
Appeal Decisions

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 12th June 2025

Appeal A Ref: APP/Y9507/C/25/3358558

Sandy Meadow Farm Bignor Park Road, Bignor, PULBOROUGH, RH20 1HQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr William Smith against an enforcement notice issued by South Downs National Park Authority.
 - The notice was issued on 5 December 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land to a use for the stationing of mobile homes for the purpose of human habitation.
 - The requirements of the notice are: (i) Cease the use of the Land for the stationing of mobile homes for the purpose of human habitation, and (ii) Remove the mobile homes from the Land.
 - The periods for compliance with the requirements is 12 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(b), (c), (d) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/Y9507/X/25/3358607

Sandy Meadow Farm Bignor Park Road, Bignor, PULBOROUGH, RH20 1HQ

- 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 use or development (LDC).
 - The appeal is made by Mr William Smith against the decision of South Downs National Park Authority.
 - The application ref SDNP/23/03044/LDE, dated 20 July 2023, was refused by notice dated 9 November 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 Use of land as a camping and caravan site.
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Decisions

Appeal A

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

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The appeals were initially to proceed by the public inquiry procedure but following a Case Management Conference (CMC) with the main parties it was agreed that it was appropriate to determine it on the basis of written representations. Since the matters between the parties relate mainly to historical evidence and the interpretation of planning permissions, I have not found it necessary to conduct a site visit.

Background

4. Sandy Meadow Farm is a holding of approximately 2.8 ha located within the South Downs National Park. Most of the holding comprises a roughly rectangular area of pasture. The land the subject of these appeals is a narrow strip extending from this area to the south-east. Some planning history is relevant. Planning permission was granted on appeal¹ in 1997 for retention of a mobile home as a farmhouse. This permission was subject to conditions restricting the use to the landowner at the time and requiring the removal of the mobile home when he ceased to occupy it. The application site was at the western end of the narrow strip of land. The land was being used for pedigree cattle breeding, with farm buildings and yard sited on the roughly rectangular area just to the west of the mobile home site. It is recorded in the appeal decision that the land beyond the mobile home site, but also on the narrow strip, was a field where up to 5 touring caravans were stationed. The evidence indicates that this was a certified Caravan and Camping Club site. The beneficiary of the permission passed away in early 2014 and the mobile home was removed from the site in 2018.

Appeal B – LDC

5. This appeal has some bearing on the enforcement notice appeal so I will deal with it first. The land for which the LDC is sought is almost the same as that the subject of the enforcement notice, the difference being that the LDC land extends a short distance to the north-west and includes approximately half of the farmyard. The LDC application sought to establish that the lawful use of that land at the date of the application was as a camping and caravan site. This was on the basis that it had been continuously used as such for a period in excess of 10 years. I should point out that using land for a particular purpose for 10 years or more does not in itself confer any rights. The relevance of the 10 year period I take to be, and this is also clear from the Planning Statement accompanying the application, a reference to section 171B(3) of the 1990 Act², which provides that, in the case of development comprising a material change of use, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. Section 191(2) provides that uses are lawful at any time if (a) no enforcement action may then 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 or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
6. There is an extant enforcement notice issued in 1991 alleging the material change of use of land to a mixed or dual use for agriculture and stationing of a mobile home for the purposes of human habitation, however I am not aware of its requirements and I have proceeded on the basis that they are not applicable to this appeal. There is no question that the use of the land as a camping and caravan site is development that requires planning permission, so the key question is whether the time for enforcement action has expired. The relevant 10 year period must be one during which enforcement action could have been taken at any time. The use must therefore have commenced on or before 20 July 2013.

¹ Council Ref. 96/00380/FUL; Appeal Ref. APP/L3815/A/97/276873/P7

² As it stood at the date of the application.

7. It is not disputed that up until his death in the Spring of 2014, the one mobile home on the land was occupied³ by the landowner, Mr T, the beneficiary of the personal planning permission. That use was therefore lawful. He held a Camping and Caravan Exception Certificate which permitted the establishment and operation of a certified club campsite. Accordingly, for the duration of that certificate, which lapsed in 2015/2016, the camping and caravan site use of the land beyond the mobile home was lawful by virtue of Part 5 Class A of the GDPO⁴. Part 5 Class A use is subject to a condition that when the relevant circumstance, the Exception Certificate in this case, ceases to exist, the use shall be discontinued.
8. Both the 1997 personal permission and the GDPO permission are forms of temporary permission. Once a temporary planning permission 'expires' because of a time-limiting condition, it ceases to exist⁵, as does the GDPO Part 5 Class A permission upon the expiry of the Exception Certificate. In those circumstances the lawful use of the land reverts to its previous lawful use, agriculture in this case.
9. From all of this I can conclude, on the balance of probability, that any use of the application land as a caravan and camping site, if the use of the land in part as a residential mobile home and in part as a certificated caravan and camping site can be construed as such, in breach of planning control, and therefore liable to enforcement action, could not have occurred until early 2014 at the earliest. Up until then the use or uses benefited from planning permission and hence were lawful. It follows that a continuous 10 year period prior to the LDC application date, 20 July 2023, during which an unauthorised use as a caravan and camping site could have been the subject of enforcement action, could not be demonstrated.
10. Evidently camping and caravan site use resumed, though there is no cogent evidence of this until 2018, and what evidence there is suggests that any such use that may have occurred before 2018 was no more than intermittent. A Mr H owned the land between 2015 and 2018 and the evidence suggests that he did not operate a camping and caravan site in that period. Camping and caravan site use clearly took place from mid 2018 on, but that appears to have benefitted again from a Camping and Caravan Exception Certificate, such that it was not a breach of planning control and therefore not open to enforcement action. Periods of non-use are claimed by the appellant to be no more than dormancy, but the planning concept of dormancy does not apply to development that has ceased to exist upon the expiration of temporary planning permission. A use can become dormant through inactivity and still be treated as 'existing', but only so long as it had already become lawful and had not been extinguished. In other words, periods of non-use, if more than *de minimus*, cannot contribute to the continuous period required for immunity from enforcement, and where a use in breach of planning control has resumed after a material break in the use the immunity clock restarts, as it does after a period of use benefitting from a GDPO permission.
11. In short the use of the land up until at least early 2014 could not contribute to the section 171B(3) 10 year period necessary to secure immunity from enforcement, and accordingly the requisite 10 year period cannot be established. Intermittent

³ I understand that Mr T spent his last few months in a hospice, but I consider that for that period the mobile home remained his home and it continued to be occupied by him.

⁴ As it stood at the time.

⁵ *Avon Estates Ltd v Welsh Ministers & Ceredigion CC* [2011] EWCA Civ 553

periods of unauthorised use, which is what appears to have occurred here, are unlikely to satisfy the immunity requirement that enforcement action can be taken at any time, but it is not necessary to consider in detail the evidence of use, in the form of Statutory Declarations, relied upon by the appellant since none is sufficiently precise or unambiguous to cast genuine doubt on my findings.

12. It follows that the local planning authority's decision to refuse to grant a certificate of lawful use or development in respect of use of land as a camping and 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.

Appeal A – ground (b)

13. This ground is that the matters alleged in the notice as comprising a breach of planning control have not occurred, as a matter of fact. The appeal on this ground was originally made on the basis that the stationing of mobile homes on the site for the purposes of human habitation was lawful, which is not a ground (b) matter. This was subsequently revised at the CMC as a claim that the land was part of a planning unit comprising the whole of Sandy Meadow Farm and that the land was in a mixed use of agriculture and the stationing of mobile homes on the site for the purposes of human habitation. In other words, it is claimed that the use of the land is mis-described. This turns on whether the land the subject of the notice is a separate planning unit, as claimed in Appeal B, and indeed as claimed in the initial appeal statement, or whether the entire holding is a single planning unit. The well established *Burdle*⁶ tests apply. The starting point is the unit of occupation, which in this case is the entire holding owned by the appellant. If within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes, each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit.
14. In this case it is not in dispute that the mobile homes are stationed on the narrow strip of land enclosed by the red line on the enforcement notice plan. It is a distinct area that can be considered as physically separate from the wider holding. No other mobile homes are stationed on the wider area. Nor is it in dispute that the mobile homes are stationed on the land for the purposes of human habitation. There is no evidence whatsoever that the land enforced against is used for any other purpose. Clearly camping and recreational caravan uses did occur prior to the use enforced against, but there is no evidence that the land was in that use when the notice was issued.
15. So far as the remaining land in the wider holding is concerned, the only evidence of any use other than agriculture is a single photograph from a website review that shows a small number of tents and cars on what may be that land in August 2019. There is nothing to suggest that caravans of any kind have been stationed there for the purposes of human habitation at any time.
16. In an appeal on this ground the burden of proof is firmly on the appellant to show that what is alleged has not occurred, on the balance of probability. In this case nothing has been put in evidence that casts any real doubt that the land the subject of the notice was a separate planning unit which was being used for the

⁶ *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207

stationing of mobile homes for the purpose of human habitation. The appeal on this ground cannot therefore succeed.

Appeal A – ground (c)

17. This ground is that the those matters the subject of the notice do not constitute a breach of planning control. Again, the burden of proof is on the appellant. It is claimed that the use is not a breach of planning control because it is immune from enforcement through the passage of time, but that is a ground (d) matter which I deal with below.
18. No clear basis for the contention that the use specified in the notice is not a breach of planning control is set out in the appellant's submissions, which are sub-titled "Appeal on grounds –b, d, and a⁷". The onus is on the appellant to make their case under this ground, and it is incumbent upon them to set out a clear basis for whatever proposition they want considered. As I have found in Appeal B, the lawful use of the land is agriculture. There can be no real argument that a change of use of the land to use for the stationing of mobile homes for the purpose of human habitation is not material, and hence it is development requiring planning permission. There are no permitted development rights that would apply to such development in the circumstances of this case. In the absence then of express planning permission the appeal on this ground cannot succeed.

Appeal A – ground (d)

19. This ground is that it is too late to take enforcement action, 10 years being the relevant period. Given that the mobile homes moved onto the site some time between March 2022 and March 2023, it is implicit that the appellant argues that the use is not a material change of use from the previous camping and caravan site use and that taken together the use has continued in breach of planning control for at least 10 years. Given that the recent camping and caravan site use from 2018 to 2021 was lawful, benefitting from GDPO Part 5 Class A, as set out above, that proposition cannot be sustained. I do not need to go further back, but it is clear from my findings in Appeal B that it would not assist the appellant on this ground in any case.
20. Furthermore, there are different planning considerations arising from the use for camping and caravans that went on before, which was a tourism use, and the residential use associated with the mobile homes. Static caravans are rarely moved, and along with their associated bases and the other development and paraphernalia that goes along with permanent residential use, are likely to permanently shift the character and appearance of the land in an urban direction, whereas a seasonally fluctuating holiday use by generally smaller and transient structures is unlikely to significantly diminish rural character. Changes in the traffic environment would also be likely, permanent residents typically having different movement patterns to holiday makers, and it would be constant year-round traffic generation rather than seasonally changing levels of use by holiday makers. Similarly, light generation, noise and general activity would be constant rather than seasonally fluctuating. Overall I consider, as a matter of fact and degree, that the current use comprises a substantial and material change in the character of the use of the land compared to seasonally fluctuating holiday use by generally

⁷ The appeal on ground (a) was barred by virtue of section 174(2A) of the 1990 Act.

smaller and transient structures. It does not therefore benefit from any foregoing use in terms of continuity.

21. The use enforced against only commenced in 2022 at the earliest, and hence it is not too late to take enforcement action.

Paul Dignan

INSPECTOR