



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 27 June 2025

Appeal Ref: APP/Z3825/C/22/3309743

Land west of Harbolets Road, West Chiltington, West Sussex, 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 Richard Lidbeter against an enforcement notice issued by Horsham District Council.
 - The notice was issued on 28 September 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from agriculture to a mixed use of agriculture and for the stationing of a caravan for the purposes of human habitation together with associated operational development comprising the installation of a septic tank in the approximate position shown on the attached plan.
 - The requirements of the notice are to:
 - (1) Permanently cease the use of the land for the stationing of the caravan/mobile home shown in the approximate position on the attached plan for the purposes of residential occupation.
 - (2) Remove from the land the said caravan/mobile home;
 - (3) Remove from the land the decking, septic tank and associated services shown in the approximate location on the attached plan which are incidental to the unauthorised residential caravan site/use of the land;
 - (4) Following step (3) above, restore the land to its original condition before the breach took place by filling in the hole with soil and sowing the area with grass seed.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (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.
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Decision

1. 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 1990 Act as amended.

Preliminary Matters

2. Although the site visit had been arranged as an accompanied visit, nobody attended on behalf of the appellant and Mr Lidbeter did not appear to be at the property when the visit was made. However, I was able to see the mobile home, decking and surrounding area from the adjacent track and public footpath, and I have made my decision on that basis.
3. The Council's statement of case indicates that they are led to believe that the appellant is a member of the travelling community. However, they state that no evidence has been provided to demonstrate that the appellant would meet the definition of a "Gypsy and traveller" for planning purposes as set out in Annex 1 of the PPTS 2015. Furthermore, the appellant in his initial grounds of appeal and statement of case does not indicate that to be the case and nor is it suggested that the deemed application is for/or currently occupied as a Gypsy and traveller site.

Moreover, it is the appellant's case that the mobile home is required to support a rural enterprise. Nevertheless, having regard to the National Planning Policy Framework, December 2024 (NPPF) and the Planning Policy for Traveller Sites, December 2024 (PPTS), both of which have been issued since the appeal was made and statements submitted, the main parties were given an opportunity to make further representations in relation to those policy documents. No further comments were received.

4. Considering all of the above and having regard to the appellant's case set out in his grounds of appeal and supporting statement, I have dealt with the appeal on the basis that the deemed application is not for a Gypsy and traveller site.

Main Issues

5. The main issues in this case are:

- whether the development would be in a suitable location having regard to local planning policy;
- the effect of the development on the character and appearance of the area; and
- the effect of the development on the integrity of the Arun Valley SAC, SPA and Ramsar, with particular reference to water neutrality.

Reasons

Suitable location

6. Policy 2 of the Horsham District Planning Framework 2015 (HDPF) seeks to maintain the district's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services and local employment. Policy 3 of HDPF lists the hierarchy of settlements that have defined built-up area boundaries. Supporting text paragraph 4.7 explains that land outside these built-up area boundaries is in the countryside where development will be more strictly controlled.
7. Policy 4 of HDPF supports the expansion of settlements outside built-up area boundaries only where all of the five criteria are met. The appeal site is not within any of the settlements listed in Policy 3 and is therefore countryside for planning policy purposes. In addition, the site is not allocated in the Local Plan or a Neighbourhood Plan which is the first criteria of Policy 4. Consequently, there is conflict with Policy 4 in that regard.
8. However, it is the appellant's case that the caravan/mobile home is required for purposes of animal husbandry. He contends that the appeal site forms part of an established stud farm, with the four existing stables being utilised along with the hay barn. A pedigree Friesian stud horse services mares which visit the premises and stay for on average 3 days. The appellant maintains that someone needs to be in attendance 24 hours per day whilst horses are staying at the premises, and security is critical given levels of rural crime.
9. Policy 26 of HDPF states that development outside built-up area boundaries must be essential to the countryside location whilst Policy 20 relates to rural workers accommodation and advises that outside of defined built-up areas new housing for rural workers will be supported provided that:

1. *There is a functional need for the dwelling and the occupation of the dwelling is to support the established business use.*
 2. *Evidence is submitted to demonstrate the viability of the rural business for which the housing is required.*
10. No evidence has been submitted to demonstrate the viability of this rural business as required by HDPF Policy 20 (2). Moreover, the Council has confirmed that the existing stabling and hardstanding on the Land is unauthorised. The stables and yard were the subject of a dismissed appeal in 2016¹ and a subsequent enforcement notice is in effect on the Land which requires the stables and hardstanding to be removed². Consequently, any stud farm which is currently operating and utilising those buildings does not have the benefit of planning permission. From the evidence available it has not been demonstrated that there is an established, nor indeed a viable business use on the Land for which there is a functional need for a dwelling. There is therefore conflict with Policies 20 and 26 of HDPF the aims of which are set out above.
11. I conclude, for the reasons set out above, that the development is not in a suitable location with respect to the settlement strategy. There is conflict with HDPF Policies 2,3,4,20 and 26, the aims of which are set out above.

Character and appearance

12. The appeal site lies within an area predominantly characterised by farmland, small to medium sized fields enclosed by hedgerows, scattered woodlands, copses and lanes. Development in the surrounding area is generally in the form of dispersed farmsteads or cottages.
13. From the evidence before me, including the most recent Inspector's decision in relation to a proposal for a Gypsy and traveller site on the Land³, prior to the unauthorised development taking place, the appeal site was undeveloped grassland which formed part of a larger agricultural field.
14. Policy 25 of 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 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.
15. 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

¹ APP/Z3825/W/16/3146238.

² Appendix A, Council's Statement of Case.

³ APP/Z3825/W/19/3242284.

the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

16. As set out above, the site lies in a rural area characterised by farmland. A public right of way (PROW) runs close to the eastern boundary of the site, and this PROW links Harbolets Road to Broadford Bridge Road. Whilst passing the site the existing hedgerow provides some screening; the mobile home is clearly visible from the PROW as it crosses the open fields to the west and it appears incongruous in this farmland setting. The residential use of the site, including the decking and domestic paraphernalia substantially alters the character and appearance of the rural landscape. Furthermore, the enclosure of the site, whether by the existing fences or replacement planting, subdivides the original field pattern and creates an uncharacteristic small parcel of land which is out of keeping with the open character of the fields in the surrounding landscape of which the site originally formed a part.
17. For the reasons given above, I conclude that the development conflicts with Policies 25 and 26 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.

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

18. 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 policy⁴.
19. 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.
20. 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.
21. 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.

⁴ 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).

22. 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.
23. The siting of a mobile home for residential occupation would increase water consumption on the site given the land's previous and lawful agricultural use. Thus, on the evidence before me, without mitigation, the appeal scheme would not be water neutral so would be likely to have a significant effect on the integrity of the protected sites, either alone or in combination with other projects.
24. The appellant advises that the appeal premises are self-sufficient. He states that there are four 1000 litre water containers on site which are filled when needed from water extracted from beyond the Hardham catchment area. He advises that the water is easily made safe for human consumption, although the appellant uses bottled water for drinking water. Rainwater is harvested and used for the animals.
25. I am mindful that the PPTS encourages the use of conditions to overcome harm. However, in this instance there is no surety over where the water is extracted from to fill the containers, or indeed how much water is necessary to serve the occupiers of the site. Nor do I have any details over how the water would be treated to be potable, what system would be installed and what that would look like in terms of infrastructure both inside and outside of the caravan.
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 deemed application can demonstrate water neutrality and would not have an adverse impact on the integrity of the Arun Valley SAC/SPA. In the absence of a detailed scheme to demonstrate how this would be achieved, I cannot be confident the scheme would be water neutral, and 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 on the development 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 the protected European site, with particular reference to water neutrality. The development is therefore contrary to Policy 31 of HDPPF, which reflects the Habitat Regulations. It is also contrary to policies in the NPPF which seek to protect the integrity of habitat sites.

Other Matters

28. I appreciate the appellant's desire to establish a stud farm on the Land, and concerns raised regarding his security, health and wellbeing. However, the private wishes of an individual do not outweigh the harm identified to the character and appearance of the area.

Planning Balance

29. The Council accepts that it cannot demonstrate a five-year housing land supply. However, policies in the NPPF that protect habitats sites provide a clear reason for refusing development. Therefore, as set out in footnote 7 of the NPPF, the presumption in favour of development at paragraph 11. d) is not engaged.
30. In addition to harm to protected habitats, I have identified harms to the settlement strategy and character and appearance of the area. Together, I give these harms substantial weight. The adverse impacts I have identified of granting planning permission significantly and demonstrably outweigh the limited economic and social benefits derived from the provision and occupation of a single home, when assessed against the policies in the NPPF taken as a whole.
31. As set out in my preliminary matters, having regard to the appellant's appeal submission, there was no evidence that the deemed application was for a Gypsy or traveller. However, even if that were to be the case, having regard to my findings on the main issues relating to habitat protection and character and appearance, the planning balance would not be tipped in favour of an approval on that basis.
32. The appeal on ground (a) fails.

Appeal on ground (g)

33. The issue is whether the compliance period of twelve months is reasonable and proportionate. The appellant states that the period for compliance should reasonably be 18 months, although he does not give any reasons why 12 months is unreasonable.
34. In the absence of any substantive evidence that would lead me to a different conclusion, the decision that I have come to is that the period of 12 months set out in the notice is a reasonable time period for the appellant to find alternative accommodation, vacate the site and restore the land to its previous condition.
35. The appeal on ground (g) fails.

Human Rights

36. I have taken into consideration the Human Rights Act 1998. Article 8, a Convention Right⁵, 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. 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 to dismiss 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 time for compliance with it, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.

⁵ Article 8 of the European Convention on Human Rights (ECHR), enshrined into UK law by the Human Rights Act 1998.

Conclusion

37. I have found that the proposal conflicts with the development plan, read as a whole. No other material considerations, including the NPPF, have been shown to indicate that a decision should be taken otherwise than in accordance with it.
38. 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