
Appeal Decisions

Hearing held on 3 June 2025

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 11TH July 2025

Appeal A Ref: APP/Y9507/C/25/3361927

Land at Halfway Bridge, Lodsworth West Sussex, Petworth, GU28 9BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Joseph Smith against an enforcement notice issued by South Downs National Park Authority (SDNPA).
 - The notice was issued on 6 March 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land to use for the stationing of a mobile home and touring caravan for the purposes of human habitation.
 - The requirements of the notice are: (i) Cease the use of the land for the stationing of a mobile home and touring caravan for the purposes of human habitation; (ii) Remove the mobile home, touring caravan and vehicles from the Land; (iii) Break up the hardstanding and remove the resulting debris from the Land together with all drainage and water pipes; (iv) Remove the wooden sleepers which surround the hardstanding area from the Land; (v) Remove the wooden shed from the Land; and (vi) On completion of the steps i to iv above level the area affected and reseed with grass.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/Y9507/W/25/3361631

Land at The Watermill, Halfway Bridge, Lodsworth, Petworth, GU28 9BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Smith against the decision of South Downs National Park Authority.
 - The application Ref. is SDNP/24/04808/FUL.
 - The development proposed is the change of use of land for the siting of 1 static caravan, for human habitation for Gypsy and Traveller, with 1 touring caravan, associated hardstanding for parking (part retrospective).
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of “6 months” and its substitution with “12 months” as the period for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The appeals concern land in the countryside on the east bank of the River Lod, a tributary of the River Rother. It lies just outside the settlement boundary of Halfway

Bridge, a small hamlet on the A272. The land abuts Halfway Bridge Road, a short class D road, it was part of the A272 before road straightening works and now forms a short loop, joining the A272 either side of Halfway Bridge. The road frontage is largely open, though there is a short section of hedgerow at the eastern end. The land the subject of the enforcement notice includes that for which planning permission is sought. It is part of a larger holding that extends to the A272. Prior to the development enforced against it was low lying pasture bounded by mature woodland on its eastern side and with mature trees along the A272 and River Lod banks. The enforcement notice land abuts Halfway Bridge Road and extends about halfway into the overall holding. The planning application land is just over half of that land, set towards the northern edge about 15 m from the riverbank. The land is within the South Downs National Park.

Appeal A – ground (b)

4. An appeal on ground (b) is that the matters comprising the alleged breach of planning control have not occurred, as a matter of fact. What this ground is actually disputing is the extent of the land enforced against, claiming that it includes land that has remained in agricultural use and hence the allegation should properly relate to a mixed use of the land including agriculture. The burden of proof on this ground is on the appellant. Nothing of substance has been submitted to substantiate the claim of continuing agricultural use, and it was evident to me on my site visit that the land that is claimed to have remained in agricultural use is now in residential use. It is laid to amenity grassland, has domestic paraphernalia on parts of it and its manicured appearance is in stark contrast to the adjoining pony paddocks. Its character is that of a domestic lawn. I do not accept the appellant's claim that its use has not changed as alleged, nor is there any substantial evidence that it was not in residential use associated with the occupation of the caravans when the notice was issued, whereas photographs of the site taken before the notice was issued show the land in question being used to facilitate the works enabling the change of use. That the planning application relates to a smaller parcel is irrelevant.
5. Also raised is the requirement to remove operational development. I deal with that under ground (f). It is not a ground (b) matter.

Appeal A – ground (c)

6. An appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The only matter raised here is that a caravan could be stationed on the land under agricultural permitted development rights that may arise in the future. I deal with that under ground (f), but it is not in any case a ground (c) matter, which is concerned with the present only.

Appeal B

7. The site is located in the National Park (NP) within which there is a duty to further the purposes of designation. These comprise (a) to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and (b) to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. The National Planning Policy Framework (NPPF) requires that great weight be given to conserving and enhancing landscape and scenic beauty in National Parks.

8. The development for which planning permission was sought is broadly similar to that enforced against. The application site itself is confined to the northern part of the land away from the River Lod. The proposed mobile home would be sited roughly where it is at present, that is relatively close to the roadside and roughly aligned with the northern boundary of the site. A touring caravan would be sited near the southern edge. Due to flood risk, the mobile home would be elevated above design flood levels, sitting on a bespoke steel frame fixed to the ground. Hardstanding would occupy about half of the application site, directly abutting the public highway. The remainder would be grassland. The hardstanding currently on the site is raised above the natural ground level. However, the application plans, including the Proposed topographical site plan¹, show no changes in levels, and I have determined the appeal on that basis.
9. The traveller status of the appellant and other occupants for Planning Policy for Travellers Sites (PPTS) purposes, is not disputed. Having heard the oral evidence of the appellant I see no reason to disagree, and I have determined the appeals on that basis. National policy is contained within PPTS and the NPPF and these are material considerations. PPTS, which must be read in conjunction with the NPPF, aims to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Amongst other things, it expects local planning authorities to increase the number of traveller sites in appropriate locations to address under-provision and maintain an appropriate level of supply.
10. Relevant development plan policies are in the South Downs Local Plan 2014-33 (SDLP). SDLP Policy SD1 sets out the NP purposes and provides that development proposals that fail to conserve the landscape, natural beauty wildlife and cultural heritage of the NP will be refused unless the benefits of the proposal demonstrably outweigh the great weight to be attached to those interests, and there is substantial compliance with other relevant policies in the development plan. Policy SD2 expects an overall positive impact on the ability of the natural environment to contribute goods and services, including by managing and mitigating the risk of flooding, while Policy SD4 expects the design, layout and scale of development to conserve and enhance landscape features, and to not undermine the settlement character and individual identity of settlements and the integrity of predominantly open and undeveloped land between settlements. Policy SD5 seeks to ensure proposals adopt a landscape-led approach and respect local character, Policy SD7 aims to conserve and enhance relative tranquillity, and Policy SD8 aims to conserve and enhance the intrinsic quality of dark night skies. Policy SD49 expects development to reduce the impact and extent of all types of flooding. Policy SD33 seeks to meet the need for Gypsy and Traveller sites and sets out criteria for appropriate sites.

Main issues

11. The main issues are the effect of the proposal on the character and appearance of the area and the effect in terms of flood risk. Material considerations include the availability of alternative sites, the need for, and provision of gypsy/traveller sites, personal considerations, the intentional unauthorised nature of the development, and human rights and equality considerations.

¹ Drawing No. GP/01/24 Rev A

Character and appearance

12. The appeal site lies within landscape character type H1 Rother Floodplain as defined in the South Downs Integrated Landscape Character Assessment (LCA), key characteristics of which include river pasture and woodland habitats, and historic stone bridges. Prior to the development the site was undeveloped riverside pasture land with a largely open road frontage, bounded to the east by woodland, with mature trees also present on the A272 and riverside boundaries. An old stone bridge crosses the river just beside the site as the road enters the small hamlet of Halfway Bridge. Hence many of the key characteristics of the landscape character type are present within the site and its immediate vicinity. As such I consider that, development aside, the site makes a significant positive contribution to the landscape and scenic beauty of the NP.
13. The roadway also has the character of a quiet rural lane and is well connected to the public footpath network either side of Halfway Bridge, providing opportunities to understand and enjoy the special qualities of the NP.
14. While caravan sites are not unusual sights in the countryside, in this case I consider that the introduction of the development has had a detrimental effect on local character. On the approach to Halfway Bridge from the east the stone bridge and tree-lined river creates a natural settlement boundary. In this context the development is not well related to the settlement, rather it appears as a somewhat incongruous extension of the settlement into the countryside. The mobile home and the residential use of the site with its associated touring caravan and domestic paraphernalia and vehicles have an urbanising effect on the site which is alien in character in the context of its surroundings. I acknowledge that there is ample scope for hedgerow planting along the frontage which would mitigate the incongruous appearance of the development, but that would also screen views along the river and across the meadow, which would diminish the natural landscape contribution and visual qualities of the site.
15. The proposed approach to flood protection also means that the mobile home on the site would be elevated on a fixed structure. The floor level would have to be at about 1.41m above ground to comply with current Environment Agency guidance which requires a minimum of 0.6m above the design flood level for the site. The additional height, and the somewhat uncharacteristic sight of a significantly raised mobile home, would give it an undue prominence which I consider would render views of the mobile home visually discordant.
16. The development also lies within a Dark Skies Core area, and there is evidence that the use of security lighting at the site has had a detrimental impact in that respect. I consider it more likely than not that a scheme of lighting could be developed which would avoid significant Dark Skies impact, and that could be secured by condition.
17. Overall, however, the development would harm the landscape and scenic beauty of the NP. Furthermore, it would appear as an incongruous and unsympathetic intrusion into the countryside setting of Halfway Bridge, which would be detrimental to local character, while the discordant appearance of the elevated mobile home would give the development an undue and harmful visual prominence. As such it would conflict with Policies SD4 (Landscape Character) and SD5 (Design) of the

South Downs Local Plan 2014-33 (SDLP), which together require development to conserve and enhance the distinctive character of the existing landscape.

Flood Risk

18. The appeal site land lies within Flood Zone 3. The appellant's flood risk consultant suggests, on the basis of the 2023 Chichester Strategic Flood Risk Assessment (SFRA), that it does not lie within the functional floodplain (Flood Zone 3b), but that SFRA is not the most recent. The EA confirmed at the hearing that it is shown within Flood Zone 3b on the South Downs National Park SFRA, published in January 2025, and I proceed on that basis. Flood Zone 3b is land that has a high probability of flooding, being land where water from rivers or the sea has to flow or be stored in times of flood. The primary flood risk in this case is fluvial flooding from the River Lod.
19. Caravans and mobile homes intended for permanent residential use are considered to be highly vulnerable development for planning policy purposes, and the Planning Practice Guidance (PPG) states that such development should not be permitted in Flood Zone 3. PPTS also advises that local planning authorities should ensure that their policies do not locate traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans. The PPG indicates that the Sequential and Exception tests are not applicable to Highly Vulnerable development in Flood Zone 3, though the NPPF provides that where development is necessary in high risk areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
20. According to the EA, the design flood level for the site is a 1% Annual Exceedance Probability (AEP) event, plus appropriate climate change allowances, which for this development would be the central allowance (35%). The greatest flood water surface height on the site during this modelled event is predicted to be 15.98mAOD. In the vicinity of the mobile home, this would equate to flood water depths of between 0.61-0.87m. Under those circumstances the mobile home raised as proposed would provide a refuge, but there would be no safe access or egress, whether by foot or vehicle. It has been suggested that a raised walkway could be constructed to link the mobile home to dry ground, but that is not a part of the planning application, nor is it clear to me that such a structure could be provided within land under the control of the appellant. There are not sufficient details available to me to accept that as a tenable proposal. Using the mobile home as a safe refuge would also be likely to put pressure on emergency services, particularly as access to the site could be hazardous in extreme events.
21. It is also proposed that the occupants register with the EA Flood Warning system, and evacuate the site upon receipt of a warning, which is intended to give at least 2 hours warning. However, the EA do not recommend relying on flood warning and evacuation as an effective mitigation as not all flood events will be predictable. Furthermore, mobile phone signal at the location is poor, and internet services may not be wholly reliable during extreme events.
22. Developments in high flood risk areas must also ensure that they do not increase flood risk elsewhere. This requires consideration of the effects of the development on flood flow and storage. The development the subject of the enforcement notice includes the laying of hardstanding which has raised land levels by up to 0.6m, which has implications for flood flow, and possibly storage depending on infiltration,

but this can be required to be removed, and the planning application does not propose land raising, notwithstanding that some hardstanding is proposed. However, there is likely to be some loss of flood storage due to the operational development proposed. This includes the raised plinth for the mobile home and foul water management infrastructure such as package plant, septic tank or cess-pit, Subsurface construction or installation would reduce flood storage capacity on the site. This has not been quantified, but I consider the development is likely to reduce the flood storage capacity on the site, and no compensatory measures, which must be provided outside the existing floodplain but hydraulically connected, have been proposed.

23. In terms of flood flow, it is proposed that the void below the mobile home be kept clear at all times. However, the PPG advises² whilst the use of stilts and voids below buildings may be an appropriate approach to mitigating flood risk to the buildings themselves, such techniques should not normally be relied upon for compensating for any loss of floodplain storage. This is because voids do not allow water to freely flow through them, trash screens get blocked, voids get silted up, they have limited capacity, and it is difficult to stop them being used for storing belongings or other materials. Furthermore, even if the void is maintained, the structure itself has the capacity to trap debris that has been mobilised by the flood, such as large branches, trees, dustbins, cars or sediment. When carried by floodwater, such debris may hit the structure above or below the waterline. The 14000l rainwater collection tank proposed to address the water neutrality issue would also impede flood flow if sited above ground and reduce storage capacity if below ground. Domestic paraphernalia and the touring caravan on the site would also be at risk of being mobilised in the event of a flood, which could cause blockages in watercourses among other things, which in turn could increase flood risk elsewhere.
24. While the site does not appear on the EA 'recorded flood outlines' database as having flooded before, it is known to have flooded in 2013, when locals recall that water levels overtopped the stone bridge beside the site. The nearby River Lod monitoring station approximately 200m north of the site measured a flood level of 2.93m (17.18mAOD) during that flood event in December 2013, so it is entirely possible that the appeal site could have experienced flood depths of around 2m.
25. There is a risk of serious flooding of the site, and during the design events there would be no safe escape route, requiring the occupants to take refuge in the mobile home for potentially extended periods while placing additional strain on emergency services. As such I consider that the risk to the occupants, which would include a number of young children, would be significant. Furthermore, the development has the potential to increase flood risk elsewhere. I acknowledge that elevating caravans above design flood levels, and the use of conditions requiring adherence to flood evacuation plans, have been accepted as sufficient risk mitigation by Inspectors in other appeals, but in the specific circumstances I am dealing with here I do not consider that such an approach would succeed in making the site safe from flooding for its lifetime, nor that it would avoid increasing flood risk elsewhere. As such the development is contrary to national planning policy and guidance and in conflict with SDLP Policies SD2 and SD49, which seek to reduce flood risk.

² Paragraph: 049 Reference ID: 7-049-20220825: Revision date: 25 08 2022

Alternative sites and the need for, and provision of gypsy/traveller sites

26. PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. SDNPA acknowledge that there is a need for pitches in the Chichester area of the National Park. The most recent Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment (GTAA), finalised at the end of December 2024 and taking account of the recent changes to the relevant definition, estimated an overall need for 14 pitches over the plan period 2024 -2042, 11 of which are needed in the first five year period (2024-2029). This is a matter to which I attach substantial weight.
27. There are no outstanding Local Plan allocations or unimplemented planning permissions for gypsy and traveller accommodation in this part of the NP, so that SDNPA are also unable to demonstrate a 5-year supply of sites. The provisions in paragraph 11(d) of the NPPF therefore apply. I deal with this in the planning balance below.
28. So far as alternative sites are concerned, SDNPA accepts that pitches on the 2 Council run sites only become available infrequently, and these require registration on the waiting list, which the appellant has not done. However, they are unable to identify any suitable available alternative sites at present. This adds further moderate weight in favour of the development.

Personal circumstances

29. The appellant, his partner, their 5 young children and the appellant's adult son occupy, or would occupy the site. Two of the children are home-schooled and the others are registered at a nearby school. Family circumstances mean that not all traveller sites would be appropriate. They maintain that in the event of having to move off the site, they would be likely to have to resort to the roadside.

Intentional unauthorised development

30. A Written Ministerial Statement (WMS) of 17 December 2015, which remains in force, made "intentional unauthorised development" a material consideration in planning applications and appeals. It explains that the reason for this is the Government's concern about the harm caused where the development of land has been undertaken in advance of obtaining planning permission, because in such cases, there is no opportunity to mitigate the harm that has already taken place. From the evidence before me, I can see that the Appellant had what he regarded as good reasons for undertaking the unauthorised development of the site, and some steps had been taken to support a planning application prior to the unauthorised development. Nevertheless, the fact that the development was carried out without first obtaining planning permission is a material consideration which carries some weight against a grant of planning permission.

Other matters raised

31. Among the reasons for refusing the application was a failure to demonstrate that the development could be made water neutral, since any additional water abstraction in the area has implications for the integrity of internationally protected habitats sites. The appellant has provided a water budget which he claims

demonstrates that the site would be self-sufficient in this respect. However, the budget uses assumed occupancy rates that are too low and relies upon the site being vacant for significant periods, namely when the family would usually be travelling. If no account is to be taken of the actual number of people living on the site, the appropriate occupancy figure should be that used locally for residential development, and the travel pattern of the family, or its intentions, cannot be guaranteed and so cannot provide a sound basis for a conclusion that the development would not affect protected habitats. Such a conclusion would have to be based on a very high degree of certainty, which would not be the case if there was reliance on past or intended travelling plans. Nonetheless, I am assured that there are commercial schemes available to the appellant that would enable any site specific shortfall in water neutrality terms to be fully mitigated, and this could be made the subject of a planning condition, as discussed at the hearing. Accordingly, this is not a matter that would prevent a grant of planning permission.

32. The composition of the hardstanding laid on the site is also a matter of concern to SDNPA, given proximity to the watercourse and the clear potential for pollution by contaminants. In response the appellant has provided laboratory analysis of what he claims is the construction waste deposited on the site. However, nothing links the analysis to the site, and the analysis documents themselves indicate a sampling date at the claimed source of the waste that post-dates the laying of the hardstanding. In short, the composition of the hardstanding is unknown, and so it could well be a source of pollution. However, as I have noted above, the hardstanding currently on the site is not relied upon. Its removal could be required by condition, as could the composition of any hardstanding subsequently laid to facilitate the development.

Balance

33. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. While there is no direct conflict with SDLP Policy SD33, which concerns traveller site proposals, as set out above the proposal conflicts with policies that seek to conserve and enhance the natural beauty and landscape quality of the NP and avoid flood risk. Considered in the round I consider that there is not substantial compliance with relevant policies in the development plan, hence the proposal conflicts with Policy SD1, and with the development plan read as a whole.
34. As noted above, the NPPF and PPTS are material considerations. PPTS requires proposals for pitches be assessed and determined in accordance with the presumption in favour of sustainable development. Since SDNPA is unable to demonstrate a five-year supply of deliverable pitches, paragraph 11(d) of the NPPF is engaged. This means that the policies which are most important for determining proposals for the provision of sites are out of date for the purposes of the NPPF. However, paragraph 11(d)(i) of the NPPF does not require planning permission to be granted where policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development. Such national policies include those relating to National Parks and areas at risk of flooding, and in this case I am satisfied that they do provide strong reasons for refusing the development.
35. The unauthorised nature of the development weighs against the appeal, but I have accorded substantial weight to the unmet need for traveller sites, the lack of a 5-

year supply of sites, and moderate weight to the lack of a suitable alternative site. The best interests of the children is a primary consideration and would also normally weigh in favour of the development. The benefits for children of a stable settled site are significant in many ways, not least being access to education and health services. However, these benefits for the children are outweighed here by the significant risk of serious flooding. While I acknowledge that there is a possibility that the family would have to resort to a roadside existence, with all the disadvantages that go with that, living on a site that is prone to flooding would not be in the best interests of the children, in view of the potentially serious consequences.

36. On balance therefore I consider that the material considerations in favour of the development, individually or cumulatively, do not outweigh the conflict with the development plan.
37. Turning to the possibility of a temporary planning permission, the harm to landscape character and scenic beauty would be time limited and the overall flood risk lower. A period of 5 years is sought to allow time for SDNPA to adopt a new local plan that it expects to include site allocations to meet identified need. However, the land is highly vulnerable to flooding and this can happen at any time. Admittedly the risk over a 5-year period is lower, but in view of the history of this site I could not rule out the possibility that a high-risk event would occur within even that shortened time frame. I am not satisfied therefore a temporary planning permission is justified.
38. Dismissal of the appeal and upholding the enforcement notice will make the occupiers homeless, and accordingly I am mindful of the rights of the family under the Human Rights Act 1998, in particular Article 8 which affords the right to respect for private and family life as well as a person's home. However, these are qualified rights, and interference may be justified in the public interest. Regulating the use of land and protecting the environment is in the public interest and national and local planning policy place great weight on the conservation of landscape and scenic beauty in National Parks along with the need to avoid highly vulnerable development in flood risk areas. I consider in all the circumstances that the protection of the public interest cannot be achieved by means which are less interfering of the occupiers' rights. They are proportionate and necessary and hence would not result in a violation of the human rights of the occupiers. I have also had due regard to the public sector equality duty to seek to eliminate discrimination against persons with the protected characteristics of ethnicity, advance equality of opportunity and foster good relations, but the benefits of the development in this respect do not add weight sufficient to outweigh the conflict with the development plan and national policy.
39. Having considered all other matters raised, I conclude therefore that it is proportionate and necessary to dismiss the appeal.

Appeal A – ground (f)

40. Having regard to the purpose of the notice, this ground is that the requirements of the notice exceed what is necessary to remedy the breach. First it is argued that it is excessive to require the removal of the caravans since a caravan could be stationed on the land as permitted development once the agricultural use resumes. However, the requirements do not remove any lawful rights that may be available

upon compliance with the notice. This applies also to the requirement to remove vehicles.

41. The remainder of the appeal on this ground concerns the requirements to remove the hardstanding, sleepers and shed, on the basis that they are operational development that is not directly attacked by the notice. This operational development facilitates the material change of use rather than being fundamental to it. It is well established in law that such development can be required to be removed in those circumstances.
42. The steps required are the minimum necessary to remedy the breach and restore the land to its condition before the breach occurred. They are not therefore excessive and the appeal on ground (f) cannot succeed.

Appeal A – ground (g)

43. This ground is that the period for compliance falls short of what should reasonably be allowed. A period of 3 years is sought in order to look for a suitable alternative site. However, mindful of the ongoing flood risk I reluctantly agree with the SDNPA that extending the overall period for compliance to 1 year is reasonable in all the circumstances, and the appeal on this ground succeeds to that extent.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tony White	Planning Consultant
Michael Rudd	Barrister
Joseph Smith	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Derek Price	CDC
Andy George	CDC
Claire Tester	SDNPA
Phoebe Nelson	EA
Jack Rowe	EA

INTERESTED PARTIES:

Karl Thacker	Neighbour
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DOCUMENTS SUBMITTED

1. Appeal decision APP/T0355/W/24/3352872