



Appeal Decision

Site visit made on 20 May 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th June 2025

Appeal Ref: APP/Y9507/C/24/3353926

Land at West Fork, Farnham Road, Liss GU33 6LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr Terry Harris of South Downs Caravans Ltd against an enforcement notice issued by East Hampshire District Council on behalf of the South Downs National Park Authority.
- The notice was issued on 24 September 2024.
- The breach of planning control as alleged in the notice is Without planning permission and within the last 10 years, the material change of use of land from agriculture to caravan storage and repair, and associated operational development.
- The requirements of the notice are: i. Cease the use of the Land for caravan repairs and for storage of caravans and associated machinery; ii. Remove the barn, shown hatched black on the attached Plan, and all resultant materials and debris, from the Land; iii. Remove all hard-surfaced areas and footings associated with the barn, and all resultant materials and debris, from the Land; and iv. Remove all caravans, associated equipment and items relating to the camping and caravanning storage and repairs from the Land.
- The period for compliance with the requirements is six months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), and (f) of the Act. 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 of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Mr Terry Harris of South Downs Caravans Ltd against the South Downs National Park Authority (the NPA). That application is the subject of a separate decision.

Preliminary Matter

2. The description of the alleged breach of planning control refers to a material change of use (MCU) and 'associated operational development'. The extent of any operational development which may be associated with the MCU is unclear from the notice, as there are various areas of hardstanding and a building known as 'the Barn' within the land edged in red. I therefore find that the notice is in need of correction. I have broad powers under section 176(1) of the Act to correct any defect, error or misdescription in the notice if doing so will not cause injustice.
3. Steps ii and iii of the notice require the removal of the Barn together with all hard-surfaced areas and footings associated with the Barn. I could correct the notice to ensure the description of the alleged breach refers to the carrying out of these forms of operational development. However, doing that would cause injustice because it is disputed whether the Barn facilitated the MCU, and it is unclear which hard-surfaced areas may be associated with the Barn. I shall therefore correct the

notice by deleting reference to associated operational development in the description of the alleged breach without causing injustice to any parties.

Ground (d)

4. For the appeal to succeed under ground (d) the appellant needs to show that, at the date when the notice was issued, no enforcement action could be taken in respect of the alleged breach.
5. By the appellant's own account, only part of the land was used for 'occasional ad-hoc placing of caravans and cars' in 2017. There is no evidence to show, on the balance of probabilities, that the MCU took place on or before 24 September 2014. The MCU is not therefore exempt from planning control having regard to section 171B(3) of the Act.
6. The appeal under ground (d) must fail.

Ground (a) and the deemed application for planning permission

7. The main issue is the effect of the MCU on the character and appearance of the area, with particular regard to the South Downs National Park (NP), within which the site is located.
8. The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for the NP to be understood and enjoyed by the public. There is a duty on me to seek to further those purposes, and the National Planning Policy Framework (the Framework) explains that great weight should be given to conserving and enhancing the landscape, scenic beauty, wildlife, and cultural heritage of national parks.
9. Although the reasons stated for issuing the notice refer to the effect of the MCU on the character and appearance of the area and the NP, the NPA has not substantiated these claims. Instead, its appeal submissions focus on the effect of the Barn in these regards, which was previously considered unacceptable by another Inspector¹. There is no evidence before me that the acceptability of the MCU was previously considered.
10. The site comprises an undulating and sparsely wooded area located adjacent to a caravan and camping storage, sales and holiday accommodation area. The locality is distinctly rural in character and appearance, typified by open fields lined with trees and hedgerows interspersed with small clusters of buildings.
11. Despite the presence of densely arranged buildings/caravans to the west, the MCU is very much at odds with the undeveloped characteristics of its wider surroundings. In this context, the MCU comprises the spread of the caravan and camping business's activities into the surrounding countryside, to the detriment of the locality's rural character and appearance.
12. Caravans can be an expected feature in this location and within the NP more generally, in association with tourism. Furthermore, the site is not clearly visible from public viewpoints and the character of the area is informed, to an extent, by the A3 and B3006 highways. However, the expanse of the site and its location on the edge of a cramped caravan and camping business have the unwelcome effect

¹ Appeal Ref: APP/Y9507/W/18/3216793

of development sprawling into the countryside. The storage and repair of caravans over this area has the appearance of a more intense commercial use, rather than a low-key rural enterprise or development of a transient nature which may be more sympathetic to the surroundings. The MCU does not therefore reflect the context and type of landscape it is set within.

13. Planning conditions could control the number and type of caravans to be placed or repaired on the land at any one time, but this would be insufficient to prevent the MCU from being unsympathetic to the rural qualities of the area and failing to conserve the landscape or scenic beauty of the NP. That harm could not be satisfactorily mitigated through planting or any other planning conditions.
14. The notice claims the MCU is contrary to Policies SD3 and SD39 of the South Downs Local Plan (2019) (SDLP) and Policies Liss 1 and Liss 4 of the Liss Neighbourhood Plan. However, these policies are not relevant to the MCU, as it is not major, agricultural, or forestry development and it is not within the settlement boundary of Liss. The previous appeal decision states the site falls outside the area covered by the Liss Neighbourhood Plan.
15. For the above reasons the MCU harms the character and appearance of the area and fails to conserve and enhance the natural beauty of the NP, or otherwise help fulfil or further the statutory purposes of the NP. It is therefore contrary to Policies SD1, SD4, SD5 and SD25 of the SDLP which require, amongst other things, development to be landscape-led, which responds to its context and respects the character and appearance of the area, while conserving the landscape and natural beauty of the NP.
16. The MCU draws a limited amount of support from Policy SD34 of the SDLP, which seeks to sustain the local economy through promoting and protecting local businesses without compromising the purposes of the NP. This is consistent with paragraph 89 of the Framework, which states that planning decisions should recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements. The MCU supports an established business, but there is little evidence to show the viability of that business relies on caravans being stored and repaired in this area, outside what is already a sizeable space occupied intensively by buildings/caravans.
17. The support given by Policy SD34 of the SDLP and the other benefits of the MCU do not outweigh the great weight I assign to the above harm. In conclusion, the MCU is contrary to the development plan as a whole and there are no material considerations which indicate planning permission should be granted.
18. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

19. For the appeal to succeed under this ground the appellant needs to show that the steps required to be taken, or the activities required to cease, exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity.
20. The notice requires the cessation of the use and the removal of all equipment/items relating to the use, along with the Barn and all hard-surfaced areas and footings

associated with the Barn. Its intended purpose is therefore to remedy the breach by restoring the land to its condition before the breach took place, rather than to remedy any injury to amenity. It is necessary to consider whether this could be achieved with less cost and disruption.

21. It is not disputed that the Barn was substantially completed in 2017, but the NPA claims the Barn was constructed to facilitate, without being causative of, the MCU. On this basis, it is claimed that it is appropriate for the notice to require the removal of the Barn from the land, and all hard-surfaced areas associated with the Barn. I have been referred to *Caldwell* and *Kestrel Hydro*² in this regard.
22. The above case law follows the findings in *Murfitt*³, where it was held that an enforcement notice issued in respect of a material change of use can require the removal of ancillary or incidental operational development which was carried out to facilitate that material change of use, even if the operational development was carried out more than four years before the notice was issued. It was held in *Kestrel Hydro* that the *Murfitt* principle should not be taken to include operational development of a nature and scale exceeding that which is truly integral or ancillary to the material change of use. Following on from this, the Court of Appeal held in *Caldwell* that the *Murfitt* principle does not apply where operational development is the source of, or fundamental to the material change of use. This is not exclusive to cases concerning unauthorised dwellings.
23. As set out at the beginning of this decision, the alleged breach as originally drafted referred to 'associated operational development'. It would not have been essential for the alleged breach to refer to the Barn if it was merely ancillary to the MCU.
24. An aerial photograph from 2017⁴ appears to show a small number of caravans/cars on part of the site prior to the Barn being erected. This is consistent with the appellant's explanation that at that time a small area was used for occasional and ad-hoc placing of caravans and cars. Planning permission was subsequently sought for development described in the NPA's officer report as 'retention of a barn for a mixed use for agricultural storage and as a workshop in relation to the camping and caravanning business'. The evidence therefore shows it is more likely than not that the Barn was erected before the MCU took place, as development in its own right. There is nothing to suggest the Barn had a primary use for the storage and repair of caravans at that time.
25. It is unclear how any caravans would have been repaired on the land were it not for the erection of the Barn, which is claimed by the appellant to also be used in part for the storage of agricultural machinery. It is also unclear how the Barn would have been ancillary to any caravan storage on the land or facilitated the intensification of any such use. On the available evidence, it seems far more likely that the erection of the Barn was unrelated to any storage of caravans, yet fundamental to caravans being repaired in this area through the introduction of a nearby secure and weathertight building where tools and parts could be stored, and caravans repaired inside. There is no evidence that caravans were repaired on the land in the open prior to the erection of the Barn, and it seems very unlikely caravans would be stored within the barn on account of its size.

² *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467 and *Kestrel Hydro v SSCLG & Spelthorne BC* [2016] EWCA Civ 784

³ *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598

⁴ The appellant's Appendix 3

26. There may be hard-surfaced areas associated with, and facilitative of, the MCU. However, Step iii only requires the removal of hard-surfaced areas which are specifically associated with the Barn. For the same reasons set out above relating to the Barn, those hard-surfaced areas are not subject to the *Murfitt* principle.
27. In view of the above, I find that the erection of the Barn was development in its own right, either fundamental to, and causative of, the repair of caravans on the land, or unrelated to the MCU. In either case, with regard to the above case law, Steps ii and iii exceed what is necessary to remedy the breach, and the purpose of the notice could be achieved with less cost and disruption.
28. I shall vary the notice by deleting Steps ii and iii and it will be a matter for the NPA to consider the expediency of taking further enforcement action in respect of the Barn and any hard-surfaced areas. However, with regard to section 171B(1) and (4)(b) of the Act and on the basis of the evidence submitted, it appears likely that the Barn is exempt from planning control.
29. The appeal under ground (f) therefore succeeds.

Conclusion

30. For the reasons given above, I conclude that the appeal should not succeed, except to that extent described above in respect of the appeal under ground (f). I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

31. It is directed that the enforcement notice is corrected and varied by:
- The deletion of the text ‘and associated operational development’ at paragraph 3 (‘the matters which appear to constitute the breach of planning control’) of the enforcement notice; and
 - The deletion of Steps ii. and iii. in their entirety at paragraph 5 (‘what you are required to do’) of the enforcement notice.
32. Subject to the correction and variation the appeal 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 Act.

L Douglas

INSPECTOR