

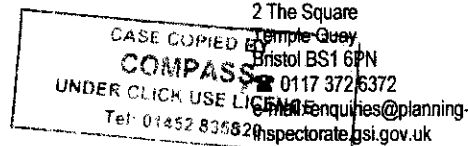
# Appeal Decision

Inquiry held on 26 October 2004  
Site visit made on 26 October 2004

by **Jean Jones MA DipTP MRTPI**

an Inspector appointed by the First Secretary of State

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Date  
**9 NOV 2004**

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## Appeal A Ref: APP/P1940/A/04/1140719

### The Mulberry Bush, Dawes Lane, Sarratt, Rickmansworth, Herts WD3 6BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr T Norris against the decision of Three Rivers District Council.
- The application Ref 03/0627/OUT, dated 24 April 2003, was refused by notice dated 19 August 2003.
- The development proposed is an agricultural dwelling.

**Summary of Decision: The appeal is dismissed.**

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## Appeal B Ref: APP/P1940/A/04/1162445

### The Mulberry Bush, Dawes Lane, Sarratt, Rickmansworth, Herts WD3 6BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr T Norris against the decision of Three Rivers District Council.
- The application Ref 04/0533/FUL, dated 1 April 2004, was refused by notice dated 18 August 2004.
- The development proposed is the siting of a temporary agricultural worker's dwelling.

**Summary of Decision: The appeal is dismissed.**

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## Procedural Matters

1. Appeal A is in respect of an application for outline planning permission. The application form stated that siting was not to be a reserved matter and a plan was submitted to show the proposed siting. However, it was confirmed at the inquiry that siting had been removed from the application and that all matters should be reserved for later consideration. This was the basis upon which the Council determined the application and I shall deal with the appeal in the same way with all matters reserved.
  2. The Council's third reason for refusal for the application in Appeal A concerned the restraint in the release of housing sites because of a high level of completions. In the case of the later application forming Appeal B, the previous moratorium had been lifted but poor accessibility to facilities was given as the third reason for refusal. The appellant confirmed at the inquiry that the applications should stand or fall on the agricultural justification and that, if this was not supported, it was not his case that a dwelling should be allowed as an addition to the general housing stock. As the matters in the third reasons for refusal both relate to general housing where alternative locations would be possible, it was agreed at the inquiry that these were matters outside the consideration of these appeals as they are both for an agricultural dwelling on a specific holding.
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## **Background**

3. The applicant operates a poultry business, producing eggs and meat on an organic free range basis. The holding extends to about 4.2ha and is sited on the north eastern slope of the Chess Valley within the Metropolitan Green Belt and Chilterns Area of Outstanding Natural Beauty (AONB). It lies outside the village of Sarratt, with access off Dawes Lane next to a wooded area known as Dawes Common. There are about 2000 laying hens producing some 1500 eggs per day and a flock of table birds producing about 200 finished birds per week. At present the birds use portable poultry houses of timber and polythene which are set close together on the upper part of the site.
4. There is a group of small buildings and structures next to this area including a former stable used as a butchery, cold store and for the storage of equipment and packing materials. The structures include two tall feed stores and a number of containers for bagged feed, tools and equipment. A caravan is used as a mess room and toilet and there are two domestic caravans and a boat stored there on a levelled area. The raising of young chicks under heat is carried out in four poultry houses in a separate part of the site. Much of the land is grassed and open, but parts are divided up by young planting including both trees and hedges.
5. Planning permission was granted on appeal in 2002 for five free range poultry houses and extensions to the existing building for a hatchery, egg store/pack and chick unit but these have not yet been built. Enforcement action was taken in respect of unauthorised engineering works in 2002 and these have now been restored.
6. Mr Norris started the business in 1992 as a part time hobby but for the last 3 years has run it full time, having left his lecturing job. He sells eggs and meat at farmers' markets in London, selling about 900 dozen eggs and 200 dressed poultry per week. Part time staff are employed to collect, check and pack eggs and to slaughter, dress and pack the meat for sale, all these operations being carried out on site. The business is registered with Organic Farming and Growers, one of a number of associations governing organic farming which impose requirements on the way the enterprise is run.

## **Main Issues**

I consider that the main issues for both appeals are:

- 1) whether there is an essential agricultural need for the new dwelling which would make it appropriate development in the Green Belt;
- 2) the impact on the landscape which is in an Area of Outstanding Natural Beauty;
- 3) if the proposal would be inappropriate development in the Green Belt, whether there are material considerations that outweigh the harm to the Green Belt and any other harm and provide very special circumstances justifying the grant of planning permission.

## **Planning Policy**

7. The development plan includes the Hertfordshire Structure Plan 1991-2011, adopted in 1998 (SP) and the Three Rivers Local Plan, adopted in 2001 (LP). The appeal site is within the Metropolitan Green Belt where SP policy 5 and LP policy GB1 make a presumption against new dwellings except in specified situations which are broadly in line with those

listed in Planning Policy Guidance 2 (PPG2) – *Green Belts*. Planning Policy Statement 7 (PPS7) – *Sustainable development in rural areas* confirms that isolated new houses in the countryside will require special justification and in the case of agricultural dwellings there is advice in its Annex A about the criteria to be used. LP policy GB11, dealing with agricultural and forestry dwellings in the Green Belt, refers to the tests in the previous national guidance, PPG7, but these have now been replaced by the similar criteria in the recently published PPS7. The circumstances in which a temporary agricultural dwelling would be permitted are covered by the later parts of policy GB11 and by paragraphs 12 and 13 of Annex A to PPS7. SP policies 1 and 22 and LP policy GEN1 encourage sustainable development including a reduction in the need to travel.

8. The site is within the Chilterns Area of Outstanding Natural Beauty (AONB) which is protected through SP policy 42 and LP policy N20. The Council has also referred to other more general LP policies concerning matters such as retention of trees but these are not at issue in these appeals.
9. I have also had regard to national policies in Planning Policy Guidance 1 – *General policy and principles* and PPG13 – *Transport*.

## **Reasons**

### **Appeal A**

#### ***Issue 1 – Agricultural need***

10. Paragraph 3 of Annex A to PPS7 states that new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:
  - (i) there is a clearly established *existing* functional need;
  - (ii) the need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
  - (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
  - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
  - (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.
11. It was agreed at the inquiry that the appellant's case is based on the existing functional need. This does not include the hatchery and other development allowed by the 2002 appeal but not yet carried out. It is common ground between the parties that the financial test in item (iii) above is satisfied. Mr Norris confirmed in his evidence that the expansion of the business has been led by customer demand for high quality products and value is added by butchering and packing on the premises and selling direct to the customer.

12. Mr Norris explained in detail why he considers it necessary for a worker to be on hand day and night. Under the present arrangement, day old chicks are bought in and raised under heat for about 4-5 weeks until they can be moved to range outdoors. 750 chicks come in every 3 weeks so there may be 1500 under heat at any one time. These chicks are very vulnerable and depend entirely on the skills of the stockman to ensure their survival. Temperature and ventilation need to be adjusted according to the prevailing weather and any failure in these items could cause major losses in a short time. Control is ensured at present by visual inspections but, even if alarms were fitted, a prompt response would be necessary, thirty minutes being the crucial period during which remedial action would be needed to avoid deaths. The cost to the business of losing a whole batch of chicks would be large and would knock a hole in the production cycle. In the case of those being raised for meat, the loss of 6 weeks' production could amount to a loss of some £6000 of profit and it would be difficult if not impossible to acquire replacement chicks at short notice. There would also be a loss of customers as the regular clientele at the farmers' markets would have to be built up again.
13. A dwelling on site would also enable extra routine inspections, for example in the later evening, which would help to detect problems with the chicks before they became serious. In the case of the adult birds, extra visual inspections would help anticipation of problems from equipment, sickness or behaviour before they developed too far.
14. Living on site would also allow Mr Norris to respond quickly to changes in the weather which might cause interruption of the electrical supply or require adjustments to the poultry house fabric. If exceptional events occurred such as loud noises from storms or aircraft, he would be able to attend quickly to the resulting panic of the birds which can result in smothering. He stated that the poultry are noisy if distressed and that he would be alerted by them if there were trouble at night time. He would also be likely to notice something wrong if he were living on site, such as a poultry house light which had not switched itself off at night. A 24 hour presence would also help to deter and deal with predators such as foxes, buzzards and red kites, which can result in panic as well as killing. There have also been security problems in the past involving vandalism, injury to birds and the theft of vehicles and equipment which would again be less likely if he resided there.
15. This evidence was supported by that of Dr Spackman, a vet specialising in poultry care, who considered that it is essential in all poultry units to have a worker living on site. In his view this would be needed for animal welfare reasons, as increasingly required by the RSPCA and other food safety assurance schemes. He also believes that a constant presence on site leads to better stockmanship and larger yields from the birds. Incidents such as a recent fox intrusion not only result in bird losses but also a reduction in egg productivity which can take a long time to recover.
16. I have given careful consideration to all the evidence about existing functional need. PPS7 states that the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. However, under cross examination Mr Norris agreed that most of the specific incidents he had mentioned as causing losses to stock or equipment had happened in the earlier years of the enterprise. A new electric fence was installed about a year ago and Mr Norris stated that it worked satisfactorily if strimming of grass is kept up to prevent short circuiting. It has reduced the chances of fox predation although this can never be ruled out. Neither the recent fox attack nor disturbance from helicopters or raptors have

been at night time so that a round the clock presence might make little or no difference to such incidents. At night the birds are housed and safe from predators. The table birds have outside access at night but would not tend to use it. Feeding and watering systems are mechanical not electrical so that, although breakdowns might occur, I put weight on the evidence of the Council's witness Mr Williams that good maintenance would minimise such events.

17. There was no evidence that Mr Norris has often had to visit the unit during the night in response to power or equipment failures. Indeed, apart from the recent fox attack I have not been made aware of specific recent incidents leading to significant problems either of animal welfare or financial loss. Taken altogether, I found that the evidence did not show that it is essential for the proper functioning of the enterprise for a worker to be readily available at most times although it would no doubt be more convenient, reduce worry and perhaps lead to somewhat better yields.
18. I find that the test in paragraph 3(i) is not satisfied. While it is not necessary for me to consider in detail criterion (ii), that is whether the need relates to a full time worker, I note that the Council conceded that Mr Norris was employed full time in the enterprise and that, on the basis of the up to date numbers of birds kept, the majority of his time related to direct care of the birds rather than general farming matters or food processing. Turning to criterion (iv), Mr Norris lives in his own house which is about 2 miles away or 7 minutes drive from the appeal site. Even taking into account the extra time needed to get up, dressed and out of the house, he would be able to respond to any alarm call indicating equipment failure within the crucial 30 minutes. Living locally, he would also be aware of any exceptional weather conditions that might indicate an additional visit was needed. I consider that any existing level of need could be met by a house in or near Sarratt which is quite a large village with a variety of accommodation. I put considerable weight on the fact that the business has flourished and expanded significantly over the last three years without a dwelling on site which would patently not be the case if it were essential.
19. I have noted the appeal decisions submitted by the appellant in which new dwellings have on occasion been permitted on agricultural holdings elsewhere. However, the Council has submitted other decisions where they have been refused. Circumstances are not identical in each case and I have given only limited weight to other decisions for that reason.
20. It is my conclusion that the proposed dwelling would not be for essential agricultural purposes and would thus not comply with SP policy 5 nor with LP policies GB1 and GB11. It would thus be inappropriate development in the Green Belt in the terms of PPG2.

### ***Issue 2 – Impact on landscape***

21. The appeal site is within the Chilterns AONB, a national designation which has the highest status of protection in relation to landscape and scenic beauty. An Article 4 Direction, removing permitted development rights for certain types of agricultural development in the locality of Sarratt, was made in 1963. This suggests to me that this particular area, within which the appeal site lies, is very highly valued locally and this was confirmed by the representations from Sarratt Parish Council and individuals about these appeals. PPS7 advises that the conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies and development control decisions in nationally designated areas. This part of the AONB has a most attractive landscape characterised by wooded uplands dissected by steep sided valleys and much pasture land. The appeal site

lies on a valley side and can be seen from a number of local roads and footpaths, also at close quarters from the adjoining woodland of Dawes Common, owned and maintained by Sarratt Parish Council, where there is extensive public access.

22. The outline application in Appeal A has all matters reserved so that a particular siting, design or external appearance are not under consideration. However, the appellant considers that the large depression on the north eastern side of the site would be the most unobtrusive location for a new dwelling. He has also submitted photographs of examples of traditionally styled houses and building materials which he considers would be in keeping.
23. During my time in the area I looked from many viewpoints, including Dawes Common and footpaths on the other side of the Chess Valley. The existing poultry houses are on the higher land and very prominent in some views. A modest new dwelling could be sited and designed to be less harmful than these, taking into account the lie of the land and the partial screening offered by existing tree planting. However, the building would nevertheless intrude into the undeveloped landscape to some degree, together with the domestic curtilage, hard surfacing and parked vehicles likely to be associated with it. The impact from public viewpoints is important but harm would result even without that and even if there were tree screening. I consider that the development would be harmful to the landscape and scenic beauty of the AONB, contrary to SP policy 42 and LP policy N20. The proposal would thus also fail the test in paragraph 3(v) of Annex A to PPS7.

### ***Issue 3 – Green Belt***

24. PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this case, in addition to the harm caused by inappropriateness, I consider that the dwelling would reduce the openness of the Green Belt because it would introduce the bulk of a new building. It would also harm one of the purposes of including land in the Green Belt which is to assist in safeguarding the countryside from encroachment. I have also identified harm to the landscape and scenic beauty of the AONB. It is my assessment that, taken together, this amounts to a substantial degree of harm to interests of acknowledged importance.
25. In support of the proposal, the appellant has referred to the Government's objectives in PPS7 and I note that these include the promotion of sustainable, diverse and adaptable agriculture sectors where farming achieves high environmental standards, minimising impact on natural resources, and manages valued landscapes and biodiversity; contributes both directly and indirectly to rural economic diversity; is itself competitive and profitable; and provides high quality products that the public wants. There is no doubt that Mr Norris's enterprise does many of these things and the appeal decisions in 2002 and 2003 show that he has been supported where proposals are environmentally acceptable.
26. Evidence was presented at the inquiry about the desirability of limiting the 'food miles' which products travel to reach their consumers and Mr Norris's enterprise performs well in this respect. The proposed dwelling would not alter this aspect except to reduce the number of short motorised journeys between his house and the appeal site. However, his existing house is close to the A404 whereas the appeal site is further from a main road and it is possible that any reduction in work journeys might be offset by longer trips to other facilities so I find this a neutral factor. Having taken into account this and all the other

material considerations, I do not find that they outweigh the identified harm and have concluded that very special circumstances do not exist to justify allowing inappropriate development in the Green Belt.

### ***Conclusion on Appeal A***

27. I conclude that the proposal would conflict with the relevant development plan policies and with national policies in PPG2 and PPS7. There are no material considerations outweighing the resulting harm and planning permission should be refused.

### **Appeal B**

28. I shall not repeat matters already dealt with in Appeal A such as the policy background to dealing with inappropriate development in the Green Belt or the status and character of the AONB which are the same for both appeals. Appeal B is in respect of an application for full planning permission for a temporary agricultural dwelling. The rationale behind this application is that the temporary dwelling would serve a new farming activity, that is the 5 poultry houses, hatchery, egg store/pack and chick unit for which planning permission was granted on appeal in February 2002.

### ***Issue 1 – Agricultural need***

29. Paragraph 12 of PPS7 states that, if a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
  - (ii) functional need;
  - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
  - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
  - (v) other normal planning requirements, e.g. on siting and access, are satisfied.
30. As in the case of Appeal A, the Council agrees that the financial test in item (iii) has been satisfied. I consider that the fact that Mr Norris has obtained planning permission for the additional development indicates his firm intentions and he stated that he has only held back construction of the new buildings to wait for the outcome of the current appeals. He clearly has the technical ability to develop the enterprise and I find that item (i) is satisfied. Turning to item (ii), functional need, I have taken into account the existing situation, as already assessed, plus any need that would arise from the additional development which has not yet been carried out. In Mr Norris's view, that would constitute a new farming activity on an established agricultural unit. The new activity would primarily stem from the

hatchery although there would also be some differences between the operation of the existing and new poultry houses. The projected numbers of birds would be similar to now.

31. The hatchery would enable Mr Norris to replace his stock from eggs hatched on the holding rather than buying in day old chicks from outside. His evidence indicates that some 250 chicks per week would eventually be produced and the temperature and humidity within the hatchery would need to be closely controlled. Maintenance of the desired conditions and the turning of the eggs would be carried out by the incubator machine. Periodic monitoring would be needed and an alarm system to warn of any failure. There would be some use of semi automatic systems in the new poultry houses whereas there are none at present and these might more easily go wrong. On the other hand, Mr Norris agreed under cross examination that the proper construction of the new poultry houses would alleviate some existing problems of disturbance to the birds from such things as flapping polythene sheeting.
32. Taken altogether, I do not find that there is a new farming activity involved in this case, just some changes to certain elements of the existing enterprise. There would again be a need to be able to respond to an alarm within 30 minutes but that could be achieved from the existing house or another one in or near Saratt. I do not consider that the hatchery and other projected new development would create a greater need than the existing activities to have a worker living on or very near the site. The enterprise is already well established and financially viable so that the normal justification for a temporary agricultural dwelling, that it is needed while the business becomes viable, is not relevant. Mr Norris stated that the new development was not entirely contingent on having a house on site but that he was concerned about the risk if he could not live there. I find that a new dwelling is not essential to support a new farming activity and that the tests of (ii) and (iv) are not satisfied.
33. I have concluded that the proposed temporary dwelling would not be essential for agricultural purposes and would thus not comply with SP policy 5 nor with LP policies GB1 and GB11. It would therefore be inappropriate development in the Green Belt as indicated in PPG2.

#### *Issue 2 – Impact on landscape*

34. Appeal B is a full application and the submitted drawings show a chalet style dwelling approximately 11m x 6m (36ft x 20ft) sited in the large depression on the north eastern slope of the site. External materials would be rendered timber painted dark green for the walls and dark grey pantiles for the roof which would have a shallow pitch. In my opinion, this would probably have a lower impact on the landscape than a permanent dwelling because of its relatively small size, low height and unobtrusive colours. However, it would lie in a part of the site which is at present undeveloped and, together with any domestic curtilage, associated hard surfacing and parked vehicles, would intrude into this area of very attractive and open countryside. I assess that the development could be seen from Dawes Common although it would probably be less noticeable from distant viewpoints than the existing poultry houses for example. However, harm can result even if it is not visible from points to which the public have access and even if there is tree screening. I conclude that the proposal would detract from the landscape and scenic beauty of the AONB, contrary to SP policy 42 and LP policy N20. Paragraph 12(v) of Annex A to PPS7 requires normal planning requirements eg. on siting and access to be satisfied. I consider that this aspect is not satisfied because of the harm to the landscape of the AONB.



***Issue 3 – Green Belt***

35. In this case, in addition to the harm caused by inappropriateness, I find that the temporary dwelling would reduce the openness of the Green Belt because it would introduce the bulk of a new building. It would also harm one of the purposes of including land in the Green Belt which is to assist in safeguarding the countryside from encroachment. The landscape and scenic beauty of the AONB would also be harmed in my view. I have concluded that there would be significant harm to interests of acknowledged importance. I have had regard to all the points raised in favour of the proposal, including Government support for rural enterprise and the ‘food miles’ aspect which have already been discussed in connection with Appeal A. However, I do not find that they outweigh the identified harm and have concluded that very special circumstances do not exist to justify allowing inappropriate development in the Green Belt.

***Conclusion for Appeal B***

36. I conclude that the proposal would fail to accord with the development plan and with national policies in PPG2 and PPS7. I have concluded that there are no matters to outweigh the resulting harm and that planning permission should be refused.

**Overall conclusions**

37. I have identified sound reasons why planning permission should not be granted for either appeal, having regard to the development plan and all the material considerations. I do not consider that either development could be made acceptable through the use of planning conditions.
38. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

**Formal Decision**

**Appeal A Ref: APP/P1940/A/04/1140719**

39. I dismiss the appeal.

**Appeal B Ref: APP/P1940/A/04/1162445**

40. I dismiss the appeal.

*Sean Jones*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr R Jameson	Solicitor, Jameson & Hill, 72-74 Fore Street, Hertford SG14 1BY
He called	
Mr P Williams	Reading Agricultural Consultants, Aston Street, Aston Tirrold, Didcot, OX11 9DS
BScAgric(Hons) OND MBIAC	
Miss K Stevens BA(Hons)	Area Team Leader Planning, Three Rivers District Council
MTPI SMRTPI	

### FOR THE APPELLANT:

Mr P Faulkner	Faulkners, 49 High Street, Kings Langley, Herts WD4 9HU
He called	
Mr T Norris NDipHort CertEd	Appellant
DipMan	
Mr D Spackman NDP BVSc	Vet, Kings House, Maunsel Road, North Newton, Bridgewater, Somerset TA7 0BP
MRCVS	
Mrs F Churchill BA(Hons)	Faulkners
MRTPI	

### INTERESTED PERSONS:

Mr D Rees	Chair of Planning Committee, Sarratt Parish Council, Stocks, Caroon Drive, Sarratt, Herts WD3 6DD
Mr T Barton	Ward Councillor, Shy Chenies, Linwood Heights, Rickmansworth WD3 4ED
Jane Soans	32 Brooksville Avenue, London NW6 6TG
Christine Manning	23 Downshire Hill, London NW3 1NT

### DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Council's letters of notification of the inquiry
Document	3	Letters received in response to notification
Document	4	Policy N20 from the Three Rivers Local Plan, submitted by the Council
Document	5	Proposals map from the Three Rivers Local Plan, submitted by the Council
Document	6	Copy of Article 4 Direction dated 1963, submitted by the Council
Document	7	Extract from the Farm Management Pocketbook by John Nix, submitted by the Council
Document	8	Statement of Common Ground

- Document 9 Appendices to proof of Mr Williams
- Document 10 Appendices to proof of Miss Stevens
- Document 11 Appendix to proof of Mr Spackman
- Document 12 Appendices to proof of Mrs Churchill including those of Mr Atton which were presented by Mrs Churchill

#### PLANS

- Plans A 1- 3 Application drawings for Appeal A
- Plans B 1- 5 Application drawings for Appeal B
- Plan C 1:25000 Ordnance Survey extract showing location of Mr Norris's house as agreed at the inquiry
- Plan D Extract from the definitive map of public rights of way in Hertfordshire, submitted by the Council