



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/23/3318237

Land at Rother Barn, Farnham Road, Liss, Hampshire GU33 6LJ

- 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 R Liddiard of Rother Projects 2017 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 9 February 2023.
- The breach of planning control as alleged in the notice is Within the last 10 years and without planning permission a material change of use from agricultural land to a mixed use of agriculture and storage use with Lorry Park (sui generis) and associated operational development.
- The requirements of the notice are: (i) Cease the use of the Land for storage purposes (B8 use); (ii) Cease the use of the Land as a lorry park (sui generis); (iii) Remove from the Land the buildings in the approximate locations marked Blue on the plan; (iv) Remove from the Land all hardstanding in the approximate location outlined in Green on the plan.
- 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), (f), (g) 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.

Preliminary Matters

1. There is no dispute that the alleged breach of planning control has taken place. It refers to a material change of use of the land and 'associated operational development'. Steps (iii) and (iv) require the removal of two buildings and an area of hardstanding, but they have not been referred to in the reasons for issuing the notice and it is unclear whether this is the extent of all operational development associated with the material change of use, or that intended to be referred to by the National Park Authority (NPA). Furthermore, the appellant claims the hardstanding was laid specifically for use by a lawful Christmas tree enterprise initially. The notice is therefore in need of correction.
2. I have wide powers under section 176(1) of the Act to correct any defect, error or misdescription in the notice, if I am satisfied that doing so will not cause injustice to any parties. As it is unclear whether the hardstanding facilitated the material change of use, I shall delete reference to unspecified operational development from this part of the notice. Notwithstanding my findings in respect of the appeal under ground (f), this will not cause injustice to any parties as it will remain open to the NPA to take further enforcement action¹ regarding any unauthorised operational development purported to be referred to by the notice.

¹ Section 171B(4)(b) of the Act

3. It is clear from the appellant's submissions that planning permission is sought for the use specified in the notice limited to the parking of up to three lorries and an outside storage space not exceeding 400 square metres (sqm) in area and 2 metres (m) in height. I shall consider whether planning permission should be granted for this reduced lorry parking and outside storage use, because it comprises part of the breach on part of the land.
4. To clarify, throughout this decision I shall refer to the use of the land for the parking of up to three lorries and outside storage space not exceeding 400sqm in area and 2m in height as 'the reduced parking and storage use' or 'the development'.

Ground (a) and the deemed application for planning permission

5. The main issues are:
 - the effect of the development on landscape character, with particular regard to the South Downs National Park (the NP), within which the site is located; and
 - whether the development comprises an appropriate form of forestry diversification.

Landscape Character

6. The statutory purposes of national parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for them 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.
7. The appeal site comprises part of a wider area of land at Rother Barn Farm covering 2.83 hectares (ha), where approximately 5,000 trees have been planted in association with a Christmas tree enterprise. It is within a countryside location, outside any defined settlement boundary, and is enclosed by thick, tall hedging which greatly restricts views into the site from public viewpoints. Most, if not all, of the site is covered with hardstanding and there is a large barn, a storage container, a toilet building, and a welfare building within the area the subject of the notice.
8. The surrounding area is distinctly rural in character and appearance, even with the A3 dual-carriageway passing close to the west of the site, a large garden centre located south of the site, and the settlement of Liss to the northeast. Despite these notable features, the local landscape remains characterised by extensive areas of trees, hedgerows, and fields interspersed with sparse pockets of development typical for a countryside location. Activities associated with the A3 and the garden centre limit the tranquillity of the area, but this part of Farnham Road retains pleasant rustic qualities.
9. I have been provided with a Landscape and Visual Appraisal (LVA)² relating to a previous application for planning permission, which referred to the land being used for the parking of up to five lorries and outside storage space not exceeding 1,080sqm in area and 2m in height. The LVA concludes the potential level of key effects of such use upon the local landscape character would be negligible adverse

² By DB Landscape Consultancy Ltd, dated February 2020

or neutral, with the level of key effects upon visual receptors and the cumulative visual effect being neutral. The LVA and that use of the land was considered by another Inspector³, who was unconvinced by the findings of the LVA, and considered such use would harm the landscape quality of the NP. On the available evidence, I concur with the reasoning of that Inspector.

10. The Christmas tree enterprise can attract large numbers of visiting members of the public in November/December each year. Lorries are also used in association with the Christmas tree enterprise for taking goods into and out of the site throughout the year. However, the reduced parking and storage use attracts an obviously more intensive commercial use compared to the Christmas tree enterprise for at least ten months a year. This is conspicuous within the landscape on account of the associated vehicle movements to/from the site, despite there being no public views of parked lorries and items stored within the site. Moreover, the scale and nature of those vehicle movements remain unsympathetic to the local landscape character and relative tranquillity of this rural area.
11. Therefore, although the areas of land used for lorry parking and outside storage could be restricted to those specified by the appellant, the use of the site for these purposes would remain intensively commercial in character, which would be at odds with that of the Christmas tree enterprise. These effects of the reduced parking and storage use on the local landscape character would not be greatly limited by the proximity of the large barn at the site. Furthermore, the presence of the A3 and nearby commercial businesses do not indicate that the restricted parking and storage use would be sympathetic to the relative tranquillity, natural beauty or landscape of the NP. The harm caused could not be satisfactorily mitigated through restricting the hours of the reduced parking and storage use as suggested, the retention/enhancement of existing boundary planting, or any further planting.
12. The reduced parking and storage use therefore harms the landscape character of the area and fails to conserve and enhance the landscape and scenic beauty of the NP, in conflict with Policies SD1, SD4, SD7, and SD25 of the South Downs Local Plan (2019) (SDLP). These require, amongst other things, development to conserve landscape character and relative tranquillity, while responding to the context of the site

Forestry Diversification

13. Policy SD40 of the SDLP provides support for forestry diversification where various criteria are met. Criterion a) requires a diversification plan to be submitted which shows the diversification would: i) provide long-term benefit to the forestry business as a forestry operation; ii) remain subsidiary to the forestry operation in terms of physical scale and environmental impact; and iii) not cause severance or disruption to the holding.
14. A Rural Diversification Appraisal⁴ (RDA) has been submitted alongside a Business Plan⁵, which are based on the reduced parking and storage use. The Business Plan is limited in detail, but the RDA shows it sets out a business model to keep the

³ Appeal Ref: APP/Y9507/W/20/3248205

⁴ By Reading Agricultural Consultants, dated October 2022

⁵ Rother Barn Tree Farm Business Plan, dated 2022

Christmas tree enterprise going as a forestry operation in the long-term, which is not disputed by the NPA. The first part of criterion a) is therefore met.

15. The RDA shows that the reduced parking and storage use covers approximately 1.5% of the 2.83ha holding, and that people are estimated to spend over five times longer at the holding in association with the Christmas tree enterprise each year. This is unsurprising, considering the large amount of space and working hours needed to maintain trees. Neither metric is especially informative as to whether the reduced parking and storage use could be subsidiary to the forestry operation in terms of physical scale and environmental impact in this particular case. Moreover, in the absence of further explanations as to how the time estimations have been made, I find it unlikely that averages of 1,000 visiting members of the public would spend a combined 3,000 hours at the site each year.
16. The RDA also sets out similar estimated annual vehicle movements for the reduced parking and storage use compared to the Christmas tree enterprise. However, those figures relate to the number of estimated visits over a whole year, when over half of the Christmas tree enterprise visits would be carried out in November and December only. They also make no distinction between the types of vehicles used, despite there being significant differences between the physical scale and environmental impact of visits by lorries, trucks, vans, and cars. In any case, as raised by the previous Inspector, there is no suitable mechanism before me to control vehicle movements (or time spent at the site) in association with any lorry parking and outside storage use. I therefore find the estimated annual vehicle movements set out in the RDA unhelpful to compare the physical scale and environmental impact of the reduced parking and storage use with the Christmas tree enterprise.
17. Notwithstanding the claims made by the RDA, for similar reasons explained in my reasoning relating to the first main issue, the physical scale and environmental impact of the reduced parking and storage use could not reasonably be described as subsidiary to the forestry operation. By its very nature, the Christmas tree enterprise is a low-key operation for much of the year, with a high level of activity towards the end of each year. I note comments from members of the public indicating this may not be the case every year, with there being potential for lower numbers of visiting members of the public in some years which may be beyond the appellant's control.
18. I am also aware that lorry movements are a necessary part of the forestry activity, and that the operational hours of the reduced parking and storage use could be controlled by planning conditions. However, I find the vehicle movements associated with the reduced parking and storage use, particularly the year-round regular presence of lorries entering/exiting and parking within the site, would significantly exceed the physical scale and environmental impact of the forestry operation. The second part of criterion a) of Policy SD40 is not therefore met.
19. There is no evidence before me to suggest the development causes disruption to the forestry holding. Nevertheless, planning permissions run with the land and there is no mechanism before me to ensure there would be no future severance of the reduced parking and storage use from the Christmas tree enterprise. The arrangement of the site next to the shared highway access does not convince me that severing it from the wider holding would be difficult. Furthermore, it would not be possible to draft an enforceable or reasonable planning condition to prevent the

site from being severed or sold independently from the wider holding, especially considering they are currently owned by a Limited company. The third part of criterion a) of Policy SD40 is not therefore met.

20. The development does not re-use or replace any existing buildings, and criterion b) of Policy SD40 is not therefore relevant. Although the reduced outside storage area may be considered a minor ancillary element compared to the Christmas tree enterprise on its own, compliant with criterion c) of Policy SD40, the whole of any forestry diversification scheme needs to comply with all three criteria to gain support from the policy. Overall, the reduced parking and storage use does not comprise an appropriate form of forestry diversification, and it is not supported by Policy SD40 of the SDLP.
21. It is not disputed that the reduced parking and storage use accords with Policy SD34 of the SDLP. Policy SD34 states, amongst other things, that development which fosters the economic and social well-being of local communities within the NP will be permitted provided it promotes and protects businesses linked to the NP's key sectors of farming, forestry and tourism. As it has been shown that the reduced parking and storage use would protect the Christmas tree enterprise, the development is supported by Policy SD34.

Other Matters and Planning Balance

22. I am mindful that the Business Plan and RDA show the Christmas tree enterprise will fail within a year without securing additional income, which is not disputed by the NPA. The Christmas tree enterprise provides employment for one person three to five days a week throughout the year, and six people for two weeks of the year. It has not been shown that the Christmas tree enterprise has ever been viable, and it is unclear whether this was taken into account by the appellant prior to investing in the holding. On account of its size, location, and the nature of the existing operation, I am unconvinced that any cessation of the Christmas tree enterprise would necessarily lead to harm to the landscape value of the NP or result in any unacceptable use(s) of existing buildings. I do, however, assign moderate weight in favour of the reduced parking and storage use on account of the economic and social benefits of the Christmas tree enterprise which are protected by the lorry parking and storage use, in accordance with Policy SD34 of the SDLP.
23. The development supports employment opportunities associated with the lorry parking and storage use, and it improves the security of the holding and the safety of the lone forestry worker. I also note vague claims that allowing lorries to park at the site provides opportunities for soft marketing of Christmas trees through lorry drivers raising awareness of the enterprise. These are all minor benefits which could likely be achieved by more appropriate means, to which I assign modest weight in favour of the development.
24. Taking all matters raised into account, I do not find that the benefits of the development, including the support it receives from Policy SD34 of the SDLP, outweigh the great weight I assign to the harm caused to the landscape and natural beauty of the NP by the development. The exceptional circumstances outlined in the fourth criterion of Policy SD1 do not therefore apply in this case.
25. Paragraph 88 of the Framework explains that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, as well as the development and diversification of agricultural and other land-based rural

businesses. I have found that the development would not comprise sustainable growth due to its effect on the landscape and natural beauty of the NP, and although it would diversify an existing land-based rural business, the development would not be sensitive to its surroundings.

Conclusion on Ground (a) and the deemed application for planning permission

26. The reduced parking and storage use conflicts with the development plan as a whole and there are no material considerations which indicate planning permission should be granted.
27. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

28. To succeed under this ground of appeal 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 or, as the case may be, to remedy any injury to amenity.
29. The notice requires the unauthorised use to cease and two buildings and an area of hardstanding to be removed. Its purpose is therefore to remedy the breach by restoring the land to its condition before the breach took place, rather than any injury to amenity. It is necessary for me to consider whether this could be achieved by any lesser steps with less cost and disruption.
30. The area of hardstanding referred to by Step (iv) is not ambiguous. It is claimed that the hardstanding was laid specifically for use by the Christmas tree enterprise initially. Photographs have been provided which show extensive parts of the hardstanding being used for the parking of a large number of vehicles used by visiting members of the public. The photographic evidence of how the Christmas tree enterprise currently operates during November/December indicates that a large space is now required to provide off-street parking for customers, which was not previously the case.
31. The NPA claims the *Murfitt*⁶ principle applies to the hardstanding because it was only installed to facilitate the lorry parking element of the unauthorised use, but this claim is unsubstantiated. In light of the appellant's claims to the contrary, and the photographic evidence showing a commensurate number of vehicles associated with the Christmas tree enterprise (even if those numbers have reduced in recent years), I am unconvinced that the hardstanding was laid to facilitate the material change of use. I therefore find that the hardstanding is development in its own right, to which the *Murfitt* principle does not apply, and I shall delete Step (iv). This does not prevent the NPA from taking further enforcement action in respect of the hardstanding, if the hardstanding is unlawful and it is expedient to do so.
32. Although the toilet and welfare buildings are used by staff associated with the Christmas tree enterprise, it is not disputed that they facilitated the material change of use. There is no evidence to suggest they are not part and parcel of the lorry parking and outside storage use, despite now being shared by the very low number of staff associated with the Christmas tree enterprise. The *Murfitt* principle therefore applies to these buildings, and it is not excessive to require them to be removed to achieve the purpose of the notice by restoring the land to its condition before the

⁶ *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598

breach took place. In respect of Steps (i) to (iii), there are no lesser steps which would achieve the purpose of the notice with less cost and disruption.

33. The appeal under ground (f) therefore succeeds insofar as I shall delete Step (iv) relating to the hardstanding, otherwise Steps (i) to (iii) will remain unchanged.

Ground (g)

34. To succeed under this ground of appeal the appellant needs to show that six months falls short of what should reasonably be allowed for the notice to be complied with.
35. Existing users of the lorry parking and outside storage area will need to relocate. No evidence has been provided to show how long this would take, but I see no reason why that could not happen in less than six months.
36. The appellant will want to explore and seek planning permission (if needed) for any alternative forestry diversification measures. It is claimed that nine months would be required to do this, but that is not supported by any clear justification. In the absence of any justification, I see no reason why six months would not be a reasonable period for the appellant to do this.
37. The appeal under ground (g) therefore fails.

Conclusion

38. For the reasons given above, I conclude that the appeal should not succeed, other than to the extent outlined above in respect of 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

39. 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 Step (iv) in its entirety at paragraph 5 ('what you are required to do') of the enforcement notice.
40. 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