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## Appeal Decision

Site visit made on 17 April 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6<sup>th</sup> June 2025

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**Appeal Ref: APP/Y9507/W/24/3351181**

**Harkers Cross Farm, Hullam Lane, Newton Valence, Alton GU34 3FA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Joe Windibank against the decision of South Downs National Park Authority.
- The application Ref SDNP/22/04819/FUL was approved on 11 July 2024 and planning permission was granted subject to conditions.
- The development permitted is Retrospective application for a two-year temporary permission to site a mobile home to be occupied by an agricultural worker (amended description).
- The conditions in dispute are Nos 1, 3, 5, 8 and 9 which state that:
  - 1) The development hereby permitted is granted for a limited period only expiring two years from the date of the decision. On or before this date, the development carried out in pursuance of this permission shall be demolished/removed from the site and the land restored in accordance with a scheme which has been submitted to and approved in writing by the LPA.
  - 3) Within two months of the date of this permission, the mobile home shall be painted in 'dark green' colour, details of which shall first be submitted to, and approved in writing, by the Local Planning Authority. The painting shall be permanently retained and maintained as such, unless prior written consent is obtained from the Local Planning Authority to any variation.
  - 5) Within two months of the decision of the development hereby permitted a detailed scheme of planting (trees and hedges), including along the perimeter of the mobile home, shall be submitted to and approved in writing by the Local Planning Authority. All such work as may be approved shall then be fully implemented in the first planting season, following commencement of the development hereby permitted and completed strictly in accordance with the approved details. Any plants or species which within a period of 3 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority. The scheme design shall include the following details: a) Layout of planting to show plant species, nursery planting sizes, locations, densities and numbers b) Written specification for soil amelioration including cultivations, planting methodology, establishment maintenance.
  - 8) Within 2 months of the date of decision of this permission, details of biodiversity compensation and enhancement measures, to include the installation of a minimum of two bird and bat boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. All such work as may be approved shall then be fully implemented within one month of the approval of the details and then permanently retained and maintained as such for the duration that the mobile home is located within the site.
  - 9) Within 2 months of the date of decision of this permission, details for the provision of 3 no. car parking spaces within the curtilage of the site shall be submitted to, and approved in writing, by the Local Planning Authority and thereafter maintained and kept available.
- The reasons given for the conditions are:
  - 1) To ensure that the mobile home is not used for permanent residential occupation which, given the mobile home's location in a prominent location within the South Downs National Park would represent an unsustainable form of development, it does not meet the sustainable construction requirements of policy SD48 of the South Downs Local Plan, and to enable the Local Planning Authority to assess any further need and/or impact of the proposed development.
  - 3) To safeguard the landscape character of the area and in the interests of visual amenity.

- 5) To ensure a satisfactory development and in the interests of amenity, biodiversity and landscape character.
  - 8) To provide a net gain for biodiversity.
  - 9) To ensure the adequate provision of on-site parking for the purpose of highway safety.
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## **Decision**

1. The appeal is allowed and the planning permission Ref SDNP/22/04819/FUL for three-year temporary permission to site a mobile home to be occupied by an agricultural worker at Harkers Cross Farm, Hullum Lane, Newton Valence, Alton GU34 3FA granted on 11 July 2024 by South Downs National Park Authority, is varied by deleting conditions 1, 3, 5, 8 and 9 and substituting for them the following conditions:
  - 1) The use hereby permitted shall be for a limited period of three years from the date of this decision. At the end of this period the use hereby permitted shall cease, the mobile home and all structures, materials, and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
  - 8) The use hereby permitted shall cease and the mobile home and all equipment and materials brought onto the land for the purposes of such use shall be removed within 2 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
    - i) Within 2 months of this decision a scheme for the provision of a minimum of two bird and bat boxes within the site shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation.
    - ii) If within 10 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by the Secretary of State.
    - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State
    - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
    - v) Upon completion of the approved scheme specified in this condition, that scheme shall therefore be maintained.
    - vi) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

## **Applications for costs**

2. An application for costs was made by Mr Joe Windibank against the decision of South Downs National Park Authority. This application will be the subject of a separate decision.

## **Preliminary matters**

3. The appeal has been made pursuant to section 78 of the Act which provides the right to appeal where an application for planning permission is granted subject to

conditions. Section 79 of the Act provides that I may allow or dismiss such an appeal, or reverse or vary any part of the decision of the Local Planning Authority, and I have considered the appeal on that basis.

4. In response to the appellant's case in support of the appeal, the Authority has proposed revised wording for conditions 5 and 9:

- 5) *Within two months of the decision of the development hereby permitted a detailed scheme of planting (trees and hedges), including along the perimeter of the mobile home, shall be submitted to and approved in writing by the Local Planning Authority. All such work as may be approved shall then be fully implemented in the first planting season, following commencement of the development hereby permitted and completed strictly in accordance with the approved details. Any plants or species which within a period of 1 year from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.*

*The scheme design shall include the following details:*

- a) *Layout of planting to show plant species, nursery planting sizes, locations, densities and numbers*
- b) *Written specification for soil amelioration including cultivations, planting methodology, establishment maintenance.*
- 9) *Within 2 months of the date of this permission, details for the provision of 2 nos. car parking spaces within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority.*

5. In assessing the disputed conditions, I have taken account of the proposed amended wording.
6. A revised location plan, significantly expanding the site area, was submitted during the application process – seemingly in response to advice from the Authority. However, the decision appears to have been based on the original, smaller site and the amended plan was not subject to public consultation. As it could introduce additional planning issues, accepting it could unfairly prejudice other parties. Therefore, I have not taken it into account in the determination of this appeal.
7. The appellant contends that the decision notice was undated. However, the copy provided includes a date on the covering page, which I consider is sufficiently clear to establish when permission was granted.

## **Main Issues**

8. The main issues are:
- whether or not condition 1 (temporary time period) is reasonable and necessary having regard to the location of the site and the need for the development,
  - whether or not conditions 3 (green paint) and 5 (landscape scheme) are reasonable and necessary in the interests of the character and appearance of

the area, including with regard to whether the development would preserve or enhance the landscape character,

- whether or not condition 8 (biodiversity enhancements) is reasonable and necessary in the interests of achieving a biodiversity net gain, and
- whether or not condition 9 (parking plan) is reasonable or necessary in the interests of highway safety.

## Reasons

### *Condition 1 – temporary time period*

9. Condition 1 of the planning permission restricts the use of the site to a temporary period of two years from the date of the decision. This aligns with the description of development as stated in the decision notice, which refers to a temporary use for two years. The appellant is seeking to vary Condition 1 to extend this period to three years.
10. The Planning Practice Guidance (PPG) sets out that circumstances where a temporary permission may be appropriate including when a trial run is needed in order to assess the effect of the development on the area.
11. The appeal site lies outside of any settlement boundary, wherein Policy SD25 of the South Downs Local Plan 2014-2033 (LP), which sets out the development strategy, requires development to meet an exemption, such as to meet an essential need for a countryside location. This is further supported by Policy SC32 of the LP which allows for new agricultural workers dwellings where an essential need has been demonstrated.
12. The business operates a mixed livestock enterprise, with a flock of ewes and a herd of suckler cows. I understand that these operations require a continuous on-site presence to ensure animal welfare, manage births and respond to emergencies. The enterprise has plans to expand stock numbers and improve breeding outcomes, which depend heavily on reliable supervision.
13. There is no dispute between the parties regarding the functional need for temporary on-site accommodation to support the agricultural enterprise, particularly during critical periods such as lambing and calving. The Authority has described the case as borderline, yet the need is acknowledged, and no updated evidence is before me to indicate otherwise.
14. The original application specified and sought a three-year temporary permission and was assessed on that basis. However, it appears that the Authority unilaterally amended the development description and imposed a two-year limit via Condition 1, citing the mobile home's existing presence on site and the duration of the application process.
15. Prior to permission being granted, the appellant has made the case that uncertainty over the outcome hindered investment in infrastructure and livestock. The appellant has argued that the reduced 2-year timeframe—imposed without the appellant's consent—further eroded business confidence and the ability to demonstrate a long-term need for permanent accommodation. It is stated that the ongoing appeal has added to this uncertainty.

16. The proposal was assessed on the basis of a three-year temporary permission, and the Authority's agricultural consultant concluded that a demonstrable need had been shown. While the Authority took into account the time the mobile home had already been on site, without a planning permission for a set period, I consider that there would not have been the full ability for the appellant to invest with sufficient certainty to support the business's planned growth. I consider that given the need to develop the mixed livestock enterprise over a reasonable period, and with the necessary certainty over that period to allow investment, there would not be a fair opportunity to see whether the business could succeed with the two-year period that was granted. Limiting the period to two years, is not in my view, given the nature of such an enterprise a sufficient period in this case, especially when a three-year period had been sought.
17. Therefore, I find the imposition of a two-year time limit, rather than the three years originally proposed, would not be appropriate in this case. A three-year period is both reasonable and necessary to see whether or not the mixed livestock enterprise could develop so as to demonstrate whether or not a permanent dwelling would be warranted. Consequently, I have amended condition 1 to reflect this. I have also amended the description of development to accord with the application form and to ensure consistency between the condition and the approved description of development.
18. Section 79 of the Act allows for a fresh assessment of the matter, in particular, it allows on appeal the ability to reverse or vary any part of the authority's decision – regardless of whether the appeal specifically relates to that aspect. In my view this clearly encompasses the ability to amend the description of development where appropriate.

*Conditions 3 and 5 – landscape character*

19. The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for the understanding and enjoyment of those areas by the public. Section 11A of The National Parks and Access to the Countryside Act 1949 (as amended) now includes the duty on relevant authorities that they must seek to further the purposes when exercising or performing any functions in relation to, or so as to affect, land in any National Park.
20. Furthermore, the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
21. Policies SD4 and SD5 of the South Downs Local Plan 2019 (SDLP), taken together, advise that development proposals will only be permitted where they conserve and enhance landscape character.
22. While there are limited, distant views of the mobile home from the south, it is seen in the context of larger, permanent agricultural buildings and areas of hardstanding. Its siting near a boundary hedgerow provides a degree of screening, albeit to a variable degree throughout the year. The mobile home is modest in scale, has a low profile, and, despite its functional appearance, does not appear incongruous in its setting.

23. Furthermore, its presence supports on-site agricultural activity, particularly animal husbandry, which contributes to the conservation and enhancement of the landscape character. Given the circumstances and location of the mobile home, and with the benefit of the site visit with the mobile home in place, I am not satisfied that requiring a green-coloured unit or additional planting are necessary. I have not identified any harm to the landscape that would justify imposing such a requirement. Moreover, planting would take time to establish and is unlikely to deliver meaningful benefit within the three-year period of the permission.
24. I am therefore satisfied that the proposal at least conserves the natural beauty of this part of the National Park and with the support to the farming of the unit the longer-term agricultural character of the landscape would be maintained and potentially enhanced. I therefore find no conflict with National Park purposes and there would be compliance with Policies SD4 and SD5 of the LP, which seek high-quality design that enhances local character. Accordingly, the conditions in question are neither reasonable nor necessary and can be removed.

*Condition 8 – biodiversity*

25. I am statutorily required to have regard to the conservation of biodiversity, and paragraph 170(d) of the National Planning Policy Framework (the Framework) advises that decisions should seek to minimise impacts on biodiversity. The inclusion of bird and bat boxes would align with the details submitted in the application, and I note the site's proximity to ecologically rich habitats.
26. The proposal would introduce additional lighting on site; however, this would be controlled by timers, blinds and curtains and the proposal is of a temporary nature. These controls are each the subject of other, uncontested conditions.
27. Policies SD2 and SD9 of the LP, taken together, require all development to enhance biodiversity and include enhancements as part of the proposal. As such, I find that the provision of enhancement measures, such as the provision of bird and bat boxes, is necessary in order to comply with policies relating to biodiversity.
28. Bird and bat boxes would be straight forward to provide, and so, even accounting for the temporary nature of the application, would not present an unreasonable burden. Although the site area is tightly drawn, there are sufficient opportunities to provide these either within the site boundary, or on land close to the site which falls within the applicant's control.
29. It is necessary to amend the condition to include a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the enhancement measures.
30. The condition which I intend to attach will ensure that the development could be subject to removal if the bird and bat box details are not submitted for approval within the period given by the condition, if the details are not approved by the Authority or the secretary of state on appeal, and not implemented.
31. The appellant has raised a general concern regarding the conditions requiring the submission of further information, citing that requirement to seek the approval of the Authority lies outside of his control. The PPG advises that conditions can be used to require the applicant (or appellant) to submit further details after permission

has been granted, where it is justified. Based on the above, I am satisfied that there is appropriate justification in this case.

32. I therefore find that condition 8 (biodiversity enhancements), subject to the amended wording, is reasonable and necessary in the interests of achieving a biodiversity net gain and to conserve and enhance wildlife in accordance with the first National Park purpose.

*Condition 9 – car parking*

33. The mobile home is located near Hullam Lane, a quiet, narrow country road. While I acknowledge concerns about highway safety resulting from any potential for on-street parking, that on-street parking, within the site the mobile home is located next to an existing access track. Although the site boundary is tightly drawn, the track itself is long enough and includes a hard surface area that provides ample space for vehicles to park and manoeuvre safely, ensuring all movements to/from the highway can be made in a forward gear.
34. During my site visit, I observed that Hullam Lane's narrow width naturally slows down traffic and discourages people from parking on the road. Combined with the convenient hardstanding already available on-site, it's very unlikely that the mobile home does or would generate the need for any parking on the road. While only a snapshot in time, there was no on-street parking at the time of my visit, within the vicinity of the site.
35. Additionally, the mobile home is intended for an agricultural worker who already works on the land. As such, the development is unlikely to be causing any notable increase in parking demand. Given the temporary nature of the proposal and the availability of convenient informal parking on-site, there is no necessity to require formal parking provision in this case.
36. Therefore, the proposal accords with Policy SD19 of the LP, which, insofar as relevant, requires that development maintains the safe and efficient operation of the local road network. Accordingly, a condition requiring the provision of formal parking provision is neither reasonable nor necessary for highway safety.

**Conditions and conclusion**

37. For the reasons set out above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed, in the terms I have set out above.
38. I will vary the planning permission by deleting conditions 1, 3, 5, 8 and 9 and substituting these with revised conditions 1 and 8 relating to a temporary time period and biodiversity. I have also amended the description of development. All other aspects of planning permission SDNP/22/04819/FUL remain unaltered and this decision and the original planning permission are to be read together.

*R Lawrence*

INSPECTOR