



Appeal Decision

Site visit made on 11 June 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2025

Appeal Ref: APP/Z3825/C/24/3336456

Land at The Spoons, Harbolets Road, West Chiltington, Pulborough RH20 2LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Danny Lidbetter against an enforcement notice issued by Horsham District Council.
- The notice was issued on 12 December 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, material change of use of the land to use for the stationing of caravans for the purposes of human habitation together with the associated operational development comprising the installation of a septic tank in the approximate position shown hatched brown on the attached plan.
- The requirements of the notice are to:
 - (1) Permanently cease the use of the land for the stationing of caravans for the purposes of residential occupation;
 - (2) Remove from the land all the caravans and associated paraphernalia;
 - (3) Remove from the land all works of operational development incidental to the unauthorised residential use of the land as a caravan site, namely the septic tank shown in the appropriate position shown hatched brown on the attached plan;
 - (4) Remove from the land all material and debris resulting from compliance with steps 1, 2 & 3 above; and
 - (5) Restore the land to its original condition before the breach took place by levelling out the ground.
- The period for compliance with the requirements is Twelve (12) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (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.

Decision

1. 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

2. I have dealt with another appeal on this Land, Ref: APP/Z3825/C/23/3319218. That appeal is the subject of a separate decision.
3. The National Planning Policy Framework, December 2024 (NPPF) and the Planning Policy for Traveller Sites, December 2024 (PPTS) have been issued since the appeal was made and statements submitted. Both parties have had the opportunity to make further representations in relation to those policy documents and I have taken into consideration their responses in my determination of the appeal.

Appeal on ground (a), deemed planning application

Main Issues

4. The main issues in this case are:

- the effect of the development on the character and appearance of the area;
 - whether the occupants of the site would have reasonable access to services and facilities;
 - the effect of the development on the integrity of the Arun Valley SAC, SPA and Ramsar, with particular reference to water neutrality; and
 - the effect of the development on protected species and the measures necessary to avoid, mitigate or compensate for any negative effects.
5. Other considerations, potentially weighing in favour of the development, include the availability (or lack) of alternative accommodation for the occupiers of the site and their other personal circumstances.
6. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right¹, affords a person the right for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. In applying Article 8 there is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special considerations should be given to their needs and their different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have regard to the public sector equality duty (PSED).

Reasons

Character and appearance

7. The appeal site comprises a relatively small parcel of land situated adjacent to Harbolets Road (B2133) and between two access tracks which serve neighbouring residential properties. Access to the site is via a narrow track which serves Blackberry Cottage to the east. The site is enclosed by newly established leylandii hedging along its northern and southern boundaries. A close boarded fence has been erected along the western boundary and established native bushes and trees lie between the fence and Harbolets Road.
8. During my visit I observed that the appeal site has now been finished in pea gravel. Two mobile home are sited on the Land, a septic tank installed in the south eastern corner where there is a small garden and children's play equipment/outdoor seating. The original stable building is now in use as a dayroom with sink and washing machine within it.
9. Policy 25 of the Horsham District Planning Framework (HDPF) seeks to ensure that the natural environment and landscape character of the District, including the landscape, landform and development pattern is protected against inappropriate development. It advises that the Council will support development proposals which, amongst other criteria, protect, conserve and enhance the landscape and townscape character, taking into account areas identified as being of landscape importance, the individual settlement characteristics and maintains settlement separation. Policy 26 of HDPF seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development. It

¹ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

requires development proposals to be essential to its countryside location, enable the sustainable development of rural areas and be of a scale appropriate to its countryside character and location.

10. Policy 23 of HDPF sets out the criteria to be taken into consideration when determining any planning application for Gypsies and Travellers for non-allocated sites. Criteria (e) requires the development to not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and to be sensitively designed to mitigate any impact on its surroundings.
11. The development plan policies set out above are generally consistent with paragraph 187 b) of the NPPF which requires all development in the countryside to recognise its intrinsic character and beauty, whilst paragraph 135 (c) seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
12. The local planning authority advise that the site lies within the landscape character area Broadford to Billingham Farmlands as set out in the 2003 Horsham District Landscape Character Assessment. The landscape features in this character area are said to include many scattered woods and copses, small scale pattern of fields with a strong sense of enclosure, a strong network of hedgerows/shaws with mature oak standards, narrow lanes, field ponds, small historic farms and some small scale ribbon development along the lanes. I observed on my visit that the surrounding area is representative of that character. The pattern of development is dispersed cottages and farmsteads with some ribbon development along Harbolets Lane and predominantly large properties constructed in traditional materials situated within substantial gardens. There are ponds close to the site, and the area is characterised by small lanes, wide grass verges, woodland copses and native hedgerows which give the area a verdant appearance.
13. It is clear from the evidence submitted, including historic site photographs and observations made by a previous Inspector when considering a site proposal in 2018², that the character and appearance of the site has changed significantly over the past seven years. Prior to the unauthorised development taking place the Land was a small paddock enclosed by timber post and rail fencing with some hedgerow planting and boundary trees. There was a timber stable within the site and an area of hardstanding laid to provide access to it. Overall, the site had an open grassland appearance which contributed to the character of the surrounding rural landscape.
14. I appreciate that the leylandii hedge which has been planted along the site's northern and southern boundaries, together with some planting of laurels along the western boundary have now matured and provide some screening of the site. Indeed, there are only glimpses of the caravans from Harbolets Road. However, leylandii and laurel hedging are not native species and do not contribute to the existing landscape character of the area.
15. Caravan sites are a form of development that often appear in the countryside, and the PPTS makes it clear that such sites for Gypsy and travellers can be acceptable in the countryside. However, in this case by reason of the extent of hard surfacing

² APP/Z3825/W/17/3192171

laid, high level of enclosure and the amount of development spread across the site the unauthorised development does not reflect the spacious and verdant appearance of development in the surrounding area. I accept that the impact of the development is localised, however, it has a harmful effect on the character and appearance of the area. I have had regard to the appellant's suggestion that they would be happy for the site to just have a single caravan on it, as opposed to the two mobile homes. However, even if one of the mobile homes were to be removed, the hard surfacing and suburban character of the site would still prevail.

16. For the reasons given above, I conclude that the development conflicts with Policies 25, 26 and 23 (e) of HDPF, the aims of which are set out above. There would also be conflict with paragraphs 135 (c) and 187 (b) of the NPPF. The significant adverse impact of the development does not recognise the intrinsic character or beauty of the countryside, which has been established in case law means 'protect'. There would thus be conflict with national policy. The harm to the character and appearance of the countryside would be unacceptable and carries substantial weight.

Access to services and facilities

17. The PPTS advises that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Paragraph 13 of the PPTS seeks to promote access to health services and schools and to provide settled bases to reduce the need for long-distance travel. Policy 23 (d) of HDPF advises that in assessing non allocated sites for Gypsy and travellers the site should be located in or near to existing settlements, within reasonable distance of a range of local services and community facilities, in particular schools and health services.
18. The site lies in the open countryside, however, it is not isolated. Harbolets Lane in the vicinity of the appeal site is characterised by dispersed development along its length from Broadford Bridge to Goose Green. The nearest village with services is West Chiltington, which is approximately 4km away by road and has a shop, primary school and public house. There are also a wide range of services and facilities in Billingshurst, some 5km away by road, including a train station. Neither the PPTS nor Policy 23 (d) of HDPF require sites for Gypsy and travellers to be within walking distance of local services and facilities, and I accept that Harbolets Road is relatively busy with no footways and thus not suitable for pedestrians. The site occupiers will thus be reliant on their private vehicles. I have also had regard to the previous Inspector's concerns on this matter. Nevertheless, I am also mindful of paragraph 13 of the PPTS which seeks to ensure that traveller sites are sustainable economically, socially and environmentally. Having a settled base for Gypsy and travellers will support social integration. It enables any children to have access to education, make friends and for the occupants to gain access to health services and other community facilities. The site provides the occupants with access to the road networks to allow them to travel for their work, which having regard to their traditional lifestyle contributes to sustainability.
19. I consider the site to be near to the closest settlement of Broadford Bridge and within a reasonable distance of local services and community facilities in West Chiltington and Billingshurst. I therefore find no conflict with Policy 23 (d) of

HDPF, the aims of which are set out above. I also find no conflict with the PPTS in relation to the site's accessibility to services and facilities.

Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites in relation to water neutrality

20. The appeal site is located within the Sussex North Water Supply Zone where Natural England have indicated that ground water abstraction may have an adverse effect on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site. By reason of the international designation, the Arun Valley SAC/SPA are afforded the highest protection through UK legislation and Government policy³.
21. The conservation objective for the SAC is to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features, namely, the little whorlpool ram's-horn snail.
22. The conservation objective for the SPA is to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive. The qualifying features of the SPA are its population of Bewick's swan and waterbird assemblage.
23. The Habitats Regulations, as amended, requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an Appropriate Assessment (AA) is necessary to establish whether there would be adverse effects on the integrity of the features of the European site and if there are, whether they could be modified through mitigation. Circular 06/2005 sets out that the decision on whether an AA is necessary should be made on a precautionary basis.
24. Natural England has advised that it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an impact on the Arun Valley site. Thus, plans and projects affecting sites where an existing adverse effect is known (i.e. the site is failing its conservation objectives), must demonstrate certainty that they will not contribute further to the existing adverse effect. Developments within Sussex North therefore must not add to this impact and one way to achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.
25. The appellant accepts that it is necessary for the development to demonstrate water neutrality. During the appeal process he indicated that he would be agreeable to a Grampian style condition to either commit to adopting a rainwater harvesting solution or would be willing to buy into Sussex North Offsetting Water Scheme (SNOWS). However, the Council advise that the SNOWS scheme is not yet operational. Furthermore, it is not possible to apply a Grampian condition for retrospective applications as there is no certainty that those credits would be available and could be secured.
26. As competent authority, my responsibility is to be confident there is sufficient information available for me to be sure that the development the subject of this

³ The Conservation of Habitats and Species Regulations 2017, as amended ('the Habitats Regulations') set out the provisions and procedures which must be followed to assess the implications of plan and projects on European sites (Regulations 63 and 64).

deemed application can demonstrate water neutrality, and would not have an adverse impact on the integrity of the Arun Valley SAC/SPA. It may be that there is a rainwater harvesting solution that could be implemented and provide mitigation. However, in the absence of a detailed scheme to demonstrate how this would be achieved, I cannot be confident the development would be water neutral. Requiring additional information by condition would not enable me to discharge my responsibility for this decision. In the absence of any substantive evidence to the contrary, the effect of the development without mitigation on the integrity of the SAC and SPA is likely to be significant.

27. I conclude, for the reasons given above, that the development would have a harmful effect on the integrity of a protected European site, with particular reference to water neutrality. The development is therefore contrary to Policy 31 of HDPF, which reflects the Habitats Regulations. It is also contrary to policies in the NPPF which seek to protect the integrity of habitat sites.

Protected Species

28. The Council in their third reason for issuing the enforcement notice notes that the appeal site lies near a corridor of woodland, agricultural fields and ponds that have the potential to be used as a habitat by Great Crested Newts (GCN) and other protected species. That said, insufficient is available to demonstrate that the development would not have an adverse impact on protected species and its habitat, and to establish how the development will contribute to measurable biodiversity net gain.
29. I noted on my site visit that there are ponds immediately to the south of the site and approximately 20m to the north with good connectivity in the wider landscape. Prior to the site being developed it was grassland, a suitable terrestrial habitat for GCN, and possibly other protected species. The Council has subsequently confirmed that the development is situated in a red impact zone indicating that highly suitable habitat for GCN is present in the surrounding landscape. Consequently, it is not possible to rule out potential harmful impacts to GCN during the construction phase.
30. GCN are European protected species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981, as amended. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances."
31. Having regard to all of the above, a District Level Licence (DLL) would be necessary to mitigate any effect on GCN. However, I understand that a DLL would not be available for a retrospective site. Even if it were, I do not consider that a planning condition could be imposed on a grant of planning permission to require the appellant to enter such a scheme, particularly where that scheme requires payments to be made. Furthermore, there is insufficient evidence before me that fully evaluates the presence of GCN and what levels of compensation would be required, and there are no exceptional circumstances that would justify requiring

surveys by condition. Applying the precautionary principle, I conclude that the development could, if hasn't already, result in harm to GCN.

32. Without robust surveys to determine the presence of protected species on the site and what levels of mitigation or compensation is required for habitat lost, the development has undoubtedly led to unacceptable harm to ecology and biodiversity. There is conflict with Policies 24,31 and 33 of HDPF which seek to maintain, improve the environment and existing biodiversity of sites.

Planning Balance

33. Policy H of the PPTS is a reminder that planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, it states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provision in paragraph 11(d) of the NPPF applies. Thus, having regard to the local planning authority's position that they cannot demonstrate an up-to-date 5 year supply of deliverable sites, there is a presumption in favour of sustainable development and a grant of planning permission, unless criteria (i) or (ii) in paragraph 11(d) apply. Thus, in this case paragraph 11.d) advises that permission should be granted unless:
- i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*
34. Policies referred to in the Framework which provide a strong reason for refusal include those relating to habitat sites, including paragraph 195 of the NPPF which states that the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. I have found that the development would have an adverse impact on the integrity and conservation objectives of the Arun Valley SAC, SPA and Ramsar. Thus, in this case, whilst the local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, in accordance with paragraph 195 of the NPPF the presumption in favour of sustainable development is not engaged.
35. I have concluded that the development is contrary to the development plan as a whole and the NPPF in terms of policies which seek to protect landscape and local character, including one of the criteria against which the development of Gypsy and traveller sites are judged. This harm arises due to the design and appearance of the site development in a rural landscape. Conflict with the NPPF includes those policies specified in footnote 9 of the NPPF and this matter attracts substantial weight against allowing the appeal.

36. I have also concluded that the development is contrary to the development plan and the NPPF in terms of policies which seek to protect ecology and the natural environment. This harm arises due to the development's impact on a protected habitats, protected species and biodiversity. This impact has also not been shown to be capable of being successfully mitigated by conditions. This matter attracts substantial weight against allowing the appeal.
37. The suitability of the location of the site in terms of access to services and local facilities is neutral in the planning balance.
38. I understand that the site is currently occupied by Mr Lidbetter and his wife. I have not been provided with any specific details regarding their personal circumstances; however, I understand that the Council do not dispute that they meet the definition of Gypsies and travellers as set out in Annex 1 of the PPTS. It is reasonable to assume that having regard to the Council's current position in relation to the need and supply of sites for Gypsy and travellers in the District, there would be a lack of alternative accommodation available to Mr Lidbetter and his wife, a matter which carries substantial weight in favour of the appeal, all in the context of human rights considerations and the PSED.
39. In relation to Article 8 of the ECHR, safeguarding the natural environment, the countryside and its appearance are relevant to both the economic well-being of the country and the rights and freedoms of others. Under PSED, eliminating discrimination and advancing equality of opportunity, in terms of providing decent places to live, may often necessitate treating Gypsies and travellers more favourably than the settled community. However, Safeguarding the natural environment, the countryside and its appearance are relevant to both the economic well-being of the country and the rights and freedoms of others. I recognise that dismissing the appeal would interfere with the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified in the Notice the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.
40. I conclude that the adverse impacts I have identified of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, including the PPTS, and having particular regard to key policies for securing well-designed places. The development is not therefore sustainable and there is conflict with Paragraph 11(d)(i) and (ii) of the NPPF. The dismissal of the appeal is a proportionate response.
41. The appellant seeks a permanent permission, however, I have also considered whether a temporary consent would be reasonable. Planning Practice Guidance indicates the circumstances in which a temporary planning permission may be appropriate including where a trial run is needed to assess the effect of the development on the area or where it is expected that planning circumstances will change in a particular way at the end of that period. In this case a trial run is not needed. The circumstances in relation to the supply of pitches may change with the adoption of the Local Plan 2040. However, having regard to the current status of the Local Plan Review, which is in abeyance, there is no certainty, as this would not be for a number of years. The harm that I have identified would thus endure for many more years.

42. I conclude that a temporary planning permission should not be granted. The appeal on ground (a) does not succeed.

Appeal on ground (f)

43. The appeal is that the steps required by the notice exceed what is necessary to achieve the purpose of the notice. With regard to the unauthorised change of use, in broad terms the objectives of the notice are to discontinue the use of the Land and to restore the Land to its condition before the breach took place, by removing various works and items, including the septic tank that has been installed. The purpose of the notice is thus to remedy the breach of planning control.
44. The appellant considers it to be excessive to require the removal of the septic tank, as it does not create encroachment into the rural area nor represents a harmful and urbanising form of development in the countryside. However, it can be seen from my decision on ground (a), that I have found that the use of the Land for the stationing of caravans for residential use should not be granted planning permission. The septic tank is in itself operational development, it does not have the benefit of planning permission and has been brought onto the Land to facilitate the use as a residential caravan site. It is not therefore excessive to require the removal of the septic tank to achieve the statutory purpose of the notice.
45. The appeal on ground (f) fails.

Appeal on ground (g)

46. The issue is whether the compliance period of twelve months is reasonable and proportionate. The appellant has requested that consideration be given to granting a three year temporary consent.
47. It can be seen by my decision on ground (a) that I did not consider that permission should be granted on a temporary basis. It seems to me that the period of 12 months set out in the notice to comply with the steps is a reasonable period of time for the appellant to find alternative accommodation, vacate the site and restore the land to its previous condition.
48. The appeal on ground (g) fails.

Conclusion

49. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Elizabeth Pleasant

INSPECTOR