an enforcement notice issued by Waverley Borough Council.
- The Council's reference is EN/2004/8.
- The notice was issued on 29 July 2004.
- The breach of planning control as alleged in the notice is, without planning permission, (a) the change of use of the land from agriculture to stationing of caravans; (b) the formation of a bund and erection of a fence in the location indicated on "Plan 2" attached to the notice; and (c) engineering works for the provision of services to the caravans.
- The requirements of the notice are (i) remove the caravans from the land; (ii) demolish the fencing on top of the earth bund as identified on "Plan 2" attached to the notice; (iii) remove the earth bund as identified on "Plan 2" attached to the notice; (iv) dismantle the electricity supply to each caravan pitch; (v) dismantle the water supply to each caravan pitch; (vi) dismantle the drainage system from each caravan pitch; (vii) remove from the land the paving in the hatched area indicated on "Plan 2" attached to the notice; (viii) remove from the land all building materials and rubble arising from compliance with the demolition and other works undertaken in compliance with requirements (i), (ii), (iii), (iv), (v), (vi) and (vii) above; and (ix) remove from the land all machinery, equipment, and other devices dismantled (or otherwise on the land) in compliance with requirements (iv), (v), (vi) and (vii) above.
- The period for compliance with each and all of the requirements is four months.
- The appeal was made on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 (as amended). During the course of the inquiry, an appeal was made additionally on the grounds set out in s.174(2)(g) of the 1990 Act (as amended). The application for planning permission deemed to have been made under s.177(5) of the 1990 Act (as amended) also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations.

Appeal B: APP/R3650/C/04/1160263

Tuesley Farm, Tuesley Lane, Godalming, GU7 1UG

- 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 Hall Hunter Partnership against an enforcement notice issued by Waverley Borough Council.
- The Council's reference is EN/2004/9.
- The notice was issued on 29 July 2004.
- The breach of planning control as alleged in the notice is, without planning permission, (i) the erection of polytunnels; (ii) the erection of tall windbreaks, shown on "Plan 2" attached to the

notice; (iii) the creation of an earth bund, shown on "Plan 2" attached to the notice; (iv) the erection of fencing on top of the earth bund, shown on "Plan 2" attached to the notice; (v) engineering works associated with the provision of services for the caravans.

- The requirements of the notice are (i) demolish the polytunnels; (ii) demolish the windbreaks identified on "Plan 2" attached to the notice; (iii) demolish the fencing on top of the earth bund as identified on "Plan 2" attached to the notice; (iv) dismantle the electricity supply to each caravan pitch; (v) dismantle the water supply to each caravan pitch; (vi) dismantle the drainage system from each caravan pitch; (vii) remove from the land the paving in the hatched area indicated on "Plan 2" attached to the notice; (viii) remove from the land all building materials and rubble arising from compliance with the demolition and other works undertaken in compliance with requirements (i), (ii), (iii), (iv), (v), (vi) and (vii) above; and (ix) remove from the land all machinery, equipment, and other devices dismantled (or otherwise on the land) in compliance with requirements (iv), (v), (vi) and (vii) above.
- The period for compliance with each and all of the requirements is four months.
- The appeal was made on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 (as amended). During the course of the inquiry, an appeal was made additionally on the grounds set out in s.174(2)(g) of the 1990 Act (as amended). The application for planning permission deemed to have been made under s.177(5) of the 1990 Act (as amended) also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations.

Procedural Matters

Preliminaries

1. The inquiry sat for 11 days on 1, 2 and 3 February 2005; 10, 11, 12 and 13 May 2005; and 4, 5, 6 and 7 October 2005.

2. On the afternoon of 12 May 2005 (day 6) and with the consent of the main parties, I made unaccompanied visits to various distant viewpoints in the locality. On 8 and 9 August 2005, during the second of the long adjournments of the inquiry, an accompanied visit to the appeals site, its surroundings including nearby houses and to various distant viewpoints, was made, purposely during summer months. Also on the 9 August 2005, at the request of the representatives of the Campaign to Protect Rural England ('CPRE'), I viewed, unaccompanied, from the highway, land opposite the William IV public house, Little London, Albury.

3. At the inquiry, an application for costs was made by Waverley District Council against Hall Hunter Partnership. This application is the subject of a separate decision.

Evidence Submitted by Mr K N Light on Behalf of the Appellant

Background

4. Arising from the cross-examination of Mr G C J Ellis, a landscape architect, on days 2 and 3 of the inquiry, it was submitted on behalf of the appellant that a landscaping scheme and a landscape management plan would be produced to supplement not only his evidence, but also in respect of draft conditions submitted on behalf of the appellant. A letter dated 7 February 2005 from the Planning Inspectorate to the main parties confirmed the timetable

agreed on day 3 for the submission of the schemes and for the submission by the main parties of counter-representations.

5. During the long adjournment between days 3 and 4, a substantial bundle of documents was received from Mr K N Light, a landscape architect of the firm Davis Light Associates Ltd on behalf of the appellant.

Submissions for the Council, the Campaign to Protect Rural England and the Tuesley Farm Campaign ('TFC')

6. On resumption of the inquiry, considerable concern and objection to the admissibility of the evidence at this stage in the inquiry was expressed by the Council, the CPRE and the TFC, including disquiet that one part of the bundle, comprising the "landscape management plan", had been received well-outside the timetable for submission.

7. It was argued that the submission of this new evidence went well-beyond the scope of that intended to be sought of the appellant by introducing new landscaping evidence and that it also duplicated issues already canvassed by Mr G C J Ellis and by Mr A P Aspbury, the appellant's expert planning witness. It was pointed out that such evidence should have been forthcoming prior to the inquiry and that it would be unfair and a flagrant abuse of the inquiry process to consider matters contained in the new evidence, other than that which addressed issues specifically sought of the appellant during the adjournment and which should be given by Mr G C J Ellis rather than by a new witness. If such additional evidence was to be admitted, then the Council, the CPRE and the TFC should be given the opportunity to consider it and to call additional witnesses.

Submissions for the Appellant

8. For the appellant, it was pointed out that significant material was necessary to address the requirements of suggested draft conditions relating to landscaping and its management. Those matters, contemplated as operating through conditions, were being brought forward to counter the objections being made to the appeal schemes. Nothing tied the appellant to a particular person or practice to produce this additional evidence and it was of immense importance to the appellant that this matter was fully undertaken at this stage. In order to prepare landscaping proposals and a landscaping management plan, it was necessary, appropriate and desirable to undertake and to record a visual appraisal of the landscape in order to demonstrate the appropriateness of the landscaping scheme and its management.

9. Bearing in mind the importance attached to landscaping by all of the parties to the inquiry, it would not be right to deny the appellant the opportunity of explaining how and why it was formulated. No interests would have been prejudiced by the lateness of one part of the bundle of additional evidence. Especially as these are enforcement appeals, it would be procedurally erroneous and not right to refuse to admit the whole or parts of the new evidence, nor would it be satisfactory for Mr G C J Ellis to speak to Mr K N Light's evidence. All interested persons could revisit the evidence, either orally at the inquiry or in writing prior to its closing.

Reasoning

10. In ruling on the admissibility of this new evidence, I indicated that it would be important to gather together whatever evidence is available that would be material in the process of reaching decisions in these cases. The quality of those decisions would only be assisted by having regard to whatever new material evidence might arise, even if it does so during the course of the inquiry. Clearly in these cases, there was agreement that additional evidence pertaining to landscaping and its future management would facilitate those decisions; in the interests of fairness, it could not be turned away. There may be ramifications on the length of the inquiry, but so be it.

11. However, I also indicated that the extent to which the new evidence would duplicate that of Mr G C J Ellis would be unacceptable. My view was that it would be necessary for both landscape witnesses of the appellant to set out in a separate document those points on which they agree and disagree and to discuss those matters with the other main parties so, in effect, to produce a statement of common ground to enable the inquiry to concentrate on those landscaping matters that remain in dispute. I anticipated that the appellant's progress towards such objectives could be reviewed on day 6 and a document produced on day 7; in the meantime, the inquiry would continue on other matters.

Responses

12. In response, on day 6, the appellants were able to put in to the inquiry a *"Statement Relating to the Evidence Submitted on behalf of the Appellants"* which addressed areas of agreement and disagreement in the evidence of Mr G C J Ellis and Mr K N Light and identified new material provided by Mr K N Light.

13. On day 5, it had been agreed that a second long adjournment after day 7 would be necessary, until resumption on 4 October 2005. That adjournment would give time for the main parties and other interested persons to consider and respond to the appellant's new evidence prior to 6 September 2005, in accordance with a timetable as discussed and agreed at the inquiry and set out in a letter dated 16 May 2005 from the Planning Inspectorate to the main parties. Subsequently, Mr K N Light gave evidence on which he was cross-examined; Mr J Rath was called to give landscape evidence on behalf of the TFC and the evidence of Mr D Withycombe on behalf of the Council was expanded to embrace that arising from the introduction of Mr K N Light.

Introduction of Appeals on Ground (g)

14. On day 7, Mr G Byrne outlined the appellant's increasing concerns about the adequacy of the periods for compliance on both notices. These concerns were brought about by the length of the inquiry, being spread across several months of 2005, which would have ramifications on the eventual actual date of compliance with the notices and the need for plans to be made by the appellant for 2006. For these reasons, the appellant sought to introduce appeals on ground (g) in respect of both Appeal A and Appeal B.

15. That same long adjournment would also suffice in order to accommodate receipt of such new evidence. However, in the same letter dated 16 May 2005 from the Planning Inspectorate, at my request, the timetable for submission of evidence in respect of ground (g) was adjusted to request the submission of the appellant's evidence by 16 August 2005,

so as to enable the other main parties and interested persons to respond by 6 September 2005.

The Enforcement Notices

16. The allegation contained in the notice in Appeal A ("Notice A") refers to a change of use from agriculture to the stationing of caravans. Caravans used for purposes incidental to agricultural use would not involve a material change of use amounting to a breach of planning control. It is their use for the purposes of human habitation that would give rise to the alleged breach and should be described accordingly. Moreover, Notice A is directed at all of the land edged in a thick black line as shown on the attached 'Plan 1'. This includes not only agricultural land and the land occupied by the caravans, but also includes two dwellinghouses. Thus, the allegation should refer to a change of use from a mixed use of agriculture and dwellinghouses to a mixed use of agriculture, dwellinghouses and the stationing of caravans used for the purposes of human habitation. To put Notice A on a proper footing and to ensure no future confusion arises, I propose to correct the allegation and to make a corresponding variation to step (i) of the requirements of the notice. I can do so without prejudice to the interests of the main parties.

17. The operational development referred to in sub-paragraphs (iii), (iv) and (v) of the allegation in paragraph 3 of the notice in Appeal B ("Notice B") is the same operational development as that referred to in sub-paragraphs (b) and (c) of the allegation contained in paragraph 3 of Notice A. Potential difficulties might arise whereby two notices each addresses the same alleged unauthorised development. Only one of the notices would need to do so. In these cases, as the operational development is incidental to the making of the alleged material change of use, it would be appropriate to delete from Notice B those parts of the operational development that duplicate those in Notice A and to make corresponding variations to the requirements of Notice B and I propose to do so. Such correction and variation could be made without prejudice to the interests of the main parties.

18. The operational development referred to in sub-paragraph (ii) of the allegation in paragraph 3 of Notice B ("tall wind breaks") is not found in the allegation contained in Notice A and must therefore remain in Notice B.

Background

19. The appeals site embraces the whole of the area of about 190ha at Tuesley Farm. It lies close to Milford and to the south of the southernmost extent of the built-up parts of Godalming, from which Tuesley Lane runs generally southward, dividing the holding into two portions of unequal size. The substantially-greater eastern portion is traversed by a public footpath ("FP162"); another runs on the north-western boundary of the western portion, in part, next to a railway line and Milford station ("FP161"). Station Lane and its continuation as Station Road together form the southern boundary. The south-eastern and eastern boundaries abut, in part, Hambledon Road, together with a bridleway ("BW163") leading northwards from that road and, in part, other open and wooded land. The northern boundary abuts a continuation of the same wooded land and, on the western side of Tuesley Lane, skirts the grounds of Milford Hospital.

20. Other than the farm's compact group of buildings just off Tuesley Lane, the holding is largely open, an exception being Shadwell Copse, a narrow band of woodland on either side

of a small stream that crosses the eastern portion on a roughly south-east/north west-axis, from the south-eastern corner of the appeals site towards the south-eastern corner of Milford Hospital.

21. Tuesley Farm was acquired in July 2003 by Mr H Hall who is a partner in the appellant firm. The partnership farms other land in Berkshire and Surrey, some of which is rented, some owned by other partners. The combined farmed land grows strawberries, raspberries and blackberries and propagates the plants; in addition, break crops, comprising cereals, grasses, vetches and clover mixes are grown and some land is "set aside". The partnership employs 50 permanent staff and 650 summer harvest staff; some 230 seasonal workers are accommodated in 45 caravans at Tuesley Farm. Each caravan has a fitted bathroom and water, electricity and propane gas supply; sewage disposal is connected to the farm's mains drainage system.

22. "Spanish" polytunnels are used at Tuesley Farm; they are described aptly by one manufacturer as *"large walk-in plastic tunnels"*. The type originated in the 1970s and 1980s, as their name implies, in Spain and were first used in the UK in 1993.

23. Essentially, they comprise a web of metal legs and hoops over which a plastic covering (described by some as polythene sheeting) is stretched and anchored with ropes. The metal legs are tubes, typically between 1.5m and 2.0m in length, with a screw-end to enable it to be wound into the ground and a "Y"-shaped uppermost portion into which the hoops are slotted; thus, a single "Y"-shaped leg provides the support for the hoops of adjoining tunnels and linked blocks of tunnels several bays wide can be formed in this way.

24. Machinery is utilised to screw the legs into the ground between 0.6m and 1.0m in depth. Hoops are delivered in straight lengths and are bent into an arc on site by machine during the course of erection; diagonal and horizontal bracing bars are clamped to the legs and hoops of the first and some second bays. The main parties are agreed that the height of the tunnels, as formed, would vary, depending on the crop: 3.2m for strawberries and 3.7m for raspberries; generally, the maximum height would be up to 4m. The tunnels can vary in width between 6.5m and 8.0m and vary in length between 50m and 400m.

25. Mr M A Hall estimates that it takes 45 man-hours to fully-erect one acre and 32 man-hours to dismantle the same; in answer to my question, he indicated that teams of ten are engaged in these erection and dismantling processes.

26. Polytunnels are used to protect the fruit from rain and to allow picking to continue uninterrupted; they seek to facilitate the production of higher yields of better-quality fruit. Mr J Handford explains that an extended season is achieved by a number of crops overlapping to provide a continuity of supply; as one plantation finishes, the tunnels are dismantled and erected on another site where cropping has yet to begin.

27. At Tuesley Farm, the first crops were planted in March 2004 and cropped in June 2004. Some 45.6ha was covered with polytunnels in 2004 with a maximum coverage at any one time of 28.84ha. The crops are uncovered once harvesting is completed. In 2004, the last of the tunnels was completely dismantled and removed in November; nothing remains once removed. It is said in evidence that the removal of the plastic sheeting is typical farming practice in the UK for the simple reason that it would not withstand winter weather conditions; however, in many cases elsewhere, including other holdings occupied by the

appellant, evidence indicates that the "Y"-shaped legs have been left in the ground over the winter months.

28. In 2005, the first polytunnels were erected in February; by March, three of the individually-numbered blocks on the holding were covered, but by July and August, twelve were covered. Of the 26 such blocks available, thirteen were covered at some stage. In 2005, the cumulative total has been 60.8ha with peak coverage of 39ha.

29. Hence, in essence, polytunnels are erected on a greater or lesser number of blocks around the farm for nine months of the year; they cover different crops, at different times, for different periods. Thus, between any given times of the year, the particular extent of the farm covered in this way fluctuates.

30. However, on day 10 of the inquiry, in cross-examination, Mr H Hall indicated that in 2006, he anticipated between 34ha and 45ha would be covered at any one time, but he was unable to state the anticipated cumulative total. Nor was he willing to commit the appellant in 2006 and beyond in 2007 to the same hectarage covered in 2005 because the extent to which land would be utilised in this way would be directed by market-led forces. Given the extent of the existing and proposed landscaping scheme (the latter being addressed at the use of most of the three large fields for fruit growing) and other factors, he accepted that some 121ha would be available on which to grow fruit, but could not say what proportion would be utilised. Such uncertainties underpinned the appellant's objection to the Council's suggested condition, based on the 2005 hectarage, seeking to limit the extent of land covered by polytunnels during any one calendar year to that of 61ha.

31. In the light of the evidence, particularly that of Mr A P Aspbury and Mr M A Hall, the appeals have been predicated and the cases of all of the parties to these appeals have been founded on the basis of the areas utilised in this way during 2005. That had been the clear understanding throughout the preceding days of the inquiry.

32. However, as the appellant points out, Notice B is directed, among other matters, at the erection of polytunnels and is directed at the whole of Tuesley Farm. That must be borne in mind in considering the appeals and the deemed planning application.

33. Hence I propose to consider the appeals on the basis of the scheme as advanced at the inquiry by Mr A P Aspbury and Mr M A Hall. But I shall also take a view, where appropriate and necessary to do so, as to whether the anticipated variations in the extent of the coverage, as adduced by Mr H Hall and taken into account by Mr K N Light, would lead to different decisions in these cases.

THE APPEALS ON GROUND (C)

Appeal B

34. The appeal against Notice B (as I intend to correct and vary) on this ground is that the polytunnels do not comprise a breach of planning control inasmuch as they do not amount to *"development"* as that term is defined in the 1990 Act (as amended), or, in the alternative, that it is development for which planning permission is granted (*"permitted development"*) by the provisions of Article 3(1) and Part 4 of Schedule 2 to the Town and

Country Planning (General Permitted Development) Order 1995 (the "GPDO"). No such claims are made by the appellant in respect of the windbreaks to which Notice B (as I intend to correct and vary) is also directed.

Whether "Development"

35. Section 57 of the 1990 Act (as amended) indicates that *"planning permission"* is required for the carrying out of *"development"* of *"land"*. By s.336(1), *"land"* includes a *"building"*, the definition of which *"...includes any structure or erection..."*. The 1990 Act (as amended) contains no further definition of *"structure"* and the term would need to be given its ordinary meaning; *"erection"* (in relation to *"buildings"*) includes extension, alteration and re-erection. By s.171A(1)(a), the carrying out of *"development"* without the required *"planning permission"* constitutes a breach of planning control.

36. Section 55(1) defines *"development"*, for the purposes of the 1990 Act (as amended), as meaning *"...the carrying out of building, engineering, mining or other operations in, on, over or under any land, or the making of any material change in the use of any buildings or other land"*. By s.55(1A), *"... 'building operations' includes – (a) demolition of buildings; (b) re-building; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder"*.

37. However, s.55(2) adds that certain operations or uses of land shall not be taken for the purposes of the 1990 Act (as amended) to involve development of land including *"... (e) the use of any land for the purposes of agriculture or forestry ... and the use for any of those purposes of any building occupied together with land so used; ..."*. Section 336(1) defines *"agriculture"* as including *"...horticulture, fruit growing, seed growing...* (and) *...the use of land as ...market gardens and nursery grounds..."*.

38. It is common ground between the main parties that *Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions & Harrow LBC (No.2)* [2000] 2 PLR 102; [2000] JPL 1025; [2000] ECGS 43 provides valuable guidance in the interpretation of the meaning of *"development"*. In that case, it was held that whether *"building operations"* have occurred involves the application of a legal test.

39. That test is set out in *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen and Baldwin's Iron and Steel Co.Ltd.* [1949] 1 KB 385; three factors – size, permanence and degree of physical attachment – were relevant in deciding what was a building or structure. That was a case concerned with rating legislation, but its appropriateness to planning legislation was confirmed in *Barvis Ltd. v Secretary of State for the Environment* [1971] 22 P&CR 710.

40. In *Skerritts*, Pill LJ approved the approach adopted by Bridge J in *Barvis*; the approach to the question of whether there had been a building operation was to consider, first, whether there was a building. If there was a building, applying the test set out in *Cardiff Rating Authority*, then what had created it was a building operation. The Courts have held that all of the circumstances have to be taken into account.

41. The main points for the appellant are as follows.

42. First, the question of whether there is a building has to considered in the context that Parliament has, at least since 1948, and still, places agriculture favourably in planning legislation because agriculture is important to the economy generally and provides a beneficial use of the countryside. The importance of agriculture explains why it is not included in planning control. Context is of vital significance (see *R v Secretary of State for the Home Department ex parte Daly* [2001] 3 All ER 433). The planning code accepts that the production of as much food as is possible is worthwhile. If that were not the case, sources would need to be found elsewhere, involving long distances from home and abroad, having adverse effects on national interests. Those benefits need to be borne in mind.

43. Second, although the definition of *"development"* in the 1990 Act (as amended) does not include agriculture, buildings to be used for agriculture may need planning permission, which might, in turn, be granted by a development order. So agricultural activity does not require permission and not everything found on agricultural land would be a building. The nature of a building has to be interpreted in the context that, not only is agriculture a welcomed beneficial use of the countryside, but that such activity would require things to be placed on the land from time-to-time in order to facilitate agricultural activity.

44. Third, temporary polythene sheeting is not a building. Where there is no building, there can be no building operations. None has occurred here. Buildings require dimensions and a place in space and time. In the present case, measurements taken at one time would never be repeated and, unlike a building, the polytunnels would not be found on a second occasion in the same place as that found on the first occasion, because they are moved from place-to-place. Moreover, building operations must have a beginning and an end when the building is complete. That does not happen here.

45. Indeed, many local planning authorities consider polytunnels do not amount to development requiring planning permission, or simply tolerate their use. Even the Council in the present case has stated in its press release in May 2004 that portable polytunnels do not require planning permission. That may be because there are many items brought on to agricultural land, such as "low tunnels", "French" tunnels, covers for cherries, pig arks, chicken houses, cloches, huts for agricultural uses, hop poles and polythene sheeting, nets and fleeces used for covering plants at ground level, that clearly are not buildings. Indeed, sheeting, such as that which might be placed over crops, or placed over a silage clamp, would never be regarded as a building, or a structure, or an erection and less so a building operation.

46. Fourth, the marquee in the grounds of a hotel in *Skerritts* was substantial. Its provision was a sizeable and protracted event that took fourteen days to erect, involved a number of people and, for the eight months of each year that it remained in place, it had a solid and permanent character capable of being equipped with services and utilities normally found in places used by the public. By comparison and bearing in mind that all circumstances need to be taken into account, none of the polytunnels is in place for more than six months, there is no flooring, no services and no utilities; moreover, they are constantly on the move, they can be blown over and no alteration arises to the physical characteristics of the land.

47. Fifth, the polytunnels are transitory – the land is merely used. The size and extent are of no importance since a farm might be covered by continuous plastic sheeting at ground level, protecting crops. Such ground cover would not be a building. In the Countryside and Rights of Way Act 2000, (the "CRoW Act 2000") polytunnels are specifically included in

the stated definition of *"building"*; had it been the case that, undisputedly, they were buildings, that Act would not have had to say so. Polytunnels are an agricultural norm that is carried out by farmers, not normally by builders. It is an easy exercise capable of being done by hand that is part of the agricultural use of the land.

48. My view is that, in terms of size, whilst there are limited variations in the height and width of an individual polytunnel, likely governed, in part, by the length and radius of the arc, clearly there is no fixed horizontal length. They are designed to accommodate the extent of the crop that requires to be protected and that, in turn, is regulated, at least in part, by the amount of land available in which the particular crop is grown. They can follow the topography of the ground.

49. The height and width of the polytunnels, together with whatever length an individual polytunnel might be, gives them volume and bulk; the fact that the component parts of one polytunnel are designed such that they can be linked to another, side-by-side, emphasises the solidity of appearance of the network thus formed.

50. The practice at this farm is to erect the polytunnels in such networks or blocks. Thus, for example, a notice displayed by the appellant in block No.7 indicated that, in that area alone, there were 24 polytunnels comprising a total length of 5,293m and amounting to coverage of 3.9ha. That, in itself, would be an entity of substantial extent. As a varying number of parcels are covered simultaneously, by any standard, the peak coverage of land of 39ha and the cumulative coverage of 60.8ha would be an enormous expanse of ground occupied by polytunnels.

51. It is not the case here that an individual polytunnel is so short in its length that, as a whole, it would be of an inconsequential scale. Applying the appellant's evidence of number of man-hours per acre needed to erect the polytunnels, the time taken to erect, for example, those in block No.7, would be substantial; contrary to the appellant's belief and notwithstanding the team of persons employed, the task would be neither quick nor simple, serving to illustrate the scale of the work needed to provide the polytunnels.

52. Together, these factors indicate that, at Tuesley Farm, the polytunnels to which the notice is directed are, as a matter of fact and degree, of substantial size and proportion.

53. In respect of the degree of attachment, it might be the case that the screw-ended metal "Y"-shaped legs are capable of being wound into the ground manually, but here, machines are used, not surprisingly so given the vast number of such legs needed. By this means, the polytunnels are affixed to the ground to a depth of up to 1m. It might be the case that the plastic sheeting and the legs themselves would be susceptible to storm damage, but equally there would be many forms of structures or erections that might also possess such vulnerability. As a matter of fact and degree, the polytunnels have a substantial degree of physical attachment to the ground which enables them to remain in place for whatever term is necessary to serve the purpose for which they are designed.

54. Turning to permanence, bearing in mind the method adopted at Tuesley Farm by which polytunnels are erected and subsequently dismantled and erected elsewhere, it would be the case that polytunnels would remain in one particular location from between three and seven months in any one year. Even the shortest of those periods would be of sufficient length of time to be of consequence in the planning context and more so in respect of longer periods.

The provision of an individual polytunnel or a block in any particular area would have a date of commencement and reach a state of completion to perform the function for which it is designed; it might be further extended in the period that it exists, or reduced in size. But there is a finite span of time within which it is present before it is taken away.

55. They can be moved only by being taken-to-pieces, rather than being moved bodily. Once they are dismantled in this way, then bearing in mind the length of time, expressed by the appellant in man-hours per acre, taken to do so, that would be of sufficient scale, in itself, to amount to demolition and, by definition, a building operation. It may be the case, once dismantled, that there is no physical alteration to the character of the land itself. However, the subsequent erection of polytunnels on another block on the holding, even if the same materials are re-used, would be a separate act, to be considered independently against the question as to whether such act amounted to *"development"*.

56. There is no evidence in the present cases of the nature of the particular scheme or the factors taken into account by other local planning authorities against which they have made judgements on the question of *"development"*. The Council's press release in May 2004 is unfortunate, but it goes on to say that *"(t)he Council is monitoring the situation with the polytunnels at Tuesley Farm to establish the facts in this case..."*. Once it did so, it considered it expedient to issue Notice B and no claim is made that the Council was estopped in so doing. The definition contained in the CRoW Act 2000 is made for the specific purposes of that Act and would carry little weight in the interpretation of the 1990 Act (as amended).

57. Although there are noteworthy differences in the facts of the cases concerned in the appeal decisions in 1999 at New Barn Farm, Old Park Lane, Bosham in Chichester DC, the Inspector in those cases found that the polytunnels constituted operational development rather than a material change of use of the land (refs: T/APP/X/98/L3815/003017/P6; T/APP/L3815/C/98/1010638/P6).

58. The marquee in *Skerritts* was found not to be transient, ephemeral or fleeting – words that the Court believed would provide appropriate contrasts to the words permanence and permanent. Nor would the polytunnels in this case be transient, ephemeral or fleeting. Having regard to all of the circumstances of the present case and as a matter of fact and degree, the provision of polytunnels on land at Tuesley Farm, by reason of their size, permanence and degree of attachment to the land, is not a use of land, but comprises a building operation and hence *"development"* within the meaning of the 1990 Act (as amended). The evidence of Mr H Hall would not lead to a different conclusion.

Whether "Permitted Development" by virtue of the GPDO

59. By Class A of Part 4 of Schedule 2 to the GPDO, "permitted development" extends to *"(t)he provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land"* (emphases added). By Class A.1, development is not permitted by Class A if *"...(b) planning permission is required for those operations but is not granted or deemed to be granted"* (emphasis added). By Class A.2, development permitted by Class A is *"...subject to*

conditions that, when the operations have been carried out – (a) any building, structure, works, plant or machinery permitted by Class A shall be removed ... " (emphasis added).

60. There is no definition of the term *"operations"* in Class A of Part 4, either in the GPDO or in the 1990 Act (as amended). Hence, the term must be given its ordinary meaning.

61. The appellant points out that the polytunnels are associated with an *"operation"*, that is, the growing of fruit and that they only remain for the duration of the season that the fruit is grown to facilitate its production. Given the context that the term *"operations"* is not qualified by "mining" or "building" or some other descriptive phrase, the appellant argues that, as such, it would embrace what is happening on the land – a farming operation. Had a more restrictive approach been intended, then reference would have been made to "operational development" or to "operations requiring planning permission".

62. In support, the appellant refers to paragraph 3B-2084 of Volume 5 of the *"Encyclopaedia of Planning Law and Practice"* which states, among other matters:-

> "But 'operations' is not itself defined, and need not be limited to building, engineering, mining or other operations constituting development under (s.55). For example, a developer undertaking the internal refurbishment of a building for which no planning permission is required, may still be carrying out 'operations' qualifying under this Class and so enjoying temporary planning permission for any ancillary development such as builders' huts, hoists or fencing."

63. Furthermore, the Courts have held that there is no reason why Part 4 should be restrictively interpreted (see: *North Cornwall DC v Secretary of State for Transport, Local Government and the Regions and Another* [2002] EWHC 2318 (Admin).

64. However, s.55 of the 1990 Act (as amended) divides the definition of *"development"* into the separate heads of operational development (the carrying out of building *etc.* operations) and use (the making of a material change of use of any buildings or other land). Such division is reflected throughout the 1990 Act (as amended) and is also reflected in Part 4 of Schedule 2 to the GPDO that is made in respect of the introductory heading of *"Temporary Buildings and Uses"*; Class A is directed at temporary buildings and Class B at temporary uses.

65. Section 336(1) of the 1990 Act (as amended) defines *"use"* as *"in relation to land, does not include the use of land for the carrying out of any building or other operations on it"*. In addition, paragraph 3B-2084 of Volume 5 of the *"Encyclopaedia of Planning Law and Practice"* also states:-

> "It is not clear whether the permission under ... Part (4) applies only where there is a planning permission (including permission under this Order) for the works (Class A.1(b)). Certainly it does not apply if that permission is only for a change in the use of the land and not operational development (*Brown v Hayes & Harlington UDC* (1963) 107 SJ 931)....".

66. The appellant argues that the decision in the *Brown* case was dependent on the wording contained in The Town and Country Planning General Development Order and Development Charge Applications Regulations 1950, extant at that time, that granted permission for temporary buildings *etc.* for the duration of the period in which *"...operations ...are being or about to be carried out in pursuance of planning permission granted under Part III of the* [Town and Country Planning] *Act* [1947]". However,

Sunbury-on-Thames UDC v Mann (1958) 9 P&CR 309 is authority for the view that the use of land does not involve, within the meaning of the 1947 Act and the same 1950 development order, operations, because the whole scheme of that Act is to distinguish between use of land and operations in or over land.

67. The farming operations to which the appellant refers are directed at fruit growing, an activity that is within the definition of *"agriculture"* in s.336(1) of the 1990 Act (as amended). Section 55(2)(e) refers to the *"...use of any land for the purposes of agriculture..."*(emphasis added). Moreover, it is established in law that "operations" comprise activities which result in some physical alteration to the land which has some degree of permanence to the land itself, whereas *"use"* comprises activities which are done in, alongside or on the land, but do not interfere with the actual physical characteristics of the land. The growing of fruit is something done in or on the land.

68. Class A of Part 4 of Schedule 2 to the GPDO is directed at temporary buildings *etc.* required in connection with operations and those temporary buildings *etc.* have to be removed *"...when the operations have been carried out..."* (see: Class A.2). That indicates the permission lasts only for the duration of the operations. As the *North Cornwall DC* case illustrates, Class A also enables a structure to be erected to accommodate a use from a building that is undergoing refurbishment works and there is no dispute that internal works of refurbishment are "operations" for the purposes of Class A even though they do not amount to development by virtue of s.55(2)(a) of the 1990 Act (as amended).

69. Whereas Part 4 of Schedule 2 is directed at temporary buildings and uses, Part 6 of the same Schedule is directed specifically at agricultural buildings and operations. The appellant makes no claim in this case that the polytunnels would be permitted by the provisions of Part 6 and rightly so. Clearly, the GPDO makes separate provision for planning permission to be granted for such development within the constraints set out in Part 6.

70. In the 1999 Chichester DC appeals decisions, the Inspector in those cases took the view that, on a common sense reading of the GPDO, the inference must be that Part 4 of Schedule 2 is directed at operational development and, on the same basis, that agricultural operations are a use of land rather than operational development.

71. Moreover, the appellant argues that the polytunnels are only *"...required temporarily..."* because they are moveable, as evident by what has been termed their rotation across the holding and removed entirely outside the growing season.

72. The timber structure central to the *North Cornwall DC* case, lends support to the appellant's point that an item that would meet the test of permanence as in *Skerritts* and constitute a *"building"* for the purposes of s.55 could, nevertheless, be "temporary" for the purposes of Part 4 of Schedule 2 to the GPDO.

73. However, Notice B is directed at the whole of Tuesley Farm that comprises the planning unit and all of the several blocks of polytunnels erected at any one time on the several fields of that land. The evidence is that each block may persist for between three to seven months, but that cumulatively, blocks extend across Tuesley Farm for up to nine months. As a matter of fact and degree, the existence of such blocks within the single planning unit across up to nine months of the year could not reasonably be regarded as being *"required temporarily"*. But even if I am wrong and were to accept the appellant's contention that the

polytunnels are in place *"temporarily"*, within the ordinary meaning of that expression, they are not *"required...for operations"* and so the entitlement given by Part 4 would not apply.

74. From this background, land used for the purposes of agriculture would be a use of land rather than an operation. Class A of Part 4 of Schedule 2 would not enable buildings to be erected to facilitate the use of the land for agriculture. The polytunnels would amount to *"development"*.

Appeal A

75. There is no dispute in this case that the change of use of land to the stationing of caravans used for the purposes of human habitation (defined as a *"caravan site"* in article 1(1) of the GPDO) would amount to a material change of use of the land, hence would amount to *"development"* within the meaning of s.55 of the 1990 Act (as amended). The appeal against Notice A (as I intend to correct and vary) on this ground is that this element of the alleged change of use would not comprise a breach of planning control inasmuch as it is development for which planning permission is granted by the provisions of Article 3(1) and Part 4 or Part 5 of Schedule 2 to the GPDO.

76. In respect of the engineering works for the provision of services to the caravans, it is argued in the appeal against Notice A (as I intend to correct and vary) that these works are so inextricably linked to the requirements of the farm holding that they would be *de minimus*, that is, of such minor scale as not to amount to *"development"*.

77. No such claims are made by the appellant in respect of the formation of a bund and the erection of a fence (on top of the bund) to which Notice A (as I intend to correct and vary) is also directed; the appellant accepts that such operational development requires planning permission.

Whether Use as a Caravan Site would be "Permitted Development" by virtue of the GPDO

Part 5 of Schedule 2 to the GPDO

78. By Class A of Part 5 of Schedule 2, permission is granted for *"...the use of land... as a caravan site in the circumstances referred to in paragraph A.2"*. Such permission is subject to the condition set out in paragraph A.1 namely *"...the use shall be discontinued when the circumstances specified in paragraph A.2 cease to exist and all caravans on the site shall be removed as soon as reasonably practical"*. The circumstances mentioned in Class A, as set out in paragraph A.2, *"...are those specified in paragraphs 2-10 of Schedule 1 to the* [Caravans Sites and Control of Development Act 1960]".

79. The Caravan Sites and Control of Development Act 1960 (as amended) (the "1960 Act") prohibits the use of land as a caravan site without a *"site licence"*, but no such licence is required for such use in the circumstances set out in the First Schedule to the 1960 Act. By paragraph 7 of the First Schedule, a *"site licence"* would not be required for the *"...use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation"*.

80. Taken together, Class A of Part 5 of Schedule 2 to the GPDO and paragraph 7 of the First Schedule to the 1960 Act set out four criteria that all need to be met to attract the permission granted by the GPDO.

81. First, there is no dispute that Notice A is directed at the *"use as caravan site of agricultural land for the accommodation ... of a person or persons employed in farming operations"* and, as such, that use would meet the first criterion of Part 5 of Schedule 2.

82. Second, it is necessary to show that *"...the use shall be discontinued ... and all caravans on the site shall be removed as soon as reasonably practical"*. There is no dispute that in November or by early December 2004, all the caravans were removed from the site and stored elsewhere until they returned in February 2005. However, the infrastructure, comprising the pathways, the drainage, the electrical and water supplies serving the caravans, all remain in place throughout the year.

83. In *Ramsey v Secretary of State for the Environment, Transport and the Regions and Suffolk Coastal DC* [2002] JPL 1123, it was held that the carrying out of operations on the land may in some cases be relevant on the issue of whether the proposed use was a temporary one, or was instead a permanent change of use of the land; the latter would arise if the operations make it difficult or impossible for the site to revert realistically to its previous normal use, such as agriculture, in between the occasions when the land is used for the new use.

84. The appellant maintains that in the winter period, the land remains available for other uses such as the parking of vehicles associated with the farm and the storage of agricultural equipment, although there is no clear evidence that such use has occurred to a material extent. Whilst it would not be impossible for it to be used for some agricultural purpose such as incidental parking or storage, it is clearly separated from the surrounding land by the earth bund and fencing with access limited to the group of farm buildings and care would be needed in such use to prevent damage to the infrastructure.

85. Realistically, for all intents and purposes, the land remains designed and fitted out for use as a caravan site and is occupied by caravans for a substantial part of any one year. It would not lose the characteristic of a caravan site merely because the caravans are removed for the time being. As a matter of fact and degree, the use as a caravan site would not be discontinued and the scheme would fail the second of the criteria of the GPDO permission.

86. Third, it is necessary to show that the use as a caravan site of this agricultural land is *"... for... accommodation... during a particular season"*.

87. *North v Brown* (1974) 231 EG 737 is authority for the view that paragraph 7 of the First Schedule to the 1960 Act does not apply to a permanent caravan site, even if used to accommodate seasonal workers. Lord Widgery CJ emphasised that the legislation was intended to cover seasonal activities such as hop-gathering or potato-picking; MacKenna J added that the exemption was not intended to cover caravan sites in existence throughout the year and occupied by employees who did summer work in summer and winter work in winter. In *Vale of White Horse DC v Mirmalek-Sani & Mirmalek-Sani* (1993) 25 HLR 387; The Times, 10 February 1993, it was held that the exemption does not extend to agricultural workers employed throughout the year, as opposed to those engaged temporarily for purposes such as hop-picking.

88. Neither the GPDO nor the 1960 Act define a "season". On the one hand, it could be interpreted as comprising winter, spring, summer and autumn, or to refer to a period of the calendar. On the other hand, it could be interpreted as referring to the planting season or the harvest season and such like. In *Vale of White Horse DC*, Clarke J expressed preference to the definition found in the *"Shorter Oxford Dictionary"* that refers to *"a period of the year"* and *"the time of the year assigned to some particular operation of agriculture"*. But in addition, the concern in this matter is not with a "season", but with the narrower concept of a *"particular season"*.

89. The appellant maintains that the caravans are required from April to November in any one year, but there is some evidence, albeit untested by cross-examination, that caravans began to arrive here in November 2003. In cross-examination, Mr A Bandosz indicated that they came to the site in January 2004 and left in November that same year. In cross-examination, Mr A P Aspbury maintained that occupation, over nine-to-ten months of the year, embraced the growing season and that that was within the meaning of *"particular season"* to which reference is made in paragraph 7 of the First Schedule.

90. However, with all that background in mind, it would be difficult to accept the appellant's contention that a growing season, being one that would embrace the preparation of the soil, the planting of crops, their cultivation and their subsequent harvesting, could be reasonably interpreted as occupying a *"particular season"*. Rather, there would be a number of agricultural operations, being parts of the process of the cultivation and harvesting of strawberries, blackberries and raspberries, each comprising a *"particular season"*, albeit some overlapping might arise because of the number of different crops produced and the spread of production over a substantial period of the year. However, any such overlapping would further blur the distinction of being able to identify a *"particular season"*.

91. The nine-to-ten months during which the caravans are occupied would be distinctly different from that envisaged by the Courts embracing the period of hop-gathering or potato-picking. By any reasonable interpretation of the language, it would be too broad a period within a year to comprise a *"particular season"*. Hence, the scheme would fail the third of the criteria of the GPDO permission.

92. Fourth, it is necessary to show that the *"...use as a caravan site..."* is intended *"... for the accommodation... of a person or persons employed ...in farming operations on land in the same occupation"*.

93. There is no dispute that persons accommodated at the caravan site at Tuesley Farm carry out agricultural work at other farms elsewhere in Surrey and Berkshire in which the appellant has an interest. Buses are used for transport.

94. It is Mr H Hall's evidence that in the five months of April to August 2005, the number of people living at Tuesley Farm rose from 35 to 305, then contracted to 205, before rising again to 220 at the end of the period. On a day-to-day basis, the number of persons working elsewhere varied between two (on numerous occasions) and 210 (a single maximum), though some might also spend part of the same day working at Tuesley Farm. On some 11% of those days in that period, more of the persons housed at the caravan site worked elsewhere than at Tuesley Farm. However, overall, the percentage of daily working time of people living at Tuesley Farm and working at the farm was 83% and hence, the balance

working at other farms was 17%. The appellant argues that these persons are employed at Tuesley Farm rather than at some other location, regardless that on occasions their work might take them elsewhere.

95. The term *"employed"* must be given an ordinary meaning. It would embrace not just a person hired to do work, probably in return for payment and implying a contractual arrangement, but would also embrace, more widely, a person who was simply engaged in a task, hence one who was *"employed... in farming operations"*. Thus, whether or not the applicant regards Tuesley Farm as being the principal place of employment of the persons occupying the caravans, there is no doubt that a proportion of those persons are, from time-to-time, engaged (and therefore *"employed"*) in the task of farming operations elsewhere.

96. It would not be the case that the proportion of time spent elsewhere other than at Tuesley Farm, given as 17%, would be insignificant; as a matter of fact and degree, it would be of such quantity as to amount to a material factor.

97. Furthermore, the appellant argues that because the separate farms are owned by the same company, this would meet the test of *"...employed...on land in the same occupation"* for the purposes of the GPDO (emphasis added).

98. However, reference is made to the definition of *"occupation"* derived from s.1(3) and s.29(3) of the 1960 Act. The term *"occupier"* (and its derivatives) is defined as:-

> "the person who, by virtue of an estate or interest therein, held by him, is entitled to possession thereof, or would be so entitled but for the rights of any other person under licence granted in respect of the land."

As the permission in the GPDO draws directly from relevant provisions of the 1960 Act, it would not be unreasonable or inappropriate to place reliance on the definition of words used in those provisions.

99. Thus, the caravan site and the land farmed need to be linked by both being held as part of the same estate or interest. That may well be the case at Tuesley Farm. However, there would be considerable strength in the argument of the Council and objectors that even though there might be common tenure of all of the farms occupied by the appellant, there would be no such link where the land holdings are separated over some distance, as in this case, and they are not farmed as part of the same land holding. Were that not to be the case, then the situation would arise that one farm could be used as a caravan site and the occupants be wholly employed on another farm situated some distance away, albeit on land within the same tenure.

100. Hence, the definition in the 1960 Act is intended to impose a narrower limitation on the extent of the GPDO permission, that is, in effect in this case, to the use as a caravan site of part of an agricultural holding for persons employed temporarily elsewhere on that same holding which comprises a single planning unit, distinguishable as such from other farms occupied by the appellant firm.

101. For all of these reasons, the use as a caravan site would not be permitted by Class A of Part 5 of Schedule 2 to the GPDO.

Part 4 of Schedule 2 to the GPDO

102. The provisions of Part 4 of Schedule 2 have been set out at paragraph 59 above. The appellant argues that as a farming operation is occurring on land at Tuesley Farm, then this would be an "operation" and the appellant is entitled, under the provisions of Part 4 of Schedule 2, to station caravans on the site seasonally to accommodate persons so employed.

103. However, a caravan is not a *"building"* (or *"structure"* or *"erection"*) and could not, as such, comprise a *"moveable structure"*; nor is it argued that a caravan is *"works"*; *"plant"* or *"machinery"*. Caravan sites are addressed in Part 5 of Schedule 2. The use as a caravan site would not benefit from the permission granted by Part 4 of Schedule 2 to the GPDO because, for the reasons set out in paragraphs 59-74 above, the land occupied for farming is not an operation, but it is a use of land for agriculture. Moreover, for the reasons set out in paragraphs 86-91 above, the caravans do not provide accommodation for a particular season.

104. For all of these reasons, the use as a caravan site would not be permitted by Part 4 of Schedule 2 to the GPDO.

Whether Engineering Works would be 'De Minimus'

105. The extent of the surface and underground works needed to provide the infrastructure to facilitate the use of the caravan site would be engineering operations of significant proportions. Its scale could not reasonably be considered as some inconsequential action that would have no effect on either the character or appearance of the land in question. As a matter of fact and degree, the works exceed the scale of what might otherwise be regarded as being *de minimus* and would therefore amount to *"development"*.

Whether Engineering Works would be "Permitted Development" by virtue of the GPDO

106. Class A of Part 6 of Schedule 2 to the GPDO grants planning permission for the carrying out on agricultural land comprised in an agricultural unit of 5ha or more of, among other matters, any excavation or engineering operations. This is subject to the proviso that they are reasonably necessary for the purposes of agriculture. It has not been shown for what agricultural purpose the engineering operations in this case fulfil. Clearly, they are designed to facilitate the use as a caravan site which is an residential use and not an agricultural use. The permission under Class A of Part 6 would not extend to the works carried out on the caravan site as alleged in Notice A.

Summary on Ground (c)

107. The polytunnels and windbreaks referred to in the allegation in Notice B (as I intend to correct and vary), in each case, would be *"development"* within the meaning of the 1990 Act (as amended). Neither would be permitted by Article 3(1) and Schedule 2 to the GPDO or by any other development order. All of the matters referred to in Notice A (as I intend to correct and vary), in each case, would also amount to *"development"*; nor would the change of use of the land to the stationing of caravans used for the purpose of human habitation and the engineering works for the provision of services to the caravans be permitted by Article 3(1) and Schedule 2 to the GPDO, or by any other development order.

108. Appeal A and Appeal B on ground (c) will both fail.

APPEALS A AND B ON GROUND (A) AND THE DEEMED APPLICATIONS FOR PLANNING PERMISSION

The Development Plan

109. The appeals site lies in a green belt as shown in the development plan for the locality that includes the Surrey Structure Plan ("SP") adopted in 2004 and the Waverley Borough Local Plan ("LP") adopted in 2002. In addition, that greater part of the appeal site to the east of Tuesley Lane lies within a designated "Area of Great Landscape Value" ("AGLV"). Within that eastern part, Shadwell Copse is identified in the LP as a "Site of Nature Conservation Interest".

110. Land abutting the south-eastern boundary of the appeals site, beyond Hambledon Road, forms part of the designated Surrey Hills Area of Outstanding Natural Beauty ("AONB").

Other Policy Provisions

111. Foremost amongst other published policy provisions is national advice pertaining to the green belt, found in Planning Policy Guidance ("PPG") 2 (1995), and to sustainable development in rural areas, found in Planning Policy Statement ("PPS") 7 (2004); also of relevance is advice in Regional Planning Guidance for the South East ("RGP9") (2004) now translated into the Regional Spatial Strategy. Reference has also been made to a considerable number of other published documents and guidance relating to matters about which these appeals are generally concerned; all have been taken into account to the extent that they are relevant to the issues in these cases.

Main Issues

112. Many issues have been advanced both in support and against the developments the subject of these appeals. The extent to which the schemes would affect bird and wildlife interests is the subject of debate from which no clear conclusion emerges. Matters concerning soil contamination are more closely allied with the use of the land that is an agricultural function and exempt from planning control. Certain areas hereabouts are prone to flooding, but this would appear to be a matter of long-standing, pre-dating the appellant's acquisition and use of the appeals site and it is not clear that this matter is directly and only as a consequence of the developments the subject of these appeals. There are further concerns about heavy traffic, but it would not be unusual in the countryside for agricultural holdings to be served by heavy vehicles, including the occasional bus taking workers to and from agricultural land, having to negotiate country roads.

113. All these and other matters raised in these appeals have been taken into account. Notwithstanding the heartfelt concerns expressed orally at the inquiry and in written submissions in respect of these issues, I intend to focus on the following main issues on which my decisions on these appeals will turn.

114. In the light of the Council's policies, the main issues in these cases are:-

(i) whether the scheme would amount to inappropriate development in the green belt, having particular reference to SP Policy LO4, LP Policy C1 and national advice contained in PPG2;

(ii) the effect of the scheme on the character and appearance of the locality;

(iii) the effect of the scheme on the living conditions of nearby residents and on users of the local highway network; and

(iv) whether other material factors including benefits of the scheme exist that would clearly outweigh any harm arising from the above issues and thus justify the development.

115. Notice B (as I intend to correct and vary) is directed at polytunnels and windbreaks. Notice A (as I intend to correct and vary) is directed at the use as a caravan site; the formation of a bund; the erection of a fence (on top of the bund); and engineering operations for the provision of services to the caravans. Not all of the main issues will be relevant, necessarily, to each of those elements and some elements and main issues can be considered taken together.

Appeal B: Polytunnels

First Main Issue – Whether Inappropriate Development in the Green Belt

116. In line with national advice in PPG2, SP Policy LO4 and LP Policy C1 indicate that within the green belt and outside rural settlements, there will be a presumption against inappropriate development. Such inappropriate development will not be permitted unless very special circumstances exist.

117. Neither of those development plan policies defines "inappropriate development". However, LP paragraph 3.14 explains that development which is inappropriate in the green belt includes, among other matters, the erection of a new building unless it is for the essential requirements of agriculture or forestry (emphasis added). But paragraph 3.4 of PPG2 indicates the construction of new buildings inside a green belt is inappropriate unless it is for, among other matters, agriculture and forestry (unless "permitted development" rights have been withdrawn). No other qualification is stated or required.

118. Nevertheless, it is not disputed that the polytunnels are required for agriculture, nor is it argued, in this context, that they would not be essential. However, the Council maintains that the polytunnels are inappropriate development because a further part of LP Policy C1 indicates that, in all circumstances, any development that would materially detract from the openness of the green belt will not be permitted. Thus, in respect of agricultural buildings, LP Policy C1 imposes a more stringent test than that of PPG2.

119. Paragraph 3.15 of PPG2 states that the visual amenities of the green belt should not be injured by proposals for development within the green belt which, although they would not prejudice the purposes of including land in green belts, might be visually detrimental by reason of their siting, materials or design.

120. The appellant argues that appropriate development ought not materially to detract from openness and that openness would not be synonymous with visual amenity. Moreover, it is argued that because the polytunnels are not in any one place for more than six months at a time, there is no lasting effect on the land and the land remains open.

121. Development that might be harmful to the visual amenity of the green belt, nonetheless, need not be inappropriate development. However, although it would be the case that the polytunnels would not remain in any one position throughout any one year, nevertheless, their presence at any one time, their return year-on-year to the same location and their scale,

appearance and the period of time that they would be present on any one location within the wider area of the appeals site, undoubtedly, would detract from the openness of the land, for the time being, contrary to the last part of LP Policy C1.

122. The Local Plan post-dates PPG2. Even so, PPG2 is an important material consideration to set against the conclusion that, in the terms of LP Policy C1, the polytunnels would be inappropriate development. In cross-examination, Mr A Bandosz explained that the appropriateness in the green belt of an agricultural building would need to be viewed in the light of paragraph 3.5 of PPG2 and that visual amenity should not be harmed. But paragraph 3.5 of PPG2 is concerned with essential facilities for outdoor sport, outdoor recreation, cemeteries and other uses of land which preserve the openness of the green belt and which do not conflict with the purposes of including land in it, as set out in paragraph 1.6 of PPG2. It is not concerned with new buildings for agriculture. Visual amenity is different from openness and is addressed at paragraph 3.15 of PPG2. Moreover, the Structure Plan is silent on the matter and there is nothing in the explanatory text of LP Policy C1 that would clarify the reasons underpinning the Council's approach to the consideration of new buildings required for agriculture in the green belt.

123. Hence, the Council has adduced no clear evidence to explain why a more stringent test would be justified in the green belt in Waverley Borough than in the green belt nationally. In these particular circumstances and notwithstanding the primacy of the development plan, the advice in PPG2 carries significant weight indicating that the polytunnels would fall in the categories included in paragraph 3.4 of PPG2 and thus not amount to inappropriate development.

Second Main Issue – Effect on Character and Appearance of the Locality

124. By SP Policies LO4 and LO5, the Council seeks to protect the openness and intrinsic qualities of the countryside and any development outside urban areas must respect the character of the countryside. By SP Policy SE4, development should contribute to improvements to the qualities of rural areas, whilst retaining features that contribute to a sense of place; the design of buildings and the way they integrate with their surroundings must be of a high standard.

125. By LP Policy D1, the Council will have regard to the environmental implications of development and will encourage enhancement of the environment; development will not be permitted where it would result in material detriment to the environment by, among other matters, loss or damage to important environmental assets including areas of landscape value, or harm to the visual character and distinctiveness of a locality, particularly in respect of the design and scale of development and its relationship to its surroundings. By LP Policy D4, the Council will seek to ensure that development is of a high quality of design which integrates well with the site and complements its surroundings; in particular, development should be appropriate to the site in terms of its scale, height, form and appearance, be of a design and materials which reflect the local distinctiveness of the area, or which would make a positive contribution to the appearance of the area and incorporate landscape design suitable to the site and character of the area.

126. In AONBs and AGLVs, by SP Policy SE8 and LP Policy C3, the quality of the landscape should be conserved and enhanced. Development in AGLVs will be expected to maintain

the existing character of the area, particularly in locations which are visible from the AONB; elsewhere, development should retain the distinctiveness of the County Landscape Character Areas, thereby conserving and enhancing the diversity of the Surrey landscape. Strong protection will be given to AGLVs to ensure the conservation and enhancement of the landscape character.

127. Landscape Character Areas are set out in the County Council's *"The Future of Surrey's Landscape and Woodlands"* (1997). The appeals site lies in the regional "Wealden Greensand" area that cuts across Surrey from Kent to Hampshire and extends southward into West Sussex; locally, south and west of Guildford, is the "Greensand Plateau" described as a *"...gently sloping, wooded plateau ranging from flat to undulating, dissected by the Valleys of the Upper Wey, with open expanses of heathland and large scale farmland"*. Among the key characteristics identified of this area are fringes of broadleaved secondary woodland extending into areas of farmland and pockets of small-scale farmland with small fields divided by low thick hedges occurring occasionally. The sub-area, Whitley and Churt, is described as a flat landscape with areas of open farmland around Godalming contrasting with small-scale farmland to the south and west. Similar appraisals are found in the *"Character Area 120: Wealden Greensand"* published by the Countryside Agency and in *"The Surrey Hills Landscape"* published by the Countryside Commission.

128. A number of witnesses were called to give opinions on the landscape character of the appeals site and its surroundings. It appears to me from the various descriptions adduced that the most distinctive features of the appeals site are its openness across a very gently undulating landscape that falls gradually from north-east to south-west. Within the sectors east and west of Tuesley Lane, former agricultural practices have resulted in the loss of the divisions of the earlier field pattern. Essentially, the appeals site now comprises three large open fields.

129. Part of the character of the landscape is derived from the long views obtainable across the appeals site, interrupted by the prominent wooded defile of Shadwell Copse and the group of farm buildings. In places, particularly on the southern edge of the farm, parts of the eastern fringe and parts of Tuesley Lane, boundary hedges provide screening, although there are gaps. But many parts of the highway boundaries are of post-and-wire fencing and much of FP162 that traverses the eastern part of the site is unfenced.

130. Substantial parts of the land surrounding the appeals site are wooded. Land rises immediately to the south and, within the AONB, to the east, affording views, albeit from a limited number of vantage points, into and across the appeals site. Longer distant views can also be obtained from high ground at Mare Hill Common, some 3km south-west. The appeals site is discernable, albeit within an expansive and complex landscape, from a high point some 8km to the south-west at Gibbet Hill, near Hindhead. There are few, if any, clear views from the west because of topography and vegetation.

131. The overriding character of the appeals site is drawn from the expansiveness of its openness, exposed to inward and enabling outward views, in contrast to its wooded surroundings. There is presently little appreciable difference in character between those parts of the appeals site east of Tuesley Lane, within the AGLV and that to the west, outside the designated area.

132. Through the "Countryside Stewardship Scheme" ("CSS") agreed with DEFRA, embracing the whole of the appeals site, the appellant has secured grant-aided assistance that, in essence, aims to enhance the landscape over a ten-year period by, among other matters, the restoration of the former field hedgerows and new woodlands. Regardless of the outcome of these appeals, the CSS will progress, unless the appellant seeks withdrawal. Thus, it is likely that, in time, the openness of the existing landscape of Tuesley Farm will be broken-up by the gradual establishment of about 16km of new field and boundary hedgerow planting, eventually achieving a height of between 3-4m, transforming the three large fields into 26 smaller enclosures, approximately re-creating the historic field pattern of the pre-1970s.

133. The polytunnels would embrace varying proportions of the appeals site for parts of the year. But for the times they would be present, their impact arising from the sheer scale of the development, especially in circumstances in which blocks of polytunnels are erected on adjoining parcels of land, would dominate and overwhelm the appearance of the existing largely open rural landscape.

134. The reflective qualities of the white, clear, or in some cases, green plastic sheeting spread across the hoops, or even when partly rolled-up to assist ventilation, would draw-the-eye and would stand out as an unfamiliar and adverse incursion into the landscape, rising and falling with the gentle topography, in marked contrast to the open appearance of the land and the verdure of the surroundings.

135. Comparisons have been drawn with plastic sheeting placed at ground level to facilitate the growth of crops and the appearance of stretches of water. But the bulk and proportions of the polytunnels provide it with a tangible form and volume that flat expanses do not possess. The scale of such development and the massing of the blocks would bear no reasonable similarity with pig arks, silage clamps and other agricultural items that might often be found in the countryside.

136. It is likely that the provision of hedging under the CSS scheme, together with, in addition, the inclusion of individual oak and ash within the hedges and the planting of some field corners as copses, all as recommended by Mr G C J Ellis would, in themselves, have appreciable and beneficial impacts on the appearance of this open landscape. But such planting would take some time to reach a measure of maturity and even then, the scale and proportions of coverage by polytunnels would not be hidden, notwithstanding the appellant's aim to re-create an approximation of the original landscape. The beneficial effects of the CSS scheme would arise in any case, regardless of the presence of polytunnels. The additional measures proposed by Mr G C J Ellis would not mitigate the harm arising from the scale of the appellant's development.

137. The appellant's landscaping master plan and management scheme was advanced at the inquiry by Mr K N Light as a complementary means of mitigation of the impact of the polytunnels. The most important of the objectives of the extensive planting scheme proposed, implemented in tandem with the CSS scheme, is described as providing a strong landscape framework capable of absorbing and substantially reducing any visual effects of the polytunnels in local and long distance views. The landscape scheme has been prepared on the basis that polytunnels might be erected on each and every field, thereby accommodating the intentions of the appellant, as adduced in the evidence of Mr H Hall.

138. The main elements of the proposed planting scheme would include the block planting of woodland, block planting in field corners and what is described as woodland belt planting. The latter would comprise planting around the southern, eastern and western boundaries on the inside of existing hedges and fences and on either side of FP162 that traverses the eastern sector. The planting would be some 15m in depth, primarily of oak and ash, with a denser mix of mainly hazel and hawthorn on the outer edges that aims to provide effective screening. It is anticipated that the woodland planting would attain a height of 5.5m after five years and 11m after ten-to-twelve years; that on the outer edges would attain 3m in height after five years. The proposed planting scheme would result in just over 24ha of land, about 13% of the appeals site, being taken out of production and would be the subject of a management scheme.

139. The series of maps of the locality from 1874 to 1977 indicate the presence of Shadwell Copse and the various other copses and wooded areas around the periphery of the appeals site and also show that field boundaries remained relatively unaltered until extensive removal took place thereafter. The maps clearly show that at least within that period, if not longer, no part of the appeals site embraced blocks of woodland or 15m-deep woodland belts alongside roads and footpaths; on the contrary, there is written evidence, albeit untested, that the openness of the land was interrupted only by the former field boundary hedgerows standing about 1.2m (4 feet) high, standing on banks 0.6m (2 feet) high, interspersed by individual trees.

140. The openness of the land is part of the landscape character to which the CSS aspires to restore; thus the land would remain open. The scheme promoted by Mr G C J Ellis would complement that characteristic, but would not obscure the vista of the polytunnels.

141. By marked contrast, the woodland blocks and belts comprised in landscaping master plan would introduce features into the landscape that would not have existed hereabouts within living memory and possibly beyond. In that sense, they would be unnatural. The scale of the planting scheme would not accord with the established character of this part of the countryside which is acknowledged as comprising small-scale farmland with small fields divided by low thick hedges occurring occasionally.

142. The extensive blocks of polytunnels would not meet the high standards of design and appearance that development plan policies seek of buildings in the countryside. The proposed development, together with the landscaping master plan, would be out of place in terms of their scale, height, form, and appearance, failing to protect the openness and intrinsic qualities of the countryside and failing to respect its character, contrary to SP Policies LO4 and LO5 and LP Policies C1 and C3. Their presence would fail to conserve or enhance the quality of the landscape within the AGLV to its long-term detriment and, in that part of the appeals site outside the AGLV, would fail to retain the distinctiveness of the landscape, also to its long-term detriment, contrary to SP Policies SE4 and SE8 and LP Policies D1 and D4. The implementation of the more extensive scheme of polytunnels on all but two or three of the individually-numbered parcels, as put forward by Mr H Hall, would serve only to reinforce these objections.

Third Main Issue – Effect on Living Conditions of Nearby Residents and on Users of the Local Highway Network

143. SP Policies LO4, LO5, SE4, SE8 and LP Policies D1, D4 and C3 also provide the policy background relevant to the third main issue. In particular, by LP Policy D1, development will not be permitted where it would result in material detriment to the environment by virtue of, among other matters, loss of general amenity, including material loss of natural light and privacy enjoyed by neighbours. LP Policy D4 seeks to include in development landscaping design suitable to the site and character of the area, of a high standard, with adequate space and safeguards for long-term management.

144. Numerous dwellings on the edge of Enton Green and close to Milford station are scattered along the southern sides of Station Lane and Station Road; a few isolated dwellings stand on the northern sides of those roads around which the appeals site wraps itself. A cluster of dwellings on the edge of Hydestile stand on the south-eastern side of Hambledon Road and a few others stand on the north-western side, including some served by a track off the road, traversed by BW163, all adjoining or close to the appeals site.

145. The substantial blocks of plastic tunnels, covering up to 39ha at any one time, would dominate the landscape for lengthy periods of the year, thereby significantly changing the character of the rural landscape to its detriment. For the period of their presence, some vistas would be closed; the impact of such a change would be of overwhelming proportions that would have a marked detrimental effect on the outlook of the occupants of the numerous surrounding dwellings to an extent that living conditions would be adversely affected.

146. Moreover, there are parcels that were not utilised for soft fruit in 2004 and 2005, several of which lie close to the periphery of the appeals site and close to or adjoining dwellings. The covering of those parcels with polytunnels, whether as a re-arrangement of the extent of the scheme in 2004 and 2005, or by expansion in scale as postulated by Mr H Hall, would serve to bring the problem closer to those residents who have not experienced the presence of the polytunnels in the immediate proximity of their homes. This adds to the extent of the objections.

147. The development would also have a particularly severe impact on FP162 that crosses the eastern portion of the appeals site; views across the farmland and outward views to the surrounding hills, including the AONB, obtained by users of that route would be severely restricted. Views across the farmland from surrounding roads, from Tuesley Lane and parts of FP161 and BW163 would be dominated by the presence and proximity of the blocks of polytunnels.

148. It would take a number of years before the planting of the landscaping master plan would achieve the objective of absorbing and substantially reducing any visual effects of the polytunnels in local and long distance views. Meanwhile, the harm arising from the presence of the polytunnels would remain undiminished until such planting has matured as intended. At that stage, in all likelihood, views of the polytunnels, at least at close quarters, would be mitigated. But this would be achieved at the not inconsiderable expense of a fundamental change in the character of the landscape.

149. In themselves, there would nothing inherently objectionable about the appearance of woodland belts, as proposed. But the effect of such planting would eliminate the vistas across the open farmland. For example, from FP162, the wide-ranging views out of the site towards the AONB to the east, to Shadwell Copse or the hills to the south and views generally towards surrounding prominent landmarks such as Ladywell Convent and Milford Hospital, would be curtailed and replaced by the narrow confines of a corridor formed between the woodland belts. Tuesley Lane would be enclosed in a similar way; those parts of BW163, FP161, Station Lane, Station Road and Hambledon Road abutting the appeals site would all be bounded on one side by such planting obscuring views across the farm.

150. Moreover, those who occupy houses abutting the appeal would be bounded by the presence of the woodland belt that, by reason of its depth, height and density, would dominate the gardens and the outlook from rear and side facing windows, resulting in an unacceptably overpowering sense of enclosure.

151. All would serve to the detriment of the living conditions of adjacent residents, of the general amenities of road users and those who seek to enjoy the network of public footpaths and bridleways. The scale of the landscaping master plan would be an illustration of the extent of the problem which it would seek to overcome. The harm arising from the presence of a vast swathe of blocks of polytunnels might be mitigated, but superseded by the harm arising from the scale of the proposed planting and the consequential diminution of the present landscape character of acknowledged attractiveness.

152. The proposed development together with the landscaping master plan would result in a loss of general amenity for nearby residents and highway users and also landscaping that would be unsuitable for the site and character of the area, all contrary to LP Policies D1 and D4. It would also harm the openness of the green belt, contrary to LP Policy C1, adding to the objections in terms of the first main issue.

Fourth Main Issue – Whether Other Material Factors including Benefits would Outweigh Harm

153. By SP Policy LO4 and LP Policy RD10, development will be permitted where it is required for agriculture. That, in itself, is unequivocal. Moreover, by SP Policy DN16, the diversification of activities on agricultural holdings will be permitted where it contributes to sustaining the viability of the farming enterprise. In the present case, there is no diversification into non-agricultural activity, to which this Policy is primarily directed, but diversification into an alternative agricultural use of the land in the growing of soft fruit under polytunnels.

154. However, such policies are tempered in the same Policies and in other policies of the development plan, by the need to protect and safeguard the intrinsic qualities and character of the countryside and by ensuring that the form of development is appropriate to the character and appearance of the rural area and protects residential amenities.

155. Such policies are in line with national advice, particularly that found in PPS7 in which Government objectives for rural areas include the promotion of sustainable, diverse and adaptable agricultural sectors. The exemption of the use of land for agriculture from planning control provides continuing national recognition of the importance and benefits derived from agriculture and that farms need to operate effectively and efficiently.

156. Indeed, reference has been made to a number of reports and guidance documents prepared by a wide range of organisations concerned with the future prospects of agriculture in the UK, although in the planning context, greatest weight would need to be given to the development plan and PPS7. But again, a key principle underpinning land use planning is the recognition in PPS7 that new building in the open countryside will be strictly controlled. Thus, there would be always a need to balance the requirements of a living and working countryside with the overall aim set out in PPS7 to protect the countryside for the sake of its intrinsic beauty and character so that it may be enjoyed by all.

157. It might be the case that there is a limited amount of land suitable and available for the production of soft fruit in the UK and that production in the UK is beneficial in reducing the distances that soft fruit travels from other sources abroad. But that it not to say that there would be a national shortage of such land. The evidence indicates that the appellant's choice of Tuesley Farm was influenced not just by the suitability of its soils and its other physical attributes, but by its proximity to other land held by the appellant, in preference to more distant land elsewhere that was also suited to the production of soft fruit.

158. The use of polytunnels is an example of the changing nature of agriculture. The increasing success of soft fruit growing is attributable to the greater use of polytunnels in the UK and the benefits that it brings by increasing production year-on-year, over a longer season, of high quality produce derived from the protection offered from rain and other adverse conditions. But in cross-examination, Mr Olins for the appellant did not disagree with the view put to him that the loss of the appeals site from soft fruit production would amount to the loss of about one-third of one year's growth in the UK's production of soft fruit. Thus, the contribution of Tuesley Farm in the national context would be minimal.

159. The use of the appeals site by the appellant for the production of soft fruit without, at first, clearly establishing, by the means available in Part VII of the 1990 Act (as amended), the lawfulness or otherwise of the polytunnels, is unfortunate and is to be set against the argument that the polytunnels would be essential to the successful production of soft fruit at the appeals site. The benefits of production adduced by the appellant are founded on unauthorised development more designed to meet the particular demands for crops grown under cover.

160. It is clear that the cessation of the use of the appeals site for soft fruit production under polytunnels would affect the interests of the appellant firm. But the appellant bought the farm as a viable agricultural unit and there would be no certainty that it could not be disposed of as such should that become necessary. Clearly there has been considerable capital investment in the enterprise, not least in the cost of the polytunnels. But again, there would be no certainty that some, if not all, of those costs would not be recouped. Moreover, there would be no certainty that the appellant firm would be unable to continue operating the other farms in which it has interests without the contribution from the appeals site.

161. I have taken into account all of the many other matters raised in support of the scheme, not least that emerging from almost 80 letters drawn from a wide spectrum of interests and from those local persons who gave evidence at the inquiry.

162. However, in the balance that has to be drawn between the needs of this agricultural enterprise and environmental impact arising from the presence of the polytunnels, I am firmly of the view that those agricultural needs would be far outweighed by the harm to the countryside arising out of the scale and appearance of the polytunnels. The increase in 2006 and beyond in the amount of land embraced by polytunnels, as postulated by Mr H Hall, would only serve to underpin my concerns about the unsuitability of the appeals site to accommodate this form of development. Nor would conditions imposed on the grant of planning permission be sufficient to overcome the harm arising from the continuing presence of the polytunnels.

Appeal B: Windbreaks

163. The windbreaks comprise three separate parts, each about 100m, 150m and 200m in length. They extend almost in a line from a point close to the group of farm buildings, south-eastward along the south-western edge of the caravan site and beyond, passing alongside part of FP162 across the open land. They are formed by a line of stout timber poles between which chicken wire is stretched across horizontal wire bands, attached to which is a green plastic mesh; they stand about 5m in height.

164. The appeal on ground (a) and the deemed application for planning permission is predicated on the basis that the windbreaks would be required for a period of five years pending the growth of planting; they would then be removed. The appellant requires them along the southern edge of block No.5 as a necessary interim measure to protect the polytunnels from wind damage and to provide a safer working environment.

First Main Issue – Whether Inappropriate Development in the Green Belt

165. There is no dispute that the windbreaks are designed for the purpose of an agricultural function, though there is some argument about whether they would be needed as such. Again, relevant in this case are SP Policy LO4 and LP Policy C1 and national advice is found in PPG2. In line with the reasoning set out in paragraphs 116-123 above in respect of the polytunnels, the windbreaks would fall in the categories included in paragraph 3.4 of PPG2 and thus not amount to inappropriate development.

Second and Third Main Issues (taken together) – Effect on Character and Appearance of the Locality and Effect on Living Conditions of Nearby Residents and on Users of the Local Highway Network

166. Again relevant in this case are SP Policies LO4, LO5, SE4, SE8 and LP Policies D1, D4 and C3. Also relevant is that part of LP Policy C1 indicating that, in all circumstances, any development that would materially detract from the openness of the green belt will not be permitted; in addition, the protection of the visual amenities of the green belt is sought in paragraph 3.15 of PPG2.

167. From distant vantage points, the substantial height and length of the windbreaks would be visible in the sweeping vistas obtainable across the open farmland. Even from a distance, the windbreaks would stand out as an intrusive feature, quite at odds with the openness of the rural scene and the qualities of the AGLV within which they are sited.

168. As they would not be in the immediate vicinity of any dwellings, they would not affect adversely the living conditions of surrounding residents. However, whilst users of FP162 would gain views through the mesh into the land beyond, the presence of the windbreaks would be found to be particularly overpowering by reason of their height in such close proximity to the public route. Moreover, in certain parts of the route, the siting of the windbreaks would obscure outward views across the farmland and towards the AONB, to the detriment of those who seek to enjoy the attractiveness of the public footpath.

169. Even if the appellant succeeds in the stated aim over the next five years of nurturing a scheme of planting of sufficient density and height that would enable removal of the windbreaks, substantial detriment to the visual amenities of the area would arise in the interim with consequential harm to the character and appearance of the landscape, contrary to development plan policies.

Fourth Main Issue – Whether Other Material Factors including Benefits would Outweigh Harm

170. The support provided by SP Policies LO4 and DN16, LP Policy RD10 and PPS7 for development required for agriculture and all other factors advanced in support of the scheme would be qualified by the dependency on the continuing presence of the polytunnels which the windbreaks are designed to protect. But as I have found that the polytunnels would be unacceptable, it follows that there would be no justification for the retention of the windbreaks and they too would be unacceptable in the terms of the Council's policies.

Appeal B: Summary

171. Appeal B on ground (a) will be dismissed.

Appeal A: Caravan Site; Bund; Fence on top of Bund; Engineering Operations – Services to Caravans

172. The caravan site occupies an "L"-shaped area of about 0.96ha, situated just to the south-east of the group of farm buildings. The numbers of caravans (in the nature of mobile homes) vary during the year, but up to about 45 are stationed on the land, providing accommodation for some 230 persons employed on the production, harvesting and packing of the soft fruit. Each caravan is served by supplies of water, electricity, propane gas and a sewerage system; reference is made to a septic tank formed in one corner, but there is also a connection to mains drainage. A network of pathways serves the site which is enclosed on four of its sides by an earth bund varying between 1m and 1.5m in height, surmounted by a 1.8m-high lapped panelled timber fence. The bund and fence would be required until such time as planting has become established to afford similar levels of protection; they would then be removed.

First Main Issue – Whether Inappropriate Development in the Green Belt

173. The caravan site is a material change of use of the land to a form of residential use. The fence is a building operation; the bund and the services are engineering operations. These developments fall to be considered in the light of the presumption against inappropriate development in the green belt, found in SP Policy LO4, LP Policy C1 and PPG2. Such inappropriate development will not be permitted unless very special circumstances exist.

174. The fence is required to screen the residential use of the caravan site, therefore it is not required for agriculture; hence, it would amount to inappropriate development as defined in paragraph 3.14(a) of the explanatory text to LP Policy C1 and would not fall within the categories of appropriate development set out in paragraph 3.4 of PPG2. In line with advice in paragraph 3.12 of PPG2, paragraph 3.14(b) of the explanatory text to LP Policy C1 indicates that engineering operations and the making of material changes in the use of the land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the green belt.

175. Thus, whilst the fence is inappropriate development in the terms of green belt policies, the question of appropriateness of the caravan site, the bund and the services would turn on their impact on openness and whether they would achieve the purposes of including land in the green belt, as set out in paragraph 1.5 of PPG2, the most relevant of which would be of assisting in safeguarding the countryside from encroachment. Also relevant is the advice in paragraph 3.15 of PPG2 concerning injury to the visual amenities of the green belt by reason of detriment arising from the siting, materials and design of development. These are all matters that would be addressed in consideration of the second and third main issues. Whether the caravan site and its associated infrastructure would meet an agricultural need would fall to be considered as one of the circumstances addressed in the fourth main issue.

Second and Third Main Issues (taken together) – Effect on Character and Appearance of the Locality and Effect on Living Conditions of Nearby Residents and on Users of the Local Highway Network

176. Development plan policies seek to protect the openness, intrinsic qualities and character of the countryside and green belt (SP Policies LO4, LO5 and SE4; LP Policies D1, D4 and C1); to prevent material detriment to the environment (LP Policy D1); and to seek in development appropriateness in terms of scale, height, form, appearance and design (SP Policy SE4 and LP Policy D4). The development the subject of Appeal A is located on that part of the appeals site within the designated AGLV to which strong protection will be given to ensure conservation of the landscape character (SP Policy SE8 and LP Policy C3).

177. National and development plan policies generally seek to direct new residential development to urban areas. There would be no expectation of finding a newly-created caravan site of this scale in the countryside. The size of the caravan site and the nature of its use would be wholly out-of-place in this predominantly rural area. Whilst its siting would not have any direct impact on the living conditions of residents in the vicinity of the appeals site, its size, together with the infrastructure serving it, would represent a significant and unacceptable encroachment of residential use into the open countryside surroundings of the existing group of farm buildings.

178. Simply because the caravan site would be screened from widespread views, primarily by reason of the siting and height of the earth bund and fence, would not materially lessen the detrimental impact on the openness of the green belt or the harm to the appearance of the countryside by reason of its presence. Nor would the eventual replacement of the bund and fence by the proposed planting mitigate the harm arising from its impact in the landscape. Were it to be the case that such screening would render objectionable development acceptable, other schemes similarly obscured from public view, or those that would be

unobtrusive, could be repeated, with serious repercussions on the character and appearance of the countryside.

179. The bund and fence on the north-eastern and south-eastern boundaries of the caravan site would dominate those parts of FP162 that pass alongside it. By reason of its length and height, these elements of the development would appear incongruously at close quarters in a rural scene in which, by contrast, the openness of the landscape is part of its existing character. From more distant vantage points elsewhere on FP162, the bund and fence would be seen against a backdrop of the farm buildings and the vegetation beyond the farm, but not to such an extent that they would merge inconspicuously into vistas across the farmland. Instead, their rigid appearance would draw-the-eye and would detract from the rural qualities of the countryside, to the detriment of footpath users.

180. The restoration of field boundary hedges as part of the on-going CSS would not, however, be sufficient to ameliorate the impact of the bund and fence; its appearance would remain out of context with its natural surroundings. The additional landscaping measures proposed by Mr G C J Ellis, that anticipate replacing the fence with a thick hedge and shelterbelt of local species to cover the bund and to allow the hedges of the CSS to achieve a height between 3m to 4m, would take some time to become established.

181. As part of the landscaping master plan and management scheme advance by Mr K N Light, the bund would be re-contoured and planted to a substantial depth to provide a native woodland buffer thickened with an understorey to give the effect of a woodland edge. But the submitted plan anticipates that it would not be until year 10 that the expected 11m-height of the planting would become sufficiently established to enable the fence to be removed. Hence, in respect of each of these landscaping measures, in the interim, the harm to the character and appearance of the countryside would remain and none of these schemes would overcome the harm to the character and appearance of the countryside in this part of the AGLV that SP Policy SE8 and LP Policy C3 strive to strongly protect.

182. The fence and bund would be unacceptable in terms of their scale, height, form, appearance and design and would fail to protect the intrinsic qualities and character of the countryside, contrary to SP Polices LO4, LO5, SE4 and LP Policies D1 and D4. Moreover, the impact of the development would fail to maintain the openness of the green belt, contrary to LP Policy C1. It follows therefore that the caravan site, the bund and the services, that are required only for the purposes of facilitating the residential use of the caravan site, would all be inappropriate development in the terms of green belt policies of the development plan and PPG2.

Fourth Main Issue – Whether Other Material Factors including Benefits would Outweigh Harm

183. Paragraph 3.2 of PPG2 points out that inappropriate development is, by definition, harmful to the green belt and the onus is on the appellant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness is clearly outweighed by other considerations. This is echoed in SP paragraph 2.21 and LP Policy C1. As the bund, the fence and the services to the caravan site are primarily incidental to the residential use, the justification for those

elements of the scheme would be dependant on very special circumstances being adduced in respect of the caravan site.

184. By SP Policy LO4 and LP Policy RD10, development will be permitted where it is required or is reasonably necessary for agriculture or horticulture, but subject to the safeguards set out in LP Policy RD10 that include protection of the character and appearance of the area. In line with national advice in paragraph 10 and Annex A of PPS7, LP Policy RD11 sets out stringent circumstances that new dwellings for agriculture would need to fulfil to obtain permission; where there is an essential need for a new dwelling to support a new farm enterprise or a major change in the nature or scale of an existing business, this will normally be met, for the first three years, by temporary accommodation such as a caravan. By SP Policy DN16, the diversification of activities on agricultural holdings will be permitted where it contributes to sustaining the viability of the farming enterprise and to safeguarding the character of the countryside.

185. Clearly, a substantial number of persons is required to make possible the agricultural operation of this scale and nature at Tuesley Farm and, in that way, there is a connection between the use of the agricultural land and those occupying the caravan site. Considerable reliance is placed on hiring staff from Europe and elsewhere under employment schemes that demand appropriate standards of accommodation. The provision of accommodation at Tuesley Farm for up to 230 persons is underpinned by the appellant's difficulties in recruiting staff locally rather than clear evidence adduced in the terms of PPS7 that an existing functional need would arise for those numbers of persons to reside at the appeals site.

186. There is, however, clear evidence that persons employed at Tuesley Farm are also employed from time-to-time at other farms elsewhere in which the appellant firm holds interests. It might be convenient for this number of persons to be accommodated at Tuesley Farm as otherwise they would have to be transported to-and-fro daily. But just as the appellant's other holdings would be served by persons living in caravans at Tuesley Farm, it would follow that, so too, could Tuesley Farm be served by persons living elsewhere.

187. In cross-examination, Mr M Hall explained that permanent staff has found accommodation in Wokingham, Reading, Winchester and Bracknell; a few others are accommodated at Tuesley Farm and the conversion of existing farm buildings has also been discussed with the Council. However, he conceded that no agent had been commissioned to search for suitable accommodation for those engaged temporarily. Although efforts had been made to find alternatives, costs had been found to be prohibitive. Also, potential accommodation had been sought, unsuccessfully, at Milford Hospital.

188. Nevertheless, the extent of the evidence of a lack of any alternative accommodation is far from robust. There would not appear to have been a concerted effort to seek an alternative solution; rather, reliance would have been placed on the experience encountered in other Districts where caravans have been stationed. But, acceptance or tolerance by one local planning authority in the light of its development plan policies might not apply in another where different circumstances apply.

189. The advantages derived from the suitability of Tuesley Farm for the growing of soft fruits and the economic and social benefits to the locality and national interests in so doing have

been addressed in the consideration of Appeal B and have been found not to be of sufficient weight to outweigh the objections to that scheme. Justification for the caravan site would be substantially dependant on the continuing presence of the polytunnels; without them, there is no evidence that would justify the continuing presence of the caravan site at Tuesley Farm.

190. Taken together, the matters advanced as very special circumstances proffered in support of the development the subject of Appeal A would not be of sufficient strength to clearly outweigh the overriding harm to the character and appearance of this area of acknowledged attractiveness within a designated green belt.

Appeal A: Summary

191. Appeal A on ground (a) will be dismissed.

APPEALS A AND B ON GROUND (G)

192. The appellant is concerned that the period of four months cited in both notices would be insufficient and seeks a longer period expiring at the end of December 2006.

193. It is undisputed that, the end of 2004, the polytunnels and caravans were removed from Tuesley Farm, then brought back early in 2005. Hence no inherent difficulty would arise in physically removing these elements from the appeals site. The period of four months would also be adequate for the demolition of the windbreak and the removal of the bund, the fence on top of the bund and the services to the caravan site.

194. However, the appeals on this ground are made on the bases that the period would be inadequate to enable proper arrangements to be made for an ordered cessation of this form of agricultural use. The appellant points out that the repercussions arising from not being able to fulfil arrangements for the 2006 cropping season, made in July 2005 through the appellant's marketing organisation, would have severe adverse effects on the whole of the appellant firm's business enterprise, rather than being confined to activity at Tuesley Farm alone. The plants for the 2006 season have been bought and propagated already. For reasons allied to the control of pests and disease, the crops could not be moved, but would have to be destroyed if they could not be grown in polytunnels. A longer period would be required also to find an alternative suitable site for the growing of soft fruit in polytunnels and to re-locate permanent staff; moreover, arrangements for 2006 temporary staff were made in September 2005 and employees cannot be engaged and dismissed at short notice.

195. Clearly, many of the arrangements for the 2006 season have been made during the course of 2005 whilst the inquiry into these appeals has progressed. But an appellant is normally entitled to assume that the appeals will succeed, but if unsuccessful, the appellant would then be entitled to a reasonable period of time for compliance from the date when the notices take effect. Indeed, the Council does not seek to dispute the appeals made on this ground.

196. There is a forceful case for allowing a longer period for compliance with all of the requirements of the notices so that the appellant firm would be able to make a planned withdrawal from the appeals site, lessening the extent of damage to its enterprise that might

otherwise be engendered. The appellant seeks compliance by the end of 2006, citing the 1999 appeal decision at Chichester DC where the Inspector in that case imposed compliance by a stated date. But to obviate any possibility that the compliance date might again be overtaken by events, my preference would be, as the Council has done at the outset, to impose a period of time; in these cases, that period would be 12 months from the date that the notices come into effect. To this extent, both appeals on ground (g) will succeed.

Conclusion

197. For the reasons given above and having regard to all other matters raised, I conclude that neither Appeal A nor Appeal B should succeed. I shall uphold both enforcement notices with corrections and variations and, in both cases, refuse to grant planning permission on the deemed applications.

FORMAL DECISIONS

Appeal A: APP/R3650/C/04/1160262

198. I direct that the enforcement notice be:-

(a) corrected by, in paragraph 3 of the notice, in sub-paragraph (a), after the word *"from"*, the deletion of all of the next following text in sub-paragraph (a) and the substitution therefor of the words *"a mixed use of agriculture and dwellinghouses to a mixed use of agriculture, dwellinghouses and the stationing of caravans used for the purposes of human habitation"*;

and

(b) varied by, in paragraph 5 of the notice:-

(i) in step (i), after the word *"caravans"*, the insertion of the words *"used for the purposes of human habitation"*; and

(ii) in steps (i) – (ix) inclusive, the deletion of the words *"four months"* as the period for compliance and the substitution therefor of the words *"twelve months"*.

Subject to this correction and these variations, I dismiss the appeal, uphold the enforcement notice as corrected and varied and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 (as amended).

Appeal B: APP/R3650/C/04/1160262

199. I direct that the enforcement notice be:-

(a) corrected by, in paragraph 3 of the notice, the deletion of sub-paragraphs (iii), (iv) and (v) (including the sub-paragraph numbers) without replacement thereof;

and

(b) varied by, in paragraph 5 of the notice:-

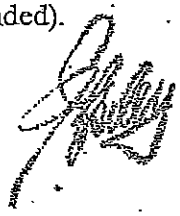
(i) the deletion of all of the text comprised in steps (iii), (iv), (v), (vi) and (vii) (including sub-paragraph numbering and, in respect of each of those steps, the deletion of the words *"Time for compliance: four months after this notice takes effect"*), without replacement thereof; and

(ii) in sub-paragraph (viii), the deletion of the numbers (iii), (iv), (v), (vi) and (vii) (including the word *"and"*) without replacement thereof; the omission of the comma from, and the insertion of the word *"and"*, between the numbers (i) and (ii); and the re-numbering of sub-paragraph (viii) as sub-paragraph (iii); and

(iii) the deletion of sub-paragraph (ix) (including the sub-paragraph number and the words *"Time for compliance: four months after this notice takes effect"*) without replacement thereof; and

(iv) in sub-paragraph (i), (ii) and (iii) inclusive, as varied, the deletion of the words *"four months"* as the period for compliance and the substitution therefor of the words *"twelve months"*.

Subject to this correction and variations, I dismiss the appeal, uphold the enforcement notice as corrected and varied and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 (as amended).



INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr T Straker	of Queen's Counsel, instructed by Messrs Clifford Ingram, Solicitors, 22-24 Broad Street, Wokingham, Berkshire, RG40 1BA.
He was assisted by	
Mr G Byrne	of Counsel.
They called:-	
Mr A P Aspbury BA MRTPI	Director, Anthony Aspbury Associates Ltd, Town Planning and Development Consultants, 34 Carlton Business Park, Carlton, Nottingham, NG4 3AA;
Mr G C J Ellis BSc(Hons) MSc	Landscape Architect, Director, Horticultural Consultancy International Ltd, Allsprings, Farm Street, Fladbury, Pershore, Worcestershire, WR10 2QD;
Mr J Handford BSc(Hons)	Agricultural Consultant, Director, Farm Advisory Services Ltd, Experimental Farm, North Street, Sheldwich, Faversham, Kent, ME13 0LN;
Mr E J Pelham MA(Oxon)	Partner, Andersons Midlands, Farm Business Consultants, Old Bell House, 2 Nottingham Street, Melton Mowbray, Leicestershire, LE13 1NW;
Mr M A Hall	Partner in the appellant firm, Heathlands Farm, Honey Hill, Wokingham, Berkshire, RG40 3BG;
Mr L S Olins	Chairman, British Summer Fruits Ltd, 133 Eastgate, Louth, Lincolnshire, LN11 9QG and Managing Director, Pouparts Ltd;
Mr J E Dodds MSc CGeol FGS	Water & Environmental Consultant, JDIH (Water & Environment), The Lime Kiln Business Centre, Breedon on the Hill, Derbyshire, DE73 1AN;
Mr J C Archer MBE MA	Environment and Land Use Adviser, National Farmers' Union (South East Region), Agriculture House, Station Road, Liss, Hampshire, GU33 7AR;
Mr K N Light BA(Hons) DipTP DipLA MLI	Landscape Architect, Director, Davis Light Associates Ltd, The Old Bakehouse, 21 The Street, Lydiard Millicent, Swindon, Wiltshire, SN5 3LU;
Mr H Hall	Partner in the appellant firm, Tuesley Farm, Tuesley Lane, Godalming, Surrey, GU7 1UG.

FOR THE LOCAL PLANNING AUTHORITY:

Miss A Oakes	of Counsel, instructed by Ms S Whitmarsh, Waverley Borough Council.
She called:-	
Mr S Blandford BSc(Hons) MIAgrM MBIAC	Farm Management Consultant, Partner, Smiths Gore, Eastgate House, Eastgate Street, Winchester, Hampshire, SO23 8DZ;

continued

Mr A Bandosz BA(Hons) DipUP	Principal Planning Officer, Waverley Borough Council;
Mr D Withycombe MSc MLI	Landscape Consultant, Land Management Services Ltd, Bank Chambers, 1 London Road, Redhill, Surrey.

INTERESTED PERSONS
(Supporting the Appellant):

Mr G Mansell	Heath Cottage, Clock Barn Lane, Hydon Heath, Godalming, Surrey, GU8 4AZ;
Mr R Ranson	Greenacres, Bowlhead Green, Godalming, Surrey, GU8 6NW.

INTERESTED PERSONS
(Supporting the Local Planning Authority):

Mr C Hall	Vice-Chairman of the Campaign to Protect Rural England (Waverley branch), The Oast House, West End, Frensham, Surrey, GU10 3EP.
The inquiry was opened on behalf of the CPRE by Mr T Harrold and he gave evidence.	Chairman, CPRE (Surrey), 2 Longdown Road, Guildford, Surrey, GU4 8PP.
Mr C Katkowski	of Queen's Counsel, instructed by Mrs K Smythe, solicitor, Tuesley Farm Campaign, The Red House, Station Lane, Milford, Surrey.
He was assisted by:	
Mr G Williams	of Counsel.
They called:-	
Mr A Grant MRTPI	Chartered Town Planner, Partner, Vail Williams, Planning and Property Consultants, t/a Robert Shaw Planning, 3000 Cathedral Hill, Guildford, Surrey, GU2 7YB;
Mr J Rath BA(Hons) DipLD MLI	Chartered Landscape Architect, Managing Director, fabrick Ltd, 38A High Street, Alton, Hampshire, GU34 1BD;
Mr J Hunt	then-prospective SW Surrey Parliamentary candidate for the Conservative Party, 23 Red Lion Lane, Farnham, Surrey;
Mr S R Cordon	then-prospective SW Surrey Parliamentary candidate for the Liberal Democrat Party, Rose Cottage, Portsmouth Road, Milford, Surrey;
Councillor C Harrison	member of Busbridge Parish Council, Hydestyle House, Hydestyle, Godalming, Surrey GU8 4DE;
Ms J Waterfall	2 Sattenham Cottages, Station Lane, Enton, Godalming, Surrey;

continued

Ms S McGleughlin	Field Cottage, Hambledon Road, Hydestile, Godalming, Surrey, GU8 4AY;
Mr T de Mallet Morgan	Clock Barn Lodge, Hambledon Road, Hydestyle, Godalming, Surrey;
Mrs R Mason	Clock Barn Farm, Hambledon Road, Hydestyle, Godalming, Surrey;
Mr A English	Holm Brae, Hambledon Road, Hydestyle, Godalming, GU8 4DE;
Mr R Walker	Enton Hatch, Water Lane, Enton, Milford, Surrey;
Mr J M Robertson	Enton Dene, Station Lane, Enton, Milford, Surrey.
Mrs S Earee	Enton Green Cottage, Enton, Godalming, Surrey.

DOCUMENTS

Document 1 lists of persons present at the inquiry (days 1-11);

Documents submitted prior to Opening of Inquiry

Document 2 Council's notification letter of the appeals and inquiry and circulation list;
Document 3 bundle of 26 individual replies and other letters and petitions with about 104 signatures, supporting the appellant;
Document 4 bundle of 78 individual replies and other letters, supporting the Council;
Document 5 letters from The Rt. Hon. Virginia Bottomley, former MP for SW Surrey;
Document 6 bundle with Council's appeals questionnaires;

Documents put in by the Appellant's Witnesses

Document 7 appendices to Mr Ellis's proof of evidence;
Document 8 appendices to Mr Handford's proof of evidence;
Document 9 appendices to Mr Olins's supplementary proof of evidence;
Document 10 appendices to Mr Pelham's proof of evidence;
Document 11 appendices to Mr Dodds's proof of evidence;
Document 12 appendices to Mr Light's proof of evidence:
- 12/1 – "Landscape & Visual Assessment";
- 12/2 – "Landscape & Visual Assessment – Appendices"
- 12/3 – "Landscape Management Plan";

Document 13 appendices to Mr H Hall's second proof of evidence;

Documents put in by the Local Planning Authority's Witnesses

Document 14 appendices to Council's pre-inquiry written statement of case;
Document 15 appendices to Mr Bandosz's proof of evidence;
Document 16 appendices to Mr Withycombe's proof of evidence;

Documents put in by Interested Persons

Document 17 appendices to CPRE's pre-inquiry written statement of case;
Document 18 appendices to Mr Harrold's first proof of evidence;
Document 19 appendices to Mr Rath's proof of evidence;
Document 20 appendices to Mr Grant's proof of evidence;

continued

Documents put in for the Inquiry generally (and day submitted)

Document	21	statement of common ground (day 1);
Document	22	statement relating to the landscape evidence submitted jointly by Mr Ellis and Mr Light, put in by the appellant (day 6)
Document	23	list of suggested conditions – appellant (day 7);
Document	24	list of suggested conditions – Council (day 10);
Document	25	list of suggested additional conditions – Council (day 10);
Document	26	list of suggested conditions – Tuesley Farm Campaign (day 10);
Document	27	skeleton model condition for retrospective cases – Inspector (day 10);
Document	28	bundle of letters dated 29.9.05 & 3.10.05 from Environment Agency re conditions (day 10);
Document	29	agreed statement between appellant and Environment Agency re suggested condition (day 10);

Documents put in at the Inquiry for the Local Planning Authority (and day submitted)

Document	30	extracts from Surrey Structure Plan 2004 – Policies LO1 and DN16 (day 1);
Document	31	witness statement of M D L Andrews, Planning Enforcement Officer, Waverley Borough Council (day 2);
Document	32	letter 2.2.05 from M J T Pope, Godalming & Haslemere Group of the Ramblers Association (day 2);
Document	33	letter 6.5.05 from Environment Agency to Council re Mr Dodd's evidence (day 5);
Document	34	letter 23.4.04 from Council to appellant's agent re need for planning permission (day 6);
Document	35	statement – Council's position on polytunnels in relation to Part 4 of Schedule 2 to the GPDO (day 6);
Document	36	letter 26.9.05 and enclosures from Rural Development Service to Council re Countryside Stewardship Scheme – Tuesley Farm (day 8);
Document	37	letter 9.9.05 Surrey CC (Principal Rights of Way Officer) to Council – comments on Mr Light's landscape management plan (day 8);
Document	38	letter dated 7.9.05 with plan and photograph from Council to Environment Agency re reports from residents of flooding in past years (day 10) and replies dated 29.9.05 and 3.10.05 (Doc.29 above);

Documents put in at the Inquiry for the Appellant (and day submitted)

Document	39	"The NFU/ British Summer Fruits Association Code of Practice for the Use of Polytunnels for the Production of Soft Fruit" (draft) (day 1);
Document	40	"Countryside Stewardship Scheme 2003" (day 2);
Document	41	Mr Handford's appraisal of Mr Blandford's proof of evidence (day 2);
Document	42	papers from Ashford Soft Fruit Conference (day 2);
Document	43	"Policy Position Statement – Transport, Aviation etc" (publ. CPRE) (day 3);
Document	44	extracts from "The Future of Surrey's Landscape and Woodlands" (publ. 1997 Surrey County Council – pages 2.1; 2.2; 2.43; 2.44) (day 3);
Document	45	"Surrey Hills Area of Outstanding Natural Beauty Management Plan 2004-2009" (day 3);

continued

Document	46	letter 20.4.05 from Wokingham District Council to appellant firm re polytunnels at Heathland Farm, Honey Hill, Wokingham (day 4);
Document	47	"Growing Soft Fruit for Britain at Tuesley Farm" (publ. by the appellant firm, October 2004) (day 5);
Document	48	press release from Council 28.5.04 re Tuesley Farm development (day 5);
Document	49	letter 3.5.05 from Farming and Wildlife Advisory Group Ltd to Mr M Hall supporting Mr Light's landscaping scheme (day 5);
Document	50	letter 22.4.05 from Tesco (Corporate Affairs Manager) to Mr Aspbury re appellant's scheme (day 5);
Document	51	letter 25.4.05 from Asda Stores Ltd (Agricultural Development Manager) to Mr Olins, re appellant's schemes (day 5);
Document	52	"Why Polytunnels are Used" (publ. British Summer Fruits (day 5);
Document	53	"Seasonal Agricultural Workers' Scheme & New European Workers' Scheme – Terms and Conditions for Concordia (YSV) Ltd Employers" (day 6);
Document	54	"Surrey's Countryside – The Future – Rural Strategy" (publ. Surrey CC October 2003) (day 7);
Document	55	"Surrey Farm Study Two" (publ. Surrey Working in the Countryside Group, February 2003) (day 7);
Document	56	Waverley BC – officers' report to Central Area Development Control Sub-Committee 30.6.04 re enforcement action at Tuesley Farm (day 7);
Document	57	extract from Surrey Structure Plan 2004 – Policy DN16 – (two versions of same document) 57/1 – (day 7) 57/2 – (day 10);
Document	58	policies SE9 &SE10 from Surrey Structure Plan 2004 (day 9);
Document	59	letter 1.10.05 from Mr E Soden re bird life at Tuesley Farm (day 8);
Document	60	"The Validity of Food Miles and an Indicator of Sustainable Development – Final Report" – DEFRA July 2005 (day 10);
Document	61	extract from "Our Countryside: the Future" - ODPM/SSETR/MAFF –pp 73-99 Cm4909 (day 10);
Document	62	extracts from "Farming & Food; a sustainable future" (The "Curry Report") Jan 2002 pp5-7, 9-18. 109-140 (day 10);
Document	63	letter 10.8.05 from Mr I D Goddard 41 Park Road, Godalming, to Council supporting the appellant (day 8);
Document	64	letter Aug 2005 from Guildford & Waverley NHS Trust (day 8);
Document	65	letter 12.7.05 to the Francisan Missionaries of the Divine Motherhood, Ladywell Convent from the appellant firm and reply 11.8.05 (day 8);

Documents put in at the Inquiry for the CPRE (and day submitted)

Document	66	participants (day 1);
Document	67	extract from "Surrey Hills Area of Outstanding Natural Beauty Management Plan 2004-2009" – para. 3.4 (day 2);
Document	68	extract from Surrey Structure Plan 2004 – para.1.37 et seq (day 2);
Document	69	"Surrey Hills Area of Outstanding Natural Beauty Management Plan 2004-2009" – Bulletin – Winter 2004 (day 2);

continued

Document 70 list of corrections to Mr Harrold's proof of evidence and list of documents to which reference is made (day 3);
Document 71 bundle of pamphlets – "Days Out in the Surrey Hills" (publ. S W Surrey Partnership) (day 3);
Document 72 "The Recreation and Tourism Future for the Hindhead Area – A Scoping Report – Final Report prepared for the Surrey Hills AONB Unit (day 3);
Document 73 extract from "Collins Pocket Guide - Trees of Britain & N Europe" Mitchell & Wilkinson, put in by Mr C Hall (day 8);
Document 74 suggested order of appearances for remaining part of inquiry (day 8);

Documents put in at the Inquiry for the Tuesley Farm Campaign (and day submitted)
Document 75 list of persons comprised in the campaign group (day 1);
Document 76 extract from "Surrey Hills Area of Outstanding Natural Beauty Management Plan 2004-2009" – section 5 Appx.1 Landscape Character Areas (day 2);
Document 77 letter 4.4.05 from Mr T A Mason to Mr Withycombe re hedges at Tuesley Farm (day 8);

Documents put in at the Inquiry for other Interested Persons (and day submitted)
Document 78 appendices to Mrs Baree's proof of evidence (day 3);
Document 79 written submissions of Mr P McGleughlin concerning Mr Light's landscape management plan, supporting the Council (day 11);
Document 80 letter 19.9.05 from Mr G Mansell, supporting the appellant (day 8);

Documents accompanying Mr Katkowski's Closing Submissions
Document 81 81/1 *Barvis Ltd v Secretary of Statefor the Environment & Another* (1971) 22 P&CR 710 ;
81/2 *Sunbury-on-Thames UDC v Mann* [1958] 9 P&CR 309;
81/3 *North Corwall DC v Secretary of State for Transport, Local Government & the Regions and Another* [2002] EWHC 2318 (admin);
81/4 *Vale of White Horse District Council v Mirmalek-Sani & Mirmalek-Sani* (1993) 25 HLR 387;
81/5 *Ramsey v Secretary of State for the Environment, Transport & the Regions & Suffolk Coastal District Council* [2002] JPL 1123;

Documents accompanying Miss Oakes's Closing Submissions
Document 82 *North v Brown* (1974) 231 EG 737;

Documents accompanying Mr Straker's Closing Submissions
Document 83 83/1 Extract from Town & Country Planning General Development Order and Development Charge Application Regulations 1950;
83/2 *Brown v Hayes and Harlington Urban District Council* (1963) 107 SJ 931;
83/3 *R v Secretary of State for the Home Department ex.p Daly* [2001] UKHL 26;
83/4 extract from interpretation section of Countryside and Rights of Way Act 2000.

PLANS

Plans	A1-A2	accompanying enforcement notice (Appeal A – caravans);
Plans	B1-B2	accompanying enforcement notice (Appeal B – polytunnels);

Plans put in at the Inquiry for the Local Planning Authority (and day submitted)

Plans	C1-C4	locations of photographic viewpoints supporting appendices to Mr Bandosz's proof of evidence (day 5);
Plan	D	"blank" location plan (for Inspector's correction to ENs if required) (day 11);
Plan	E	location of neighbouring residential properties (day 8);

Plans put in at the Inquiry for the Appellant (and day submitted)

Plan	F	locations of photographic viewpoints supporting appendices to Mr Ellis's proof of evidence (day 2);
Plan	G	1:5000 scale location of appeal site (day 11);

Plans put in at the Inquiry for Interested Persons (and day submitted)

Plan	H	locations of sites important to tourism in the locality, put in by Mr Harrold (day 3);
Plan	I	locations of viewpoints and road directions, put in on behalf of the Tuesley Farm Group (day 6).

PHOTOGRAPHS

(in addition to approximately 170 photographs submitted with Documents above)

Photographs	1-19	(numbered 1-19) accompanying Mr Grant's proof of evidence (with location plans of viewpoints);
Photographs	20-67	(numbered 1-48) first photographic appendix to Mr Grant's proof of evidence, (with location plan of viewpoints);
Photographs	68-107	(numbered 1-40) second photographic appendix to Mr Grant's proof of evidence, (with location plan of viewpoints);
Photographs	108-111	(lettered A-D) views from Ladywell Convent, put in by Mr Withycombe submitted prior to resumption on day 8;
Photographs	112-124	(numbered 1-13) viewpoints taken 20.6.05 put in by Mr Withycombe to supplement same viewpoints taken in winter contained in Appendix E of the appendices to his proof of evidence, submitted prior to resumption on day 8;
Photographs	125-131	types of typical heavy vehicles, put in by Mr English (day 3).