



Appeal Decisions

Site visit made on 26 February 2024

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2024

Appeal A: APP/Y9507/C/23/3323818

Land West of The Drove, Ditchling, East Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Conrad Howard against an enforcement notice issued by South Downs National Park Authority.
 - The enforcement notice was issued on 28 April 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from agriculture to camping and leisure taking place in excess of that permitted under Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Order) 2015. The Order currently permits the temporary use of Land for no more than 28 days in total in any calendar year.
 - The requirements of the notice are: (i) Cease the use of the Land or any part of the Land for camping and leisure in excess of that permitted under Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended or by any other express permission. (ii) Remove from the Land all tents and supporting infrastructure and paraphernalia associated with camping and leisure use in their entirety. (iii) Return the Land to agricultural use.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/Y9507/W/23/3322763

- 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 Conrad Howard against the decision of South Downs National Park Authority.
 - The application Ref SDNP/22/05658/FUL, dated 4 December 2022, was refused by notice dated 31 January 2023.
 - The development proposed is: Use of land as a camp site between April and September inclusive each year; tents and supporting infrastructure to be in situ Fridays, Saturdays, Sundays and Mondays only and removed at all other times. Includes an area retained for horse keeping.
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Appeal C: APP/Y9507/W/22/3312458

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Conrad Howard against South Downs National Park Authority.
 - The application Ref SDNP/22/04046/FUL, is dated 2 August 2022.
 - The development proposed is: Use of land as a campsite for 28 days a year (under Class B Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015) with occasional extended use to allow for tent and supportive infrastructure erection and removal.
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Appeal D: APP/Y9507/W/22/3328911

- 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 Conrad Howard against the decision of South Downs National Park Authority.
 - The application Ref SDNP/23/01792/FUL, dated 23 April 2023, was refused by notice dated 22 June 2023.
 - The development proposed is: Use of land as a camp site at weekends between May and August inclusive to include bank holidays, with set-up Friday and take-down Monday with an area retained for horse keeping.
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Summary of Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld with corrections.

Appeals B, C and D

2. The appeals are dismissed.

Preliminary Matters

3. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. It however does not raise new issues that are determinative for the purposes of my assessment and therefore injustice to the parties does not arise.
4. Following my site visit a further appeal was brought to my attention (Appeal D) relating to a camping use at the site. This was therefore subsequently linked. Injustice to the parties however does not arise given the similarity of the issues before me.

Applications for Costs

5. Applications for costs were made by Mr Conrad Howard against the South Downs National Park Authority (the Authority). These applications are the subject of a separate Decision.

The Enforcement Notice

6. A notice can only require the cessation and/or removal necessary to remedy the alleged breach of planning control. In this case, there are permitted development rights for a temporary camping use. The requirements of the notice should therefore mirror the allegation and go no further. The use of the words '*in their entirety*' in requirement (ii) therefore goes beyond remedying the breach, given the existence of permitted development rights. Requirements (i) and (ii) and can therefore be amalgamated into a single concise requirement that goes no further than remedying the alleged breach of planning control. Injustice to the parties would not arise from making such a correction.
7. A notice may then not require the return to or resumption of a previous or other use. In this case, requirement (iii), to return the land to agricultural use, can therefore be omitted without injustice arising to the parties.

Appeal A – The ground (b) and (c) appeals

8. For the ground (b) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breach of planning control, namely the use of the land for camping and leisure, has not occurred as a matter of fact. For the appeal to succeed on ground (c) the onus is on the appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development. The grounds are closely linked so I will deal with them together.
9. The notice was issued on 28 April 2023. The evidence before me is that the site was used for camping in the 2 years prior to this but was not due to officially open again until the weekend of 26 May 2023.
10. The appellant contends the site has operated as a camp site under permitted development rights for the temporary use of land. These were ostensibly known as temporary 28-day use rights within any calendar year, although more recently there have been changes to allow for an additional number of days.
11. The Authority has alleged a material change of use of land that exceeds temporary rights. I have limited evidence to demonstrate on the balance of probabilities how many days the site has been used by campers. Moreover, the enforcement action is predicated on the supportive infrastructure and paraphernalia on the land having been present for well in excess of 28 days.
12. Indeed, there is a structure, which I also observed during my site visit, that provides sinks and showers. Whilst it might be a form of operational development, the Authority has taken enforcement action against a material change of use and then seeks the removal of the supporting infrastructure and paraphernalia, as it is entitled to do. This would include this structure.
13. The presence of this structure, in particular, has changed the character of the land from a mere agricultural field to that for camping as well. Given it has remained in situ, it facilitates the use of the site for camping on a permanent basis. Given that permanence, it is clear to me that the use is a mixed one of agriculture and camping. To that end, I have a responsibility to ensure the notice is correct and so I will correct the notice to reflect this mixed use. To do so will not lead to injustice.
14. I recognise that the site was not officially open when the notice was issued but that has little bearing. It had been used as a camp site previously, contained at least one structure that facilitated this use, and was due to take campers again shortly thereafter.
15. The appellant makes reference to earlier correspondence with the Authority in respect of structures on the site but contends these are related to operations on the land, such as erecting fences and gates. That being so, they are not the subject of the enforcement notice, as it only requires infrastructure and paraphernalia supportive of the camping use enforced against to be removed.
16. The appellant has then itemised a number of appeal decisions and case law. However, I do not have the full details and their relevance to the ground (b)

and (c) appeals has not been explained. I therefore afford these very limited weight for the purposes of my assessment.

17. The appellants intended biodiversity and ecology enhancements for the site, as well as the submission of planning applications and opportunities this would provide, are noted, but also are not relevant to the ground (b) and (c) appeals. That the Authority did not accept an offer to undertake a further investigation or visit to the site similarly does not alter my findings.
18. The appellant has therefore not demonstrated on the balance of probabilities that there has not been a breach of planning control as a matter of fact or that there has not been a breach of planning control.
19. I will therefore correct the notice to refer to a mixed use, but otherwise the appeals on grounds (b) and (c) accordingly fail.

Appeals A, B, C and D – The deemed planning application, refusals of planning permission and non-determination appeals

Main Issues

20. The main issues are the effect of the development on:

- highway safety,
- the living conditions of nearby residential occupiers; and,
- the character and appearance of the area.

Reasons

21. The site relates to a triangular parcel of land predominantly set to pasture and covering approximately 1.7ha. It is located on the outskirts of the village of Ditchling. It occupies a countryside location within the South Downs National Park.
22. The development relates to the use of the land as a camp site. More specifically:
 - Appeal A relates to the unfettered use as a camp site, albeit planning conditions could be used to restrict the extent of the use.
 - Appeal B relates to use as a camp site between April and September inclusive each year, with tents and supporting infrastructure to be in situ Fridays, Saturdays, Sundays and Mondays. It also includes an area retained for horse keeping.
 - Appeal C relates to use as a camp site in accordance with permitted development rights for the temporary use of land along with occasional extended use to allow for tent and supportive infrastructure erection and removal.
 - Appeal D relates to use as a camp site during weekends between May and August inclusive each year, with Fridays and Mondays used as set-up and take-down days respectively. It also includes an area retained for horse keeping.

Highway safety

23. Since the enforcement notice was issued and planning applications submitted, the Government has changed legislation relating to recreational campsites to now allow for not more than 60 days use in any calendar year.
24. The main parties differ in respect of the number of days that the proposals represent. However, the number of days is not necessarily determinative in respect of highway safety.
25. Access to the site is gained along an un-made track, which also provides access to three dwellings. It is also a public footpath. Whilst I accept that my site visit only represents a snap-shot in time, I observed that it was possible to park on the highway in very close proximity of the access and which itself is also at a relatively steep gradient where it meets the highway. Indeed, cars were parked in close proximity.
26. The presence of parked vehicles then obstructs visibility when turning towards the village of Ditchling. It also results in other vehicles being on the opposing side of the road, to navigate those parked vehicles. This resulted in conflict between road users, that would likely only be exacerbated by a more intensive use of the access point, despite this being well within the village 30mph zone.
27. Whilst it was previously considered¹ that there was no convincing evidence of visibility or highway safety problems at the junction, that view was predicated upon a development proposal for horse keeping that was recorded in the decision as likely to generate only two vehicle trips per day, not the 20 that has since been incorrectly cited. By contrast, the campsite use is highly likely to generate a significantly greater number of trips, and these are likely to be concentrated on specific days and times.
28. I appreciate there have not been any records of accidents. However, the campsite has only operated in very recent years and there is little evidence to demonstrate at what level or intensity the use subsisted. I therefore cannot conclude that the various proposals would not significantly increase visitor numbers or alter the concentration of the use, and with-it the pattern of and frequency of vehicle movements.
29. Notwithstanding, there is then very little professional highways evidence to demonstrate the proposals would not have an unacceptable impact on highway safety, as expressed by the Framework. Even if the proposed usage does not trigger the need for a transport assessment or travel plan, the proposals or indeed the permitted development level of usage could cause harm.
30. In the absence of adequate professional evidence, I must take a precautionary approach to ensure the continued safe and efficient operation of the local road network, even though permitted development rights may, or may not, afford a more expansive level of use. However even if this were the case, it does not automatically translate into a use for which it is acceptable for me to grant a planning permission. Neither am I persuaded that any planning conditions would overcome the harm.
31. That the site is accessible by pedestrians, cyclists and by public transport does not alter my findings.

¹ Appeal Ref: APP/Y9507/W/22/3292828

32. I conclude the developments would be harmful to highway safety in contravention of Policy SD19 of the adopted South Downs Local Plan, July 2019 (the LP). This policy, amongst other things, requires development proposals to demonstrate the continued safe and efficient operation of the strategic and local road networks. For the same reasons it contravenes the considering development proposals objectives of the Framework.

Living conditions

33. There are several nearby residential properties and some evidence of the impact associated with the use of the campsite including amplified music and shouting. I do not find that these impacts are undermined by the absence of formal complaint to the Council.
34. I then do not accept that feedback from users of the campsite amounts to objective evidence as to the level of noise pollution. I have also considered the 'noise impact assessment', but it merely states there will be very limited noise on site other than the persons required to erect or take down the structures.
35. I consequently do not accept the basis of this assessment and note there is very limited evidence of a professional assessment having been undertaken. That an Environmental Health Officer did not comment on the applications is not persuasive evidence of an absence of harm.
36. In the absence of adequate evidence, I must take a precautionary approach, even though permitted development rights may, or may not, afford a more expansive level of use. Again, even if this were the case, it does not automatically translate into a use for which it is acceptable for me to grant planning permission.
37. I also have little evidence to demonstrate that the impact of the proposals are proportionate and conserve the relative tranquillity in relation to the surrounding context, even if it is considered to be poor. It is nevertheless a rural site in a National Park.
38. Whilst the appellant is happy to accept some restrictions between 11pm and 7am, the provision of a noise management plan, secured and enforced by planning condition, has been objected to. This adds to my concerns about the acceptability of the use proposed by the appeal applications in that adequate restrictions and mitigation would not be in place.
39. I conclude the developments would be harmful to living conditions in contravention of Policies SD5 and SD7 of the LP. These policies, amongst other things, require development to have regard to avoiding harmful impact upon surrounding uses and conserve and enhance relative tranquillity.

Character and appearance

40. The site is in the South Downs National Park and is bordered near the roadside by a Conservation Area. The immediate character is that of rural countryside largely comprising agricultural land and hedgerows, albeit there is a car park and rural sports pitch nearby.
41. Whilst the unfettered use of the site for camping would result in an intensive and obtrusive use, the extent of use ostensibly promoted by the appellant, and which could be controlled by suitably worded planning conditions, amounts to a

seasonal use at weekends with supporting infrastructure in situ between Friday and Monday.

42. Given the site falls away from the road, such an intensity of use would not adversely affect the otherwise rural character of the site or give rise to an untidy appearance. Similarly, the presence of structures and paraphernalia during these times would not harm longer distance views even though I accept that tents and paraphernalia would be visible. Accordingly, the development would conserve the natural beauty of the National Park.
43. Whilst there would be increased activity associated with the camping use, such a use would be comparatively transient and so would not irrevocably alter the character of the area or compromise the long-term maintenance of the strategic settlement gap between the villages of Ditchling and Keymer. The camping use is not an urban-fringe use, but readily associated with the countryside.
44. For the same reasons, there would be a neutral effect on the setting of the Conservation Area.
45. I conclude that subject to suitably worded planning conditions the developments would not be harmful to the character and appearance of the area and therefore would accord with Policies SD4, SD5, SD6 and SD15 of the LP and Policies CONS6 and CONS7 of the made Ditchling, Streat and Westmeston Neighbourhood Plan. These policies, amongst other things, require development to conserve and enhance landscape character, sympathetically complement the landscape, safeguard views, preserve or enhance historic interest, conserve landscape and important views and protect important gaps between settlements.

Other Matters

46. The appellant contends that a camping use with the benefit of planning permission would be less harmful than exercising the permitted development right. However, that right does contain limitations, such as the provision of not more than 50 pitches. This has the effect of limiting the associated activity and its impacts. The appellant has objected to a planning condition restricting the number of pitches, which demonstrates an intention to operate above this level. This only serves to reinforce my highway safety and living conditions concerns.
47. I appreciate the camping use might align with the two statutory purposes of National Park designation and there might be social and economic benefits. There might also be other local planning policies or plans that offer support to such a use. However, there remains opportunity for a campsite utilising permitted development rights and I have little quantified evidence of what additional benefits would arise from allowing the appeals. I therefore afford these matters limited weight.
48. Some other appeal decisions have been brought to my attention however these do not appear to have raised the same highway and living condition issues that are before me. They inevitably carry little weight.
49. The absence of other planning harms carries neutral weight. I am then not persuaded that the wetland area is predicated on the success of the appeals before me and so I afford this very limited weight.

50. I am aware that a planning permission has been allowed on appeal for the keeping of horses. I accordingly have no need to consider this matter further.

Conclusion

51. In the absence of adequate evidence, I must take a precautionary approach and so conclude that the developments result in planning harm which conflicts with the development plan taken as a whole. There are no material considerations that indicate decisions should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that these appeals should not succeed.

Appeals A, B, C and D - Overall Conclusion

52. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application, against the refusals of planning permission and against the non-determination.

Formal Decisions

Appeal A

53. It is directed that the enforcement notice be corrected by:

- inserting the words '*a mixed use for agriculture and*' between the words '*from agriculture to*' and '*camping and leisure*' in section 3 of the notice.
- deleting sections 5. (i), (ii) and (iii) of the notice and replacing them with the words '*(i) Cease the use of the Land or any part of the Land for camping and leisure and remove all tents and supporting infrastructure and paraphernalia other than permitted under Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or by any other express permission.*'

54. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Appeal B

55. The appeal is dismissed.

Appeal C

56. The appeal is dismissed and planning permission is refused.

Appeal D

57. The appeal is dismissed.

Paul T Hocking

INSPECTOR