
Appeal Decisions

Site visit made on 5 June 2024

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Land at Roman Mile Farm (Plot 2), Blue Doors Road, Bignor, West Sussex RH20 1HQ

Appeal A Ref: APP/Y9507/X/23/3329238

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful existing use or development (LDC).
- The appeal is made by Mr Joshua Turnbull against the decision of South Downs National Park Authority (the LPA).
- The application ref SDNP/23/02896/LDE, dated 10 July 2023, was refused by notice dated 25 August 2023.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is a residential caravan site.

Summary Decision: The appeal is dismissed.

Appeal B Ref: APP/Y9507/C/23/3329360

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Joshua Turnbull against an enforcement notice issued by South Downs National Park Authority (the LPA).
- The notice, Ref No BG/6, was issued on 2 August 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the stationing of caravans for the purposes of human habitation and the use of the stable buildings for associated residential purposes.
- The requirements of the notice are to:
 - (i) Discontinue the use of the Land for the stationing of caravans for the purposes of human habitation;
 - (ii) Remove all caravans from the Land;
 - (iii) Discontinue the residential use of the stable buildings;
 - (iv) Remove the trailer from the Land;
 - (v) Remove the mini digger from the Land;
 - (vi) Remove the white toilet, washing machine and fridge from the Land;
 - (vii) Remove the plastic bags and cardboard boxes containing household/personal items from the Land;
 - (viii) Remove the table-tennis table, children's bicycles, umbrellas, car seat, playhouse, plastic see-saw, basketball hoop and toys from the stable buildings and the Land;
 - (ix) Break up and remove the hardstandings shown in the approximate location on the attached plan in blue from the Land;
 - (x) Remove the timber fence panel from the Land; and
 - (xi) On completion of steps (i) to (x) above, dismantle and remove the pipe and materials used to widen the ditch to extend the crossover onto the highway, shown in the approximate position on the Plan from the Land.
- The period for compliance with the requirements is: three (3) months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f), and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with variations in the terms set out below in the formal Decision.

Decisions

1. Appeal A is dismissed.
2. Regarding Appeal B, it is directed that the enforcement notice is varied by:
 - Deletion of requirements (iv), (v) and (xi);
 - Revision of requirement (vi) to omit reference to ‘the white toilet’;
 - Requirement (ix) to now read: *‘Break up and remove the area of hardstanding on the northern field marked by a blue rectangle’*;
 - Consequent to these three sets of variations, the renumbering of the requirements to (i) to (xiii) consecutively; and
 - The compliance period is altered from 3 to 6 months.
3. Subject to these variations Appeal B is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

4. The road address in the LDC decision notice, in the enforcement notice and on the relevant appeal forms is given as Bignor (or Bigner) Park Road, but the road on which the site is actually located is called Blue Doors Road, hence my alteration of the site address in the heading above. Bignor Park Road appears to be the road approximately 350m to the southeast off Blue Doors Road, which connects this lane to the B2138, as acknowledged by the Local Planning Authority (LPA) in its Statement.

Appeal A – The LDC Appeal - Reasons

5. The main issue, as usual in LDC appeals, is whether the LPA's refusal to issue a LDC was well-founded. LDC applications like this are determined ‘on the balance of probability’. This means that if the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, the application should be granted.
6. The location and description of the appeal site, which I was able to inspect fully on my visit, was essentially as described in the LPA's appeal statement: a timber building next to the access against which was sited a large touring caravan at a right angle to its east; with a further, clearly newer, L-shaped timber building to its north, within which was a separate small room with a toilet and small sink, as well as a washing machine, kitchen sink and adjoining kitchen units, microwave and rudimentary living area with wicker chairs and a low table within the building itself.
7. For the purposes of the Act, uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not involve development or require planning permission or because the time for enforcement action has expired. The residential use of the caravan on the site or the use of the site as a caravan site is development that requires planning permission. But the appellant claims that there has been a caravan which has been lived in on the site for a continuous period in excess of 10 years, as required by s171B (3) of the Act. Indeed, he claims that there has been a caravan on the

site that has been lived in continuously since at least 2001, albeit this may not have been the same caravan.

8. The appellant cites the following evidence in support of his LDC application. First, two aerial photographs dated 1/1/2004 and 6/6/2013, which he claims shows a caravan in the same or similar position to the touring caravan now on the site. The 2004 photo is blurred and unclear. The 2013 photo appears to be a caravan, although that is unclear due to its aerial nature.
9. Second, he submits a number of letters from various people as follows. Sam Gordon, in his letter of 9/9/23 says that he lived at Plot 2 between December 2008 and December 2022. But he doesn't say where on Plot 2 he lived or whether he lived in a caravan. Mark Doe, in his letter of 8/9/23, states that a shepherd's hut situated in the exact location of a previous caravan was offered to him during his purchase of Roman Mile Farm and upon his purchase was switched to another caravan.
10. Garry Harris, in his letter of 8/9/23, states that he visited the site many times over the previous 12 or 13 years to visit Sam Gordon who, he claims, lived there for more than 10 years, and also claims that Robert Jackson (a previous owner) swapped the older caravan for a shepherd's hut. Angela Harris and Kathleen Kirk, in their letters both dated 5/7/23 state that since 2012 they have seen a caravan on the site being used as a dwelling. However, it is unclear where Garry and Angela Harris and Kathleen Kirk live since no address is provided on their letters, and it is unclear how many visits and when they made to the site during that period.
11. More fundamentally, there is contrary evidence. Robert Jackson, in his email of 25/7/23, states that he owned Roman Mile Farm from May 2019 to June 2022. He confirms that there was an old unused (or unusable) caravan unconnected to any services when he bought the land, but this caravan was sold for scrap and removed sometime in the summer of 2019 and that no one lived on the site during his ownership period.
12. There is also an anonymous objection to the LDC application, which states that they are immediate neighbours to the site. They state they moved next to the site in 2011 and that their neighbours owned Roman Mile Farm, previously called Tuppeny Fields, where they ran a smallholding between 2000 and 2018; they state that there was a caravan on site but it was never used as a residence, and was entirely unused since 2011; they confirm Robert Jackson's statement about the caravan that was previously on the site, including its removal in 2019, and state that no one has lived on the site before the present owners moved a caravan onto it on 21 December 2022 following their purchase of it.
13. From this conflicting evidence it is clear to me that from at least 2011, or possibly earlier, there was an old entirely unused caravan on the site, and that prior to that it was only ever used as a day room or shelter rather than for residential purposes. This has been replaced, possibly with one or more successive caravans and possibly a shepherd's hut between then and now, although it is notable that Mr Jackson in his detailed email makes no mention of installing a shepherd's hut on the site, contrary to Gary Harris's allegation. Certainly, the caravan now on site and lived in by the appellant, has been brought onto the site since he or his cousin purchased the land in 2022. There is no evidence to demonstrate, on the balance

of probability, that there has been a caravan on site that has been lived in for a continuous period of 10 years, either in the last 10 years or indeed in any previous 10-year period before that.

14. The aerial photos indicate a caravan may have been there, but not that it was occupied for residential purposes. The objections from Robert Jackson, backed up by the (admittedly anonymous) neighbours, provide substantial and detailed factual contradictory evidence that indicates, at the very least, there was a period of about 2 years when there was no caravan situated on the site at all.
15. Additionally, this evidence suggests that the old caravan that appears in a photo in the sales particulars of the land supplied by the appellant¹ was never used for residential purposes anyway. Certainly, its dilapidated and scruffy appearance in the Fowler sales particulars bears that out. The evidence supplied by the appellant is insufficient, on the balance of probabilities, to establish that it was.
16. For these reasons, I conclude that the LPA's refusal to issue a LDC was well-founded.

Appeal B – The Enforcement Appeal - Reasons

17. Although the appeal is allegedly made on all the grounds set out in s172(2) of the Act except ground (e), the appeal on grounds (b) and (c) relate to the immunity period, which is a matter for ground (d): that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach which may be constituted by those matters. The only aspect of the requirements arguably relevant to a ground (c) appeal are the appellant's assertion that the hardstanding enforced against is permitted development, which, accordingly, I address below.

Ground (c)

18. The ground (c) appeal in this case is therefore that the areas of hardstanding indicated in blue on the Plan attached to the notice are not breaches of planning control because they are permitted development (PD).
19. The appellant claims to be a smallholder and as such claims he is allowed an area of hardstanding, although he does not indicate under which part of the GPDO² he benefits from PD.
20. There is no permitted dwellinghouse at the site and so there is no PD under Schedule 2, Part 1. The site, at just under 1 hectare, does not benefit from PD under Part 6, Class B (agricultural development on units of less than 5 hectares) because there is no evidence that the land is actually used as an agricultural unit: no crops were planted on the land, I saw no animals on it during my visit, nor has any evidence that it is run as one been provided to me.
21. Additionally, the 5 August 1990 planning permission (LPA Ref BY/09/02421/FUL) for the northern building on the site is for a 'single storey stable, tackroom and haystore, which suggests the lawful use of the site is for equestrian use.
22. For these reasons the hardstanding is not PD, and the ground (c) appeal must fail.

¹ Fowlers Estate Agents sale of Tuppeny Fields, which mentions a caravan that has been on the site for 17 years, Exhibit 5b to Joshua Turnbull's Statement of Oath dated 7 July 2023

² The Town and Country Planning (General Permitted Development) (England) Order 2015

Ground (d)

23. Additional aerial images of the site have been provided beyond the images submitted as part of the LDC application/appeal above, including as far back as 2001. Looking at these images, it is likely that, at least from 2012 or 2013, a caravan may have been situated in the approximate location of where the current touring caravan is now sited. However, for the reasons set out above, the same evidence evinced in the LDC appeal, especially when considered against the above contrary evidence, fails on the balance of probabilities to establish the residential use of a caravan on the site for any period of 10 years, whether or not a shepherd's hut was situated on the site in the 2 or 3 years prior to the issue of the notice. Under s171B(3) of the Act the immunity period for a material change of use, which the notice alleges, is 10 years.
24. The appellant also seems to argue that the northern L-shaped building has been used for residential purposes for over 4 years prior to the service of the notice. However, no evidence has been supplied to demonstrate that this is the case. It would appear, for the reasons set out above, that residential use of the touring caravan now on the site only commenced in late December 2022 and the likelihood is that any residential use of the northern building commenced no sooner than at that time, notwithstanding that the toilet may have been there before that, when the building was not used for residential purposes.
25. In any case, the building is used for residential purposes ancillary to the residential use of the touring caravan located on the site, and there is no claim that it is used for sleeping accommodation or as a separate dwelling. It is part and parcel of the material change of use of the land to a caravan site, and hence is part of the unauthorised material change of use, which occurred less than 10 years (and indeed less than 4 years) prior to the issue of the notice in 2023.
26. The appeal on ground (d) therefore fails.

Ground (a)

27. Ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
28. The appellant states (in his Final Comments) that he could have applied for a rural worker's dwelling because he is '*building up a goat herd*'. Be that as it may, he did not apply for such a rural worker's dwelling, there are no animals located on the site and it is not in use as an agricultural holding, even a smallholding, as I explain above. There is no existing agricultural or other rural based business established on the site and therefore there is no need for a worker's dwelling. The appellant does not argue any other reasons for allowing him to live on the site.
29. The LPA argues that the development breaches Policies SD1, SD2, SD4, SD5, SD7, SD17 and SD33 of the South Downs National Park Local Plan 2014-33, adopted on 2 July 2019.
30. Policy SD1 (Sustainable Development) states: '*4. Planning permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park unless, exceptionally a) the benefits of the proposals outweigh the great weight to be attached to those*

interests.. I agree with the LPA that the proposal, including by the high close boarded timber fence along its eastern boundary, which is uncharacteristic and alien to the landscape and rural character of this part of the National Park, fails to conserve the landscape and natural beauty of the Park and that there are apparently no benefits that outweigh these weighty interests. The proposal consequently fails to comply with Policy SD1 and with Policy SD4 (Landscape Character), which has similar requirements.

31. I also consider that it breaches Policy SD7 (Relative Tranquillity) by introducing electric lights at nighttime in a relatively tranquil and remote rural area characterised by predominantly dark skies.
32. Policies SD2 (Ecosystem Services) and SD17 (Protection of the Water Environment) are not particularly relevant to this development. Whilst at some point the crossover into the site from the road has been widened, it would appear that this was done before the appellant bought the site. In any case, I cannot see any substantial harm by such a development, which merely facilitates a better vehicular access into Plots 1-3, which is arguably necessary. There does not appear to be a substantial harmful effect on the adjacent ditch/watercourse next to the road by the widening of this overall site access. Neither Policy therefore appears to have been breached.
33. I understand that the appellant is a gypsy/traveller as defined by the current (December 2024) version of Planning Policy for Traveller Sites. As such Policy SD33 (Gypsies, Travellers and Travelling Showpeople) is a relevant policy. But no arguments have been put forward by the appellant so as to justify that he meets the criteria in subsection 3 of this Policy. In the absence of any such explanation or evidence that these criteria are met, I must assume that they are not, and so the development also appears to breach Policy SD33.
34. As such the proposal is contrary to the development plan as a whole as well as to paragraph 84 of the National Planning Policy Framework (the most recent version of December 2024), which mandates that the development of isolated homes in the countryside should be avoided unless there is an essential need for a rural worker, which there clearly isn't here. No reasons or justification have been put forward by the appellant as to why development plan and national planning policies should not be followed here.
35. For these reasons, planning permission should not be granted and the ground (a) appeal is consequently unsuccessful.

Ground (f)

36. Ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control which may be constituted by those matters.
37. Whilst the land does not currently seem to be used as a smallholding, I acknowledge the appellant's stated desire to create one and note that there is a field on the northern part of the site that could be used for either animals to graze or to grow vegetables etc, or indeed for the exercise of horses as per the lawful use of the site.

38. I accept that a trailer and a mini digger may come in useful in helping to create such a smallholding and I consider that enforcing their removal from the land as required by steps (iv) and (v) of the notice would not therefore be reasonable. That does not mean that I accept any such smallholding would require a residential presence. Indeed, it would not, in my opinion, given the size of the Plot is only 0.97ha.
39. I also consider that, if such a smallholding was to be commenced on the site, or if it reverted to its lawful equine use, it is not unreasonable for a toilet to be provided on the site in the northern stable building for the convenience of those working on the site during daylight hours. As such, I consider that requirement (vi) to remove the toilet is excessive.
40. In terms of the hardstandings (shown marked blue on the Plan attached to the notice), I agree with the LPA that there is no need for the new hardstanding in the field to the north of the stable building, but the hardstanding next to the older timber building at the southern end of the site is merely a repair or slight widening of the access route into the site itself, which is not unreasonable. As set out above, requirement (ix) is consequently varied.
41. In relation to the widened crossover, as per my reasoning above I can see no good reason for undoing this work. Requirement (xi) is therefore excessive, and this requirement is excised, as set out formally in my Decision above.
42. The appellant also questions whether the removal of various personal possessions enforced by requirements (vi) to (viii) are not also excessive. However, such possessions are only on the site because of his unauthorised residential occupation of it. Consequently, their removal comprises the minimum necessary in order to cease such an unauthorised material change of use of the site.

Ground (g)

43. Ground (g) is that the compliance period specified in the notice falls short of what should reasonably be allowed.
44. The appellant does not state what he considers to be a reasonable period for complying with the notice, nor why 3 months is unreasonable. Nonetheless, 3 months seems a very short period for the appellant to find another place to live, particularly since this may mean finding another pitch with planning permission on which to place his caravan.
45. Consequently, I consider that a period of 6 months is more realistic and reasonable under these circumstances. The compliance period is varied accordingly.

Conclusions

46. In respect of Appeal A, the LDC appeal, for the reasons given above I conclude that the LPA's refusal to grant a certificate of lawful use or development in respect of the site as a residential caravan site was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.
47. In respect of Appeal B, for the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and

refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Nick Fagan

INSPECTOR