

Appeal Decisions

Site visit made on 20 January 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 24 February 2026

Appeal A Ref: APP/L3815/C/25/3372104

Land North of Manor Copse Farm, Oak Lane, Shillinglee, Plaistow, West Sussex GU8 4SQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Paul Hayward against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered PS/75, was issued on 31 July 2025.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of Land to a camping site.
 - The requirements of the notice are:
 - i) Cease the use of the Land as camping site.
 - ii) Remove the following from the land: bell tents, the horse box sauna, hot tub, camp kitchen with BBQ, Hob and pizza oven, wooden storage shed, compost toilet, toilet and shower block, picnic benches, marquees and other tents.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/L3815/X/25/3358727

Manor Copse Farm, Oak Lane, Shillinglee, Plaistow, West Sussex GU8 4SQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Paul Hayward against the decision of Chichester District Council.
 - The application Ref PS/24/02/0480/PLD, dated 11 November 2024, was refused by notice dated 6 January 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as the use of 15 tents and a portable compost toilet for the purposes of glamping for a maximum of 60 stipulated stays per annum and maximum of 60 people at any one time. Previously operated under the 28 day rule prior to July 2024.
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Appeal C Ref: APP/L3815/W/25/3368755

The Coach House, Oak Lane, Shillinglee, Plaistow, Godalming, West Sussex GU8 4SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against the refusal of Chichester District Council to grant planning permission.

- The appeal is made by Mr Paul Hayward.
 - The application Ref PDS/24/02279/FUL, dated 10 October 2024, was refused by notice dated 31 March 2025.
 - The application for which planning permission is sought is described as a Glamping site for seasonal use between 1st April and 30th September for a maximum of 60 days; 15 x 4.5 meter bell tents; 1 x 6m x 6m freestanding Marquee; 1 x sectional built free standing compost toilet and 1 x sectional free standing timber shed measuring 3.5m x 1.8m(retrospective).
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Summary Decisions

Appeal A is dismissed and the enforcement notice is upheld

Appeal B is dismissed

Appeal C is dismissed

Application for costs

1. In relation to Appeal C only, an application for costs was made by Mr Paul Hayward against Chichester District Council. That application is the subject of a separate Decision.

Procedural Matters

2. In situations such as this where more than appeal relating to the same site are travelling together, it is the convention to treat the appeal against the Enforcement Notice as the lead appeal.
3. These appeals are three out of a total of five appeals submitted by the same appellant, Mr Paul Hayward, relating to different parcels of land in his ownership in this location. Mr Hayward has indicated that he would prefer if the appeals relating to the other parcels of land (PINS References: APP/L3815/X/23/334659 and APP/L3815/X/25/3371010) could be the subject of separate Decisions. Accordingly, the Decision relating to 'The Coach House' (a different parcel of land than that subject to these Appeals) and 'The Forge' are the subject of separate Decisions.
4. I have taken the address of the appeal site from the Enforcement Notice (Appeal A) and the Council's formal Decision Notice (Appeal B and C). The address of the site is variously described in those documents. In the Enforcement Notice (Appeal A), it is described as 'Land North of Manor Copse Farm'. In the LDC application (Appeal B) and in the refusal of planning permission (Appeal C), it is described as 'The Coach House'. However, whilst there are some minor differences and notwithstanding the comments below in terms of the notification for the purposes of the LDC proposal, I am satisfied that the 'red line' identifying the site to which the appeal relates is effectively the same in each case.
5. The development plan for the area includes the Chichester Local Plan (Local Plan). The current Local Plan was adopted after the Council issued its decision in relation to planning application PDS/24/02279/FUL (Appeal C). The appellant has had an opportunity to comment on the policies in the new Local Plan. I will determine Appeal C having regard to the policies in the current version of the Local Plan, as far as provided to me.

6. The proposed use of the site is variously described across all three applications as being for camping or glamping. I regard these terms as being interchangeable but, in the interest of consistency, will use the term 'camping' here unless the context requires otherwise.

Appeal A: the Enforcement Notice

7. At the site visit, the appellant indicated that a strip of land at the southern end of the land to which the enforcement notice relates was not in his ownership. According to Mr Hayward, this strip of land was previously in his ownership but he has subsequently sold that land. I therefore did not enter that strip of land, given the possibility that I would then have been trespassing on private land.
8. I was immediately mindful that the appellant had not made an appeal on ground (e) as set out in section 174(2) of the Town and Country Planning Act 1990 (the 1990 Act), namely that copies of the enforcement were not served as required by Section 172 of the Town and Country Planning Act 1990 (1990 Act). In summary, Section 172 of the 1990 Act requires that the enforcement notice shall be served on the owner and on the occupier of the land to which it relates, and on any other person having an interest in the land. That would have been the obvious and correct response if the notice included land that was not in the appellant's ownership.
9. Nevertheless, I am mindful that Mr Hayward is not professionally or legally represented in the submission of this appeal. Accordingly, I requested that Mr Hayward provided documentary evidence that he no longer owned the strip of land in question. I also requested that the Council to explain the measures that it took to identify the owner(s) of the Land before it issued the notice.
10. In an email response dated 27 January 2026, Mr Hayward provided two relevant documents. The first is a letter dated 27 January 2026 from Glanvilles Legal Services stating that "due to the complications of dividing the deeds and some administrative hold ups, the transfer of Hillside, which was signed in December 2023, has not yet been completed with Land Registry but will be updated in due course." Two points arise.
11. Firstly, although the letter of 27 January is headed 'Oak Lane, Shillinglee, Chiddingfold, it makes no reference to the land to which the enforcement notice relates, specifically the Land North of Manor Copse Farm. Instead, reference is made in the letter to the transfer of land known as 'Hillside'. I am aware that Mr Hayward owns several parcels of land in the locality of Oak Lane and that he uses the names of that land interchangeably. For example, on the Appeal Form, he refers to the land as 'The Camp Site, North of the Coach House, Oak Lane'. Similarly, in his Enforcement Appeal Statement, he refers to it as 'Anam Cara, Land North of the Coach House, Oak Lane'.
12. However, nowhere does Mr Hayward describe the land to which the enforcement notice relates as 'Hillside'. The first, and as far as I can tell only, reference to land known as 'Hillside' is in the letter from Glanvilles Legal Services dated 27 January 2026. There is no location plan attached to that letter from which to identify the land in question. Consequently, I am not satisfied that the land known as 'Hillside' is the land to which the enforcement land relates.

13. Moreover, even if 'Hillside' turns out to be the land to which the enforcement notice relates, the letter from Glanvilles Legal Services indicates that the transfer of that land has not yet been completed with Land Registry. The letter from Glanvilles Legal Services is therefore not evidence that this land was no longer in the appellant's ownership on the date on which the enforcement notice was issued (i.e. 31 July 2025).
14. The second relevant document provided by Mr Hayward is a letter from Ark Surveying Ltd dated 21 February 20206 (sic). I have some difficulty with this letter. Apart from the obvious typographical error with the year, it purports to be dated 21 February but was submitted under cover of an email dated 27 January 2026 and received in PINS that same day. However, the enforcement noted is dated 31 July 2025, the appeal was started on 27 August 2025 and the information regarding the extent of the area subject the enforcement notice was only requested on 20 January 2026 following my site visit. The date of 21 February (in any year) therefore does not appear to have any obvious relevance and/or foundation in fact, and as such is completely inexplicable and spurious.
15. The letter refers to a site visit having been undertaken but does not specify the date on which that site took place. Giving the appellant the benefit of the doubt, and assuming that the '21' portion of the date is correct, the site visit can then only have taken place on either 20 or 21 January 2026. This seems to be the most likely date(s) for when the letter was produced, but this leaves very little time (in fact effectively just one day) for Ark Surveying to be commissioned/instructed by the appellant, to carry out the desk-top survey described in the letter, to undertake the physical survey on site (bearing in mind that Ark Surveying's office is in Shoreham-by-Sea) and to draft the letter. I have serious reservations that this was possible and am of the opinion that this was probably not done in the timescale set out in the letter. This leads me to question the veracity of this evidence.
16. Nevertheless, taking the letter at face value, it records that the scaled measurement of the plan attached to the enforcement notice as being 104.46m between the southern and northern boundaries at its longest point. When overlaid on the Ordnance Survey map, Ark Surveying measured this same distance as being 123.74m. This led Ark Surveying to the conclusion that the area defined by the Council by the 'red line' on the plan attached to the Enforcement Notice does not in fact cover the entire field. This was confirmed by Ark Surveying during the subsequent site visit.
17. I am content on the basis of the measurements taken by Ark Surveying that the scaled measurement on the plan attached to the Enforcement Notice are not correct. This is, more likely than not, simply a function of copying the Ordnance Survey map. However, the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (the 2002 Regulations) state that an enforcement notice must specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise. I note that the 2002 Regulations do not specify that the plan attached to the notice has to be to a recognised scale or dimensioned.
18. In this case, the plan attached to the enforcement notice (which is itself based on an Ordnance Survey map) depicts some distinctive features in the boundary of the 'red line' against which the boundaries of the land subject to

the notice may be readily determined. These include the pond in the centre of the site, a distinctive kink in the boundary towards the southern end of the land and a path that leads from boundary just to the south of that. I am satisfied that the precise boundaries of the land to which the notice relates can be readily determined through reference to those features. I am therefore satisfied that the plan attached to the enforcement notice fully accords with the 2002 Regulations.

19. For the avoidance of any doubt, I am also satisfied that the plan attached to the notice encompasses the land at the southern end of the site to which I could not gain access during my site visit. It follows that the requirements of the notice equally apply to that area.
20. The Council's evidence in this respect is much more straightforward. It is explained that on 23 June 2025, prior to the issue of the notice, the Council undertook a Land Registry search (references WSX326340 and WSX213800). The information in the Land Registry search confirmed the information provided by the appellant in their planning application (Council Ref 24/02279/FUL) and linked to the enforcement appeal, specifically in the Certificate of Ownership (A) that he was the sole owner of all the land.
21. Following the appeal site visit on the 20 January 2026, the Council undertook further Land Registry searches. These are dated 21 January 2026. These confirmed that there is "no sale pending" under these titles with Land Registry and that the owner details remain unchanged to that confirmed on the titles dated 23 June 2025. The Council provided copies of all the dated Land Registry searches undertaken in relation to the land identified in the Notice, copies of which have been provided to me.
22. The Council note that the appellant did not raise this matter under a Ground (e) appeal and that, under Section D: Appeal Site Address of the Appeal Form, has ticked that they are the "owner".
23. In considering this point about land ownership, it is the situation at time the enforcement notice was issued that is important. The Council's evidence in this respect is very clear in that the Land Registry searches that it undertook immediately prior to issuing the notice confirmed that the appellant, Mr Paul Hayward, was the sole owner of the land at the time. All the other documentary evidence before me points in the same direction.
24. It may or may not be case that Mr Hayward is in the process of selling this land or part of it, albeit the reference to 'Hillside' in the letter from Glanvilles Legal Services raises a significant element of doubt in that respect. Overall, whilst I have not treated this as an appeal on Ground (e) as such, I am nevertheless satisfied on the balance of probability that that copies of the enforcement notice were served as required by Section 172 of the 1990 Act.

Reasons

25. Although I have followed the convention in terms of the hierarchy of appeals, it is logical to consider those appeals in a different sequence below, starting with the appeal against the refusal of the Lawful Development Certificate (Appeal B).

Appeal B

26. Section 191(4) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operation or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case shall refuse the application. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made.
27. The application was initially made under section 192 of the 1990 Act for a Lawful Development Certificate for a Proposed Use or Development. However, in answer to the question on the application form asking the use has started, the appellant (then applicant) ticked 'Yes'. I have therefore treated it as an application for a Lawful Development Certificate for an Existing Use or Development. The appellant has no objection to this.
28. Development consisting of— (a) the use of any land as a recreational campsite for not more than 60 days in total in any calendar year; and (b) the provision on such land of— (i) not more than 50 pitches; and (ii) any moveable structure reasonably necessary for the purposes of the permitted use is permitted by Class BC, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), subject to conditions and limitations.
29. Development is permitted by Class BC subject to the following conditions:
- (a) the developer must make on-site provision for users of the campsite of toilet and waste disposal facilities
 - (b) the developer must notify the local planning authority in writing before commencement of development in each calendar year, providing a copy of the site plan, which must include particulars of— (i) toilet and waste disposal facilities; and (ii) the dates on which the site will be in use;
 - (c) the local planning authority (if not the same body as the fire and rescue authority in an area) must as soon as practicable provide to the relevant fire and rescue authority the notice described in paragraph BC.2(b); and
 - (d) where the proposed development is on land within Flood Zone 2 or Flood Zone 3, the permitted development is subject to prior approval by the local planning authority before commencement of development in each calendar year.
30. The appeal site is located entirely within Flood Zone 1, such that the use is not subject to prior approval by the local planning authority pursuant to Class BC(d), Part 4, Schedule 2 of the GPDO. For the avoidance of any doubt, this

is not the same as the notification in writing to the local planning authority before commencement of development in each calendar year required by condition BC(b), Part 4, Schedule 2 of the GPDO.

31. The application form indicates that the use has been started. The Council's Delegated Decision Sign Off Sheet confirms this, indicating that at the site visit made by the Council the appellant explained that the tents had not been removed from the land, albeit the Council officer was denied access to the land to verify that. Furthermore, the Council explains in the Delegated Decision Sign Off Sheet that aerial photographs confirm that the tents were on-site in advance of the submission of the application.
32. The appellant maintains that he provided the dates for 2025 on 10 October 2024, but I have not been provided with a copy of that notification.
33. However, the Council has provided me with an email dated 6 August 2025 from the appellant, enclosing what purports to be notification of the commencement of the use for camping involving no more than 50 tents for a maximum of 60 days from a Mr Jon Hayden, who I understand to be a business associate of Mr Hayward. Three points arise.
34. Firstly, the address of the site is given as 'Border Land, Oak Lane, Shillinglee GU8 4SQ'. That is not the address cited on the application form, which refers to 'Manor Copse Farm'.
35. Secondly, the plan attached to that 'notification' shows a much larger site. The area red edged in red, which is usually taken as the land to which the application relates, extends much further south than that on the location plan submitted with the LDC application, extending in fact all the way to Shillinglee Road.
36. That plan also shows an area edged in blue towards the northern end of the site. I recall that this field was passed through during my site visit on the way to view the parcel of land to which the enforcement notice relates and is in fact subject to one of the other appeals that are before me (APP/L3815/X/25/3371010). It is indicated in the written part of the 'notification' that the area edged in blue is that to which the notification relates. However, that is not the land to which this LDC application relates, which is that sown edged in red on the location plan submitted with the LDC application.
37. Thirdly, the 'notification' by Mr Hayden is itself not dated. I therefore have no way of knowing whether that 'notification' was submitted before the use commenced, which is a requirement of condition BC(b). Neither can I be certain that this 'notification' relates to the land subject to the LDC application, given the number of different names to which the various parcels of land in Mr Hayward's ownership have been referred, including: 'Anam Cara', 'Hillside', 'Manor Copse Farm', 'The Camp Site' and now 'Border Land'.
38. I therefore conclude that, on the balance of probability, the use for the LDC is sought commenced prior to any formal notification being made to the Council. For that reason alone, the use was not in accordance with the conditions set out in condition BC(b), Part 4, Schedule 2 of the GPDO on the date on which the LDC application was made and an LDC cannot be granted for it.

39. Article 3(1) of the GPDO states that, subject to the provisions of that Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2. This then invokes a formal process for securing the view of the appropriate conservation body. In a consultation response 14 October 2025, Natural England advised that this development is unlikely to have a significant effect on any European designated sites.
40. The Council point out that to the position of Natural England in that consultation response is contrary to that provided by Natural England in relation planning application Ref: 24/02279/FUL, in which it was confirmed that further information was required to demonstrate that there would not be an adverse impact on protected sites or species. The Council maintain that there is a likely to be significant effect on these protected sites and species if the development is not mitigated. As such, it is the Council's view the proposal would be contrary to the Habitat Regulations.
41. The Council makes a fair point. On my reading of the two consultation responses from Natural England, there does appear to be an element of inconsistency between them. It is difficult to reconcile the differences. Nonetheless, the two consultation responses from Natural England are in respect of two different processes (a section 76 Regulation consultation and a planning application) and in my view should be treated as such. If, as in this case, it is the opinion of Natural England in a section 76 Regulation consultation response that a proposal is not likely to have a significant effect upon a European Site, that opinion is deemed to be conclusive. I must treat it as such for present purposes.
42. The response from Natural England goes on to explain that, in addition to the advice in that letter, there may be impacts on protected species and a mitigation licence may be required from Natural England. On my reading of the response from Natural England, that is an entirely separate matter from any impact on a European Site(s). Needless to say, the appellant must comply with both.
43. For the avoidance of doubt, compliance with the Habitats Regulations (on this occasion) does not overcome the fact that the use had commenced before the notification to the Council. That again means that the Council's refusal to grant a LDC was well-founded and that the appeal should fail.
44. There is, however, a further consideration here.
45. Article 3(5) of the GPDO states that:
- The permission granted by Schedule 2 does not apply if:
- (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful
- (b) in the case of permission granted in connection with an existing use, that use is unlawful.

46. The LDC does not relate to a permission granted in connection with an existing building, such that (a) is not relevant here. However, Class BC, Part 4, Schedule 2 of the GDPO grants a deemed planning permission for the use of land. It follows that (b) is potentially relevant here although, for the reasons set out below, the situation is somewhat complex.
47. The difficulty here is that the lawful use of the land has never been conclusively demonstrated through the grant of a LDC made under section 191 of the 1990 Act. The evidence before me tends to suggest that the lawful use of the land is for agriculture. The appellant accepts that this was the previous use of the land. Even if that use has now been dormant for some time there is no evidence before me that this use has been superseded by another lawful use. For the avoidance of any doubt, I make no formal determination to that effect (because that is not before me).
48. On the Application Form for the LDC, the appellant describes the existing or last use (he does not specify which) as being 'Other', specifically for camping. However, that has not been shown to be the lawful use of the land: if it was, the appellant would not need to rely upon Class BC, Part 4, Schedule 2 of the GDPO for a temporary use. The obvious implication of the appellant's description of the use is that, in the appellant's view, the lawful use of the land is not for agriculture. Indeed, the appellant indicates elsewhere that the land has not been used for any form of agriculture in 30 years.
49. The salient point is that the lawful use of the land is simply not known at this time: if not used for agriculture, what is the lawful use of the land? For the reason that I now come to, the absence of that known lawful use has significant implications for this LDC application.
50. The effect of Article 3(5)(b) of the GPDO is that permission would only be granted by Class BC, Part 4, Schedule 2 of the GPDO if the existing use of the land was lawful. For the purposes of the 1990 Act, section 191(2) of that Act states uses and operations are lawful at any time if:
 - (a) no enforcement action may then be taken in respect of them; and
 - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
51. I am confident that no enforcement notice is in place at this time in relation to this land, such that (b) is not relevant here. However, I cannot be certain from the evidence before me that no enforcement action may be taken in respect of the existing use of the land (if not for agriculture). I am therefore not in a position to conclude on the balance of probability that the existing use of the land is lawful for the purposes of section 191(2) of the 1990 Act and that Article 3(5)(b) of the GPDO does not apply. For that reason, I am not able to issue an LDC.
52. I conclude that, on the balance of probability, the Council's decision to refuse the application for the use of 15 tents and a portable compost toilet for the purposes of glamping for a maximum of 60 stipulated stays per annum and maximum of 60 people at any one time was well founded and that the appeal must fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Appeal A

53. The appeal has been made only on ground (c) as set out in section 174(2) (c) of the 1990 Act, namely that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.
54. The basis of the appellant's appeal is that there has not been a breach of planning control as the operation is covered by Class BC, Part 4, Schedule 2 of the GPDO. However, for the reasons set out in relation to Appeal B above, I have concluded that on the balance of probability the material change of the land to a camping site is not permitted by Class BC, Part 4, Schedule 2 of the GPDO.
55. It is no part of the appellant's case that the use does not constitute development for the purposes of Section 55(1) of the 1990 Act. Section 57 of the 1990 Act states that development requires planning permission. However, no planning permission, deemed or otherwise, has been granted for that use. Consequently, irrespective of the number of days on which the use operated as a result the weather/ground conditions, that use did not have the benefit of planning permission.
56. I therefore conclude that, on the balance of probabilities, the breach of planning control constituted by the matters stated in the notice does constitute a breach of planning control. Accordingly, the appeal on ground (c) fails. I will uphold the enforcement notice.

Appeal C

57. Planning permission was refused for a total of five reasons, although I understand that Natural England have subsequently withdrawn their position statement relating to the Sussex North Water Resource Zone. The reason for refusal relating to the requirement to demonstrate water neutrality has therefore fallen away. The main issues raised by this appeal are therefore whether:
- the location of the site outside of a Settlement Boundary is appropriate for the proposed use
 - the use of the land as a camping site would harm the character and appearance of this rural area
 - any part of the site is at risk of surface water flooding
 - the use of the land as a camping site would harm/disturb protected species and/or their habitats.

The location of the site outside of a Settlement Boundary

58. Policy 45 of the Local Plan states that within the countryside, outside Settlement Boundaries, development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.

There is no dispute that the appeal site is within the countryside and outside of any Settlement Boundary. Policy 45 therefore applies in this case.

59. Policy S2 of the Local Plan restricts development beyond settlement boundaries to that which requires a countryside location in accordance with Policy NE11, which sets out the criteria which development in the countryside must comply with Policy E9 specifically relating to camping and caravan sites and which states, amongst other things, that development proposals for new caravan and camping sites will be granted where it can be demonstrated that they meet a demonstrable need and the location identified is justified in terms of its contribution towards tourism.
60. It is axiomatic that it is entirely normal for campsites to be located in the countryside. Nevertheless, the policies in the Local Plan collectively require that camping development must meet a demonstrable need. In that context, the appellant's simple assertion that there is demand for the facility does not satisfactorily demonstrate a need for the development. 'Need' and 'demand' are entirely separate, such that demand does not necessarily equate to need.
61. No evidence has been provided to corroborate the appellant's claim in this respect and/or why that demand (if it exists) cannot be met in other locations that might be more suitably located, including within a Settlement Boundary. The appellant has provided no assessment of alternative sites or undertaken a structured site search (in this case, with the objective of showing that no suitable alternative sites exist in the locality).
62. In addition, there are very limited opportunities for sustainable modes of travel to and from the site. The nearest Settlement is Ifold which is approximately 4.5km away and offers only limited services. As a consequence, access to the proposed campsite is likely to be by private car as opposed to more sustainable modes of transport. The appellant maintains that a large proportion of those camping at the site arrive on foot or by bicycle, but no evidence has been provided to substantiate that claim.
63. The policies in the Local Plan require the location of new campsites to be justified in terms of its contribution towards tourism. The appellant maintains that the use the site assists the rural economy, bringing in people from surrounding cities who spend their money in village shops and pubs and engage in other local rural tourist attractions.
64. However, the appellant has made no attempt to quantify that contribution towards tourism and has provided no meaningful evidence of projected income to the local economy, including from visitor spend. Furthermore, the appellant provides no assessment in terms of local facilities or linkages to tourist attractions and destinations. In the absence of robust justification, the development would represent an unsustainable form of development in the countryside, contrary to Policies S2, E9, NE11 and 45 of the Local Plan.

Character and appearance

65. The appeal site is in open countryside and sits within an overtly rural landscape. The character and appearance of this rural area is defined, in part, by a mixture of open fields and wooded areas on undulating terrain. Buildings within this landscape are sparse and widely separated, with just a

few isolated houses and farm buildings in evidence. Overall, the area exhibits a distinct sense of tranquillity, and this contributes in no small part to the character of the area.

66. The appellant maintains that the tents cannot be seen anywhere off the site due to the landscaping and screening around the site boundaries. The Council contests this claim, and a photograph embedded within the Council's Statement of Case shows views into the site from the public right of way to the north of the appeal site. In that photograph, a marquee, covered area and some structures on the site boundary are clearly visible albeit no people are visible on the site itself. Neither are any of the bell tents, and as such it is not possible to determine from that photograph whether the use was taking place at the time that photograph was taken.
67. The use was not taking place at the time of my site visit, albeit the impressions on the ground where bell tents were previously erected were still clearly visible. As a consequence, I could not form my own view as the extent, if at all, that the proposed use would be visible from outside of the site itself, including from the public footpath. However, whilst the hedges and trees on the site boundary do filter views to some extent, it is apparent from that photograph that the bell tents themselves and the activity taking place on the site itself would be clearly visible from the public footpath if present.
68. Moreover, the National Planning Policy Framework (Framework) states that planning policies and decisions should recognise the intrinsic character and beauty of the countryside. Consequently, the fact that the use and activity on the site might not be easily visible from outside of it would not negate the in-principle harm to the intrinsic character and beauty of the countryside that the Framework seeks to protect.
69. Furthermore, the hedges and vegetation on the boundaries of the site do not mitigate against the harm to the tranquillity of the area arising from the activities and paraphernalia of the campsite. That loss of tranquillity is evidenced in representations received in relation to this appeal and is itself harmful to the character of the area.
70. I conclude that the proposed use of the land as a camping site would unacceptably harm the character and appearance of the area. I further conclude that the proposed development would be contrary to Policies NE2, P2 and E9 of the Local Plan which, amongst other things, expect development to protect and enhance the character of the site, make a positive contribution to the local character of an area and that camping sites are sited to be visually unobtrusive and where they can be assimilated so as to conserve and enhance the surrounding landscape.

Surface water flooding

71. The Strategic Flood Risk Assessment and Environment Agency mapping identifies that the site is at risk of future flooding, albeit the entirety of the site falls within Flood Zone 1 and therefore with a low probability of flooding.
72. The proposal for camping is a 'More Vulnerable Use' as set out in Appendix 3 of the Framework subject, I note, to a specific warning and evacuation plan being in place. Paragraph 175 of the Framework states that a sequential test

should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes.

73. I am mindful that the risk of flooding is confined to the site access and not where the erection of the tents would take place. The risk of flooding is also of a low probability. The appellant provides a desk-top Flood Risk Assessment (FRA) dated 30 September 2025 and therefore not as part of the original planning application as required. In any event, the desk-top FRA assesses the vulnerability to flooding as being 'Less Vulnerable'. That is not consistent with Annex 3 of the Framework which includes camping within the 'More Vulnerable' category. Even though the desk-top FRA does include a Flood Warning and Evacuation Plan, it follows that the remainder of the desk-top FRA is fundamentally flawed due to the incorrect vulnerability assessment on which it is based.
74. I conclude that the appellant has not demonstrated that the risk of flooding is and/or can be successfully mitigated. The Council's Statement of Case contends that the proposed use is contrary to Policies NE15 and NE16 of the Local Plan, but I have not been provided with copies of those policies. Nevertheless, the proposed use fails to accord with the Framework insofar as it relates to flood risk.

Protected species and/or their habitats

75. The Council advises that the application site is located in an ecologically sensitive area where there is a moderate likelihood that protected species and habitats could be harmed or disturbed by the proposal. The Council therefore considers that an extended phase one habitat survey is required for it to be able to make an assessment as to whether further survey work is required and to ascertain whether protected species will be harmed by the development. In that context, the Council explains that it must take a precautionary approach to Habitats Regulations issues and that in the absence of an appropriate survey it is not possible to conclude that there would be no impact on protected species or habitats.
76. The appellant has now provided a Bat Assessment Report dated December 2025. This report is based on surveys, but two different dates are given for those surveys (21 September 2025) and (21 November 2025 - year not stated but assumed given context), the latter being a detailed ground level tree inspection. The report is therefore not entirely clear as to when those surveys were carried out, albeit the photographs embedded in the report were clearly taken during the winter months. The date of 21 November 2025 would therefore seem the most likely, albeit this is not optimal for bat surveys.
77. The conclusions of the report are contradictory. The chapter titled 'Evaluation, Conclusions and Recommendations' begins at paragraph 4.1 by confirming that initial observations consider the local area suitable for bats, with the woodland and pasture in close proximity to the site providing a network of connective tree and hedge lines that offers excellent foraging and commuting habitat for a range of bat species. This follows the finding in the main body of the report that the site is surrounded by native woodland and

treelines, and that these have high ecological importance as commuting and foraging features for bats. The report goes on the note that buildings and trees within the local area offer potential roosting opportunities.

78. The logical conclusion from that summary position is, to my mind, that the site and surrounding area offer good potential to support bats. However, from that point the report concludes that the buildings and trees on site were found to have negligible potential to support bats. In paragraph 4.3 of the report, it is concluded that the site, comprising mainly open modified grassland with a few small trees, offers limited foraging or roosting opportunities for and holds low overall ecological value. That is in direct conflict with the finding at paragraph 4.1 that the local area is suitable for bats. No convincing explanation is given in the report for that apparent contradiction.
79. Then, in paragraph 4.4, the report concludes that the site and adjacent woodlands lack direct connectivity to Ebernoe Common SAC. That is in direct conflict with the finding at paragraph 4.1 of the report that the woodland and pasture in close proximity to the site providing a network of connective tree and hedge lines that offers excellent foraging and commuting habitat for a range of bat species. Again, no convincing explanation is given in the report for that apparent contradiction.
80. In view of these contradictions and inconsistencies, I am inclined to afford the bat report provided by the appellant only limited weight. My conclusion in that respect is reinforced by the fact the detailed on-site survey was carried out at a sub-optimal time of year.
81. I am also mindful that the survey commissioned by the appellant only focuses on the potential effect on bat species. However, the range of species protected by legislation is far wider than that. The appellant's evidence is entirely silent on the effect, if any, on those other protected species.
82. I conclude that the appellant has not demonstrated through robust evidence that the risk to protected species can be avoided or successfully mitigated. The Council's Statement of Case contends that the proposed use is contrary to Policies NE5 and NE6 of the Local Plan but again I have not been provided with copies of those policies. Nevertheless, the I find that the precautionary approach adopted by the Council to be entirely consistent with the Framework. Paragraph 193 of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other considerations

83. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the proposed development subject to Appeal C fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to

indicate that determination should be made otherwise than in accordance with the development plan.

84. In addition, I have found that part of the site is at risk of surface water flooding, that the use of the land as a camping site would be likely have significant effect upon European Designated Sites, and that use of the land as a camping site would harm/disturb protected species and/or their habitats. I have not found the proposal to be contrary to the development plan in these respects because I have not been provided with copies of the relevant policies in the development plan. Nevertheless, these are all material considerations that weigh against granting planning permission for the proposal and to which I attach significant weight.
85. The essence of the appellant's case is that the use is permitted by Class BC, Part 4, Schedule 2 of the GPDO. I therefore need to consider first whether the provisions of Class BC, Part 4, Schedule 2 of the GPDO could *potentially* form a powerful 'fallback' position in relation to the application subject to Appeal C. In that context, Article 3(5) of the GPDO is highly relevant.
86. It is settled case law that the requirements of an enforcement notice must not purport to stop a developer from exercising rights under the GPDO. However, as indicated above, Article 3(5) of the GPDO states that a permission granted by Schedule 2 (including, for present purposes, the use permitted by Class BC of Part 4) does not apply if, in the case of permission granted in connection with an existing use, that use is unlawful.
87. Section 191(2) of the 1990 Act provides that, for the purposes of that Act uses and operations are lawful at any time if no enforcement action may be taken in respect of them. As indicated above, the lawful use of this land is not conclusively demonstrated at this time and I cannot discount the possibility that enforcement action may be taken against the existing use(s) of the land, should the Council consider it expedient to do so. It therefore follows that I cannot be certain whether the existing use(s) of this land of lawful or not.
88. It is at this point that Article 3(5) of the GPDO comes into play. At this point, Article 3(5) of the GPDO could *potentially* disapply the deemed planning permission granted by Class BC, Part 4, Schedule 2 of the GPDO unless the appellant can show that the existing use of the land is lawful for purposes of section 191(2) of the 1990 Act. Until and unless the appellant does that through the submission and subsequent approval of an application under section 191 of the 1990 Act, he is not able rely upon Class BC, Part 4, Schedule 2 of the GPDO to operate the use of the land for camping for a maximum of 60 stipulated stays per annum and maximum of 60 people at any one time.
89. Moreover, even if he does show that the existing use of the land is lawful, in order to benefit from the deemed planning permission granted by Class BC, Part 4, Schedule 2 of the GPDO the appellant would need to comply fully with the notification required by condition BC(b), Part 4, Schedule 2 of the GPDO. Furthermore, on my reading of the appellant's own evidence, there could be impacts on protected species (including, but not limited to, bats) arising from the use of the land for camping. I therefore cannot discount the possibility that a mitigation licence may be required from Natural England, the issuing of which cannot be guaranteed.

90. It follows from the above that although there is a theoretical prospect that the appellant has a fallback position available to him by reason of Class BC, Part 4, Schedule 2 of the GPDO, that is far from being guaranteed and is dependent in the first instance on the appellant being able to conclusively demonstrate that the existing use of the land is lawful. I therefore attach only limited weight to the availability of that fallback position.
91. As a general principle, I accept that the use of poorer agricultural land should be used over a preference for non-agricultural purposes in preference to the best quality or most versatile agricultural land. In this context, the appellant points out that this land has not been used for any form of agriculture in 30 years and previous to this, given it comprises of extremely poor-quality clay soil, the land has never been used as arable land. There may be some merit in the appellant's point but, because it has not been substantiated through evidence, it is a material consideration to which I afford little weight.
92. Two letters of objection have been received in relation to this appeal, including one from Plaistow and Ifold Parish Council in support of the Council's refusal of the application. In summary, the grounds of objection made in these representations are that the site is in open countryside and therefore in an area where inappropriate development is generally restricted, and that the use would generate noise from visitors, vehicles and late-night activity that harm the amenity of neighbours and cause harm to wildlife.
93. There is no evidence before me to indicate that the use of site for camping unacceptably harms the living conditions of the occupiers of any surrounding residential properties in terms of noise disturbance but the comments made in relation to noise and activity tend to reinforce my finding above that the use harms the tranquillity of the site and the surrounding area.
94. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. However, in my view the harms identified are intrinsic to the use that is proposed and could not be overcome by the imposition of conditions. In particular, I am not satisfied from the evidence before me that the risk to protected species can be avoided or successfully mitigated through the imposition of conditions.

Appeal C: Conclusion

95. For the reasons set out above, the development proposed is contrary to the development plan. Having weighed the factors in support of the development, I am not persuaded that there are any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. I conclude that planning permission ought not to be granted for the proposed development.

Conclusion

96. For the reasons stated above, I have found that all three appeals should be dismissed. I shall uphold the Enforcement Notice subject to Appeal A.

Formal Decisions

- 97. Appeal A (Ref: APP/L3815/C/25/3372104) is dismissed and the Enforcement Notice is upheld.
- 98. Appeal B (Ref: APP/L3815/X/25/3358727) is dismissed.
- 99. Appeal C (Ref: APP/L3815/W/25/3368755) is dismissed.

Paul Freer
INSPECTOR