



Appeal Decisions

Site visit made on 4 February 2026

by **Jean Russell MA FRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2026

Appeal A: APP/F0114/C/24/3348631

Appeal B: APP/F0114/C/24/3348632

Papermill Cottage, Leigh Lane, St. Catherine, Bath, BA1 8HG

- Appeals A and B are made by Mrs Janice Hemms and Mr Robert Hemms respectively under section 174 of the Town and Country Planning Act 1990 (as amended) against an enforcement notice issued on 17 June 2024 by Bath and North East Somerset Council.
- The breach of planning control as alleged in the notice is:
 1. Without planning permission, the mixed use of the property, comprising a caravan site, residential use and a holiday let.
 2. Without planning permission, the erection of a storage building.
- The requirements of the notice are to:
 1. Cease the unauthorised use of the land for the mixed use comprising residential, holiday let and caravan site.
 2. Remove the caravan (marked 'C' on the plan attached to the notice), the base it sits on, and any associated infrastructure.
 3. Remove the unauthorised outbuilding (marked 'B' on the plan) including the base.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5).
- Appeal B is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990. Since planning permission may be granted via Appeal A, Appeal B does not proceed on ground (a).

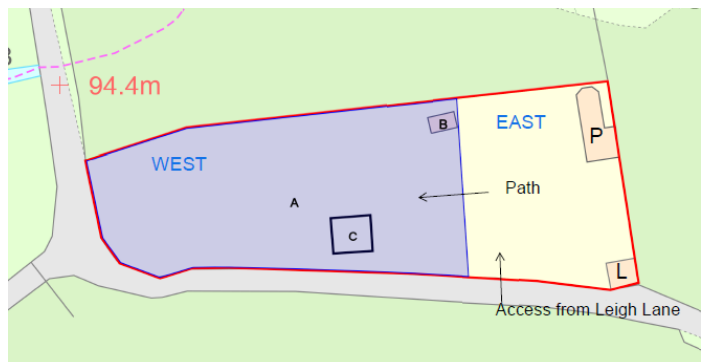
FORMAL DECISIONS

1. It is directed that the enforcement notice be corrected and varied by:
 - Deleting the text of paragraph 3.1 and substituting "without planning permission, the making of a material change of use of the property to a mixed use comprising use of the building known as Papermill Cottage as a single dwellinghouse in permanent occupation, use of the building known as the Lodge as a holiday let and the use of land as a caravan site."
 - Deleting the text of Requirement 1 and substituting "Cease the unauthorised mixed use of the land".
 - Deleting 3 months as the time for compliance with all requirements and substituting eight (8) months as the time for compliance with Requirement 1, and nine (9) months as the time for compliance with Requirements 2 and 3.
2. Subject to the corrections and variation, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made via Appeal A under s177 of the Town and Country Planning Act 1990. Appeals A and B are dismissed.

PRELIMINARY MATTERS

The Appeal Site and other Terminology

3. I shall refer to the area of land shown edged in red on the plan attached to the enforcement notice as the appeal site or the site. The appellants, who are mother and son, live at the property. Mrs Hemms and her husband have owned the property since August 2009.
4. Only one of two gates into the site from Leigh Lane is in use. It leads right or east within the site to a gravelled parking and circulation area which is screened from the road on its southern side, and from the rest of the property to its west and north, by mature hedging. However, the car park is sufficiently open at its top or eastern end to afford access to a facing building known as the Lodge.
5. A path from the north eastern corner of the car park leads north to a dwellinghouse known as Papermill Cottage (or the Cottage). I have spelled 'Papermill' as I hope is correct. The Cottage is used by the appellants as their home. It is in the north eastern corner of the site and orientated so that, apart from a small strip to its rear, the rest of the property is to its front or side.
6. The Cottage is at the lowest point in what is an undulating site within a wider valley landscape. There are steps in the path between the car park and the Cottage, and in that from the dwelling to the gardens to the west. The site overall benefits from mature and thoughtful landscaping which befits both the Cottage and the Lodge, well-established rural buildings built and detailed in local stone.
7. The site is divided into two sections by a yew hedge although that is punctured by a path. Papermill Cottage, the Lodge, the site access and parking area and what is evidently a garden for the Cottage are on the eastern side of the hedge, or land known as the Eastern Parcel. A caravan known as the Shepherd's Hut and the alleged storage building are on the Western Parcel.
8. The plan attached to the notice shows the Western Parcel shaded in lilac and marked 'A', plus the building and caravan as 'B' and 'C' respectively.
9. To aid comprehension, I have annotated a copy of the plan to add the words 'West' and 'East', identify Papermill Cottage as 'P' and the Lodge as 'L', and show the approximate positions of the site access and the path through the yew hedge.



Planning History

10. Planning permission (ref: 14/02339/FUL) was granted on 25 November 2014 for 'conversion of lodge/ancillary accommodation to form holiday let'. As implied, the '2014 permission' relates to the Lodge which contains the holiday let component of the mixed use alleged by the notice. A non-material amendment to the 2014 permission (ref: 15/02551/NMA) was approved on 20 July 2015, while condition 2 was 'varied' (ref: 24/01775/VAR) on 8 July 2024 to allow year-round holiday use.

11. The following appeals were determined by the same Inspector by a decision letter issued on 4 December 2023. The Inspector dismissed both appeals and I am not aware of either decision being successfully challenged in the courts.
 - **‘The 2023 lawful development certificate (LDC) appeal’** was made against the Council’s decision to refuse to grant an LDC in respect of the existing ‘use of [the present appeal site] as residential curtilage’¹.
 - **‘The 2023 planning appeal’** was made against the Council’s decision to refuse planning permission for a new vehicular entrance and car parking spaces². The entrance would have utilised the existing unused means of access into the Western Parcel from Leigh Lane. The parking area would also have been laid out in the Western Parcel and served the caravan site.
12. From 2021, the Freedom Camping Club granted annual ‘exemption certificates’ for the use of the Western Parcel as a caravan site “allowing for the purpose of recreation alone”. The certificate submitted in evidence expired on 4 July 2025 but, if another has since been granted in the same terms, its effects would be:
 - A site licence is not required for the use of the Western Parcel as a caravan site with not more than five caravans stationed for the purposes of human habitation under Schedule 1, Paragraph 5 of the Caravan Sites and Control of Development Act 1960 (the CSCDA60), **and**
 - Planning permission is granted for that use of the Western Parcel under Article 3(1) and Part 5, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
13. In November 2024, the appellants applied (ref: 24/04261/FUL) for planning permission for a temporary parking space for use with the Shepherd’s Hut. This application differed to that refused by the 2023 Inspector in that it related to the existing car park in the Eastern Parcel.
14. The Council exercised powers afforded under s70C of the Town and Country Planning Act 1990 (the TCPA90) to decline to determine ‘the 2024 application’ on the basis that it related to what is covered by the notice. The appellants feel aggrieved by that decision, but it is outside of my remit. I also cannot adjudge personal disputes, and I will not discuss any actions of any party that is not relevant to my decisions. However, I shall return to questions about parking.

THE ENFORCEMENT NOTICE

Nullity

15. If a notice does not include what it is specified under s173 of the TCPA90, or it is hopelessly ambiguous and uncertain, it will not amount to an enforcement notice in law at all. It will be so defective on its face as to be a nullity.
16. The appellants argue that the appeal notice is null on the basis that the first requirement to cease the unauthorised “mixed use” is unclear. However, while I explain the concept further below for the benefit of all readers, the appellants’ agent will be aware that ‘mixed use’ is a well-established planning term. The notice

¹ Appeal ref: APP/F0114/X/22/3308287

² Appeal ref: APP/F0114/W/22/3303157

is rightly not said to be ambiguous or uncertain merely because it alleges a mixed use, and the first requirement follows suit.

17. A notice can only require cessation of what is said to be unlawful, but where land is in a mixed use, that is **the** use of the land. If the allegation is a mixed use consisting of uses A+B+C, that is what may be required to cease. The first requirement of the appealed notice does not prevent the appellants from carrying out any individual component of the alleged mixed use or different mix of uses which is lawful. The '*Mans*' principle that a notice must not purport to stop a landowner from exercising their lawful use rights is not offended.
18. The second requirement of the notice, to remove "any associated infrastructure" as well as the caravan, does not fail to tell the appellants what they must do. A notice may seek to remedy the breach of planning control through the land being restored to its condition before the breach took place, and it may be worded on the basis that the landowner is best placed to know what the previous condition was.
19. Caravans are often attached to or served by infrastructure such as water pipes or electrical cables, and I saw that there are willow screens and a hot tub next to the Shepherd's Hut. However, I would expect the appellants to have full knowledge of what infrastructure was installed to facilitate the caravan site use. The requirement to remove such does not render the notice hopelessly ambiguous or uncertain.
20. The notice is not a nullity, and it is therefore possible for me, under s176(1) of the TCPA90, to correct any errors, defects or misdescription in the notice so long as that would cause no injustice to the Council or appellants.

Corrections

21. The first allegation fails to describe 'development' which would require planning permission. The notice should allege that there has been a **material change** of use, not just the (mixed) use taking place. Another misdescription is that the components of the mixed use are described as 'a caravan site, residential use and a holiday let' but caravan sites and holiday lets are themselves residential uses.
22. Under s1(4) of CSCDA60, the expression 'caravan site' means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed. The exemption certificates required "recreation" use, but I construe that as restricting occupiers of the caravan to holidaymakers as members (or not) of the Freedom Camping Club. The Shepherd's Hut provides living accommodation and is stationed for human habitation or residential use even if its occupiers do not live there permanently.
23. I shall correct the notice to allege "the making of a material change of use to a mixed use comprising use of the building known as Papermill Cottage as a single dwellinghouse in permanent occupation, use of the building known as the Lodge as a holiday let and the use of land as a caravan site". The correction will cause no injustice to the Council or appellants because the notice will be made more precise but not changed in substance.

APPEALS A AND B ON GROUND (B) – THE MIXED USE

24. Ground (b) is that the matters stated in or alleged by the notice have not occurred. Like ground (c), (b) is a 'legal' ground of appeal where the onus is on the appellants to make their case on the balance of probabilities and planning merits

are not relevant. The appellants have pleaded ground (b) in relation to the alleged mixed use but not storage building.

25. In terms of the use, the appellants do not dispute that a dwellinghouse, holiday let and caravan site uses take place. Their case is that the appeal site should not be considered as an entity in a mixed use because it is not a single planning unit.

The Planning Unit

26. The term 'planning unit' refers to the appropriate physical area against which the materiality of a change of use should be assessed. The High Court established in the case of *Burdle v Secretary of State for the Environment* [1972] 1WLR 1207 that there are three "broad categories of distinction" when considering "the appropriate criteria to determine the planning unit". I summarise the categories as:
- a) The planning unit is the same as the unit of occupation where that is used for a single main purpose, and all secondary activities are incidental or ancillary.
 - b) The unit of occupation should also be considered the planning unit where it is put to a mixed use as described below.
 - c) Where the unit of occupation includes two or more physically separate and distinct areas which are occupied for substantially different and unrelated purposes, each such area used for a different main purpose, together with incidental activities, ought to be considered as a separate planning unit.
27. The unit of occupation is the area occupied for one or more main purposes or primary use(s). It is often, but not necessarily or always in practice, the same as the area of ownership. There may be more than one unit of occupation as well as more than one planning unit within land that is in single ownership.
28. Any primary use may give rise to one or more incidental uses of land. An incidental use is different from but functionally related to the primary use in some normal way, and it must take place within the same planning unit. A typical example is where a dwellinghouse and its original garden form the planning unit. There is normally one primary use, use as a dwellinghouse, with garden activities that take place on the land, such as parking or recreation, being incidental uses.
29. A mixed use subsists where two or more primary uses exist within the same planning unit. One is not incidental to the other, although there may be incidental uses associated with any or all of the primary uses. The component primary uses may fluctuate in intensity but are not confined to separate and distinct areas.
30. The appellants make no case that the appeal site is not a single unit of occupation, and I find that it probably ought to be considered as such. The site is not only owned by the family but also occupied by them for the purposes of residing in Papermill Cottage and operating their Lodge and Shepherd's Hut businesses. While visitors (paying or otherwise) will stay on the site, it cannot be said that any person outside of the immediate family is an occupier for planning unit purposes.
31. There is no dispute that the use of the Cottage as a dwellinghouse, use of the Lodge as a holiday let, and the caravan site use are three primary uses. I agree with the 2023 Inspector that the caravan could not be considered incidental to the enjoyment of the Cottage because its use is not connected in a normal way with

the use of the dwellinghouse. The same applies to the holiday use of the Lodge and I also note that residential uses are rarely incidental to other residential uses.

32. Thus, there is no possibility of my finding that the site is a single planning unit with a single primary use. The site is either a single planning unit in a mixed use as alleged, or it will contain two or three physically separate and distinct areas which are occupied for substantially different and unrelated purposes, such that some or all of primary uses take place within separate planning units.

The Pre-Existing Lawful Uses and 2023 LDC Appeal

33. The use of Papermill Cottage as a single dwellinghouse is likely to be lawful by reason of being established or predating modern planning legislation. As noted above, the question raised by the 2023 LDC appeal was the lawfulness of the existing use of the land about the dwelling as 'residential curtilage'.
34. Since that term does not denote a use of land, the 2023 Inspector changed the description of development to 'the use of land for a purpose incidental to the enjoyment of the dwellinghouse...known as Papermill Cottage', noting that "such a use would comprise use as a garden associated with Papermill Cottage".
35. The 2023 Inspector found that:
- Historically, the garden at Papermill Cottage may have been confined to a narrow area. A change of use took place around or by 1985 so that the whole Eastern Parcel was put to use for the dwellinghouse and purposes incidental thereto. That use continued and is probably lawful because, given the 'ten year rule' under s171B(3) of the TCPA90, it is too late to take enforcement action.
 - Another change of use took place in or before August 2009 such that the Western Parcel was also incorporated into the domestic garden. The **whole** property became a single planning unit which, in my words, was occupied for the single main purpose comprising use of the Cottage as a dwellinghouse together with incidental uses. The 2023 Inspector found the Western Parcel outside of the curtilage of the Cottage and, therefore, that the 2009 change of use was probably a material one that required planning permission³.
 - No such permission was granted, but use of the Western Parcel (as well as Eastern) for purposes incidental to the enjoyment of Papermill Cottage probably took place for a continuous period of ten+ years, so that again it had become lawful under s171B(3) [and s191(2)] of the TCPA90 by August 2019.
 - In 2020, the caravan was stationed on the Western Parcel for holiday use and that facilitated another material change in the use "of all, if not part of, the appeal site...[which] resulted in the loss of lawful use rights of part, if not all, of the appeal site". The appellants inform me that the year was in fact 2021 and I will proceed on that basis, but nothing hangs on it.
36. The 2023 Inspector was unable to grant an LDC for the use of land for a purpose incidental to the enjoyment of the dwellinghouse. Properly, the Inspector did not address the lawfulness of any other use, meaning that they did not "determine whether or not part of the appeal site retains the lawful use rights that had been

³ Under s55(2)(d) of the TCPA90, the use of land within the curtilage of a dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse is not development that requires planning permission.

accrued...whether or not the caravan site use (either as a single use of a planning unit or as part of a mixed use) is permitted or otherwise lawful...[or] whether the use of the lodge is permitted by the [2014] permission or...otherwise lawful”.

37. However, there is no dispute that the Lodge is used in accordance with the 2014 permission now that condition 2 has been varied. The land subject to the 2014 permission, shown edged in red on the approved location plan, comprised the Eastern Parcel. While I consider that plan further below, it may mean that the 2014 permission had the effect of giving the Eastern Parcel a lawful mixed use as a single dwelling plus holiday let. Thus, I summarise the chronology as follows:
- By August 2009, the Eastern Parcel probably comprised a single planning unit with a single lawful primary use as a dwellinghouse, meaning that incidental uses could and did take place across this part of the site.
 - In August 2009, there was an unauthorised change of use of the Western Parcel to carry out uses incidental to the enjoyment of Papermill Cottage. Since incidental uses must take place in the same planning unit as the primary use(s) they serve, the 2009 change of use put the Western and Eastern Parcels into the same planning unit, albeit unlawfully, as the 2023 Inspector found.
 - On or after 25 November 2014, the use of the Lodge as a holiday let probably began with the benefit of planning permission, such that the Eastern Parcel had a lawful mixed or dual use as a single dwellinghouse and holiday let.
 - By August 2019, the domestic use of the Western Parcel acquired lawfulness by reason of immunity from enforcement action and so the whole site was probably a single planning unit in a lawful dual or mixed use as a single dwellinghouse and holiday let.
38. This brings me logically to whether the 2021 change of use arising from the stationing of the caravan on the Western Parcel for holiday use served to subdivide the planning unit or put the site into a tripartite mixed use as alleged.

Physical and Functional Connections between the Existing Uses of the Site

39. As noted above, exemption certificates were issued on the basis that the caravan site use is confined to the Western Parcel. I do not question the validity of the certificates, but they are not decisive as to the extent or lawfulness of the caravan site use on the ground.
40. I noted that the statutory definition of a caravan site includes “...land which is **used in conjunction** with land on which a caravan is so stationed”. On a straightforward assessment, the land used in conjunction with the Shepherd’s Hut probably includes the parking area, and the means of access including paths which lead to and from the car park, within the Eastern Parcel.
41. The appellants suggest that accessing and parking are “transient” uses which are “trivial or inconsequential”, but they have not shown how the caravan could be used without access by humans for the purpose of habitation while on holiday. And accessing this rural caravan will normally necessitate the parking of a car. The appellants have not shown that the caravan site use is confined to the Western Parcel. It probably is not because it relies upon incidental use of the Eastern Parcel **and** that is in the same unit of occupation.

42. It is also probably the case that the caravan site use is not the only use of the Western Parcel. There is no dispute that, after the caravan site use began, this part of the site remained in use for purposes incidental to the enjoyment of the Cottage. That has now ceased, but without assisting the appellants for ground (b) where the question is whether the matters have occurred.
43. I saw that the Western Parcel still includes vegetable beds, a greenhouse and a shed as well as garden furniture which the appellants have described as being for their personal use. I also note that the mower and other equipment in the alleged building on the Western Parcel could be used to maintain the whole property; they are not demonstrably stored for the caravan site use alone.
44. I accept the appellants' evidence that no visitors, paying or otherwise, have slept in the storage building, but personal guests have probably been accommodated in the caravan. If that is correct, the Western Parcel will have been used since 2021 not only as part of a caravan site and for purposes incidental to the enjoyment of the Cottage as a dwellinghouse, but also for overspill accommodation as part and parcel of the use of the Cottage. The incidental and/or any overspill uses must have taken place within the same planning unit as the dwellinghouse use they were connected to.
45. Turning to the holiday let use, the appellants contend that it takes place in a separate planning unit on the basis that the 2014 permission is "concerned with specifically with the Lodge building and not the wider property...The area...used as a holiday let is clearly defined physically and functionally by the structure of the Lodge". The appellants say it does not matter that the 2014 permission related to whole Eastern Parcel because the approved location plan merely identified as the area needed to "carry out" the change of use permitted.
46. It is true that planning applications need not be mapped to planning units and the 2014 plan is not binding on me. However, the holiday let use must extend beyond "the structure of the Lodge" because the approved plans showed parking for the Lodge to the immediate side of the building, and that area is now arranged as a sitting out area⁴. More importantly, like the Shepherd's Hut, the use of the Lodge as a holiday let relies upon incidental use of the shared drive and car park.
47. A sign affixed to a planter directs persons staying at the Lodge to park in a particular spot, but otherwise there is no demarcation of parking spaces on the land, and it would make little difference if there was, as applied for in 2024. Any person walking, cycling or driving to or from the Cottage, the Lodge or caravan site must utilise the same access from Leigh Lane and the same designated area of the site for circulation as well as parking.
48. Parts of the site are physically discrete insofar as Western Parcel is bound by the yew hedge, while the Lodge and its yard are also delineated by planting. The landscaping of the property as a whole is such that the Lodge, Cottage and caravan site could be used simultaneously without any user feeling unduly overlooked. However, there are still physical connections between all parts of the site which purposefully enable common incidental uses of shared space. It is not shown that any primary use takes place within an area that is physically and functionally separate as a matter of fact and degree.

⁴ Without prejudice, a change from one use incidental to the holiday let to another would be unlikely to represent a material change of use that requires planning permission.

49. Reinforcing that point, the appellants are likely to service the Lodge, caravan and their paying guests to a greater or lesser extent, although they use the Airbnb platform for advertisement and letting purposes, and lockboxes for guests to self-check in and out. The residential uses of the Lodge and Shepherd's Hut could not be described as incidental to the use of the Cottage, but they are run by the appellants, not unusually, to generate income from the land where they live.
50. The appellants have described theoretical situations where, they suggest, shared access or parking arrangements would not put land into a mixed use. However, the planning unit was not factored into the examples. Subject always to the facts, it is perfectly possible for a planning unit to comprise a camping site plus farm fields, or shops plus flats, if such uses take place within the same unit of occupation and are physically and functionally connected.

Conclusion on Ground (b) – the Mixed Use

51. As noted above, the 2023 Inspector found that the caravan site use is “separate” from and thus not incidental to the use of the Cottage as a single dwellinghouse. That does not preclude me from finding that the site is a single planning unit in a mixed use, and the 2023 Inspector expressly did not rule out that possibility.
52. The appellants have not demonstrated that the site is not a single unit of occupation or that it is not used for three main purposes, namely the use of the Cottage as a single dwellinghouse, use of the Lodge as a holiday let and use of the land as a caravan site. The appellants have also failed to show that any primary use is probably carried out in a physically separate and distinct area which is occupied for substantially different and unrelated purposes.
53. The site probably constituted a single planning unit before 2021 and was not subdivided when a change of use took place through the stationing of the caravan. The Eastern Parcel contains the Cottage and Lodge and is used for access to and parking for all three uses. The Western Parcel has been used as a caravan site and for purposes incidental to the use of the Cottage as a dwelling.
54. I conclude that, on the balance of probabilities, the matters have occurred and the site is a single planning unit in a tripartite mixed use as alleged. Appeals A and B fail on ground (b).

APPEALS A AND B ON GROUND (C) – THE MIXED USE

55. An appeal on ground (c) is that the matters alleged by the notice are not in breach of planning control. In most cases, where there has been a breach depends upon whether planning permission is required or has already been granted. Planning permission is required for the making of a material change of use, with the word ‘material’ denoting some significant difference in the character of what is taking place on the land as a matter of fact and degree.
56. The appellants’ ground (c) case is that each component use taking place on the site is lawful: the use of the Eastern Parcel as a single dwellinghouse (with incidental uses) is lawful via the passage of time, the use of the Lodge is carried out in accordance with the 2014 permission as amended and varied, the uses of the Western Parcel for purposes incidental to the use of the Cottage have ceased and the caravan site use is permitted by the GPDO via the exemption certificate.

57. However, that argument cannot succeed because the mixed use is **the** use of the site. The appellants cannot point to a grant of planning permission for a change of use of the site to the mixed use. The caravan site use would only be permitted via Part 5 of Schedule 2 to the GPDO, on the balance of probabilities, if it is confined to and the sole use of the Western Parcel. Neither requirement is fulfilled⁵.
58. However, that is not the end of ground (c) because I shall consider whether the change to the mixed use was a material change for which planning permission is needed. The 2023 Inspector found that to be the case, but not definitively in the context of the whole site, and any change of use may be less likely to have a material impact in respect of a larger area.
59. Given the 2014 permission and the 2023 Inspector's finding that use of the Western Parcel for purposes incidental to the enjoyment of the dwellinghouse at Papermill Cottage had probably become lawful by about August 2019, I shall consider the materiality of the change of use which took place in 2021:
- **From** a lawful dual or mixed use comprising use of Papermill Cottage as a single dwellinghouse in permanent occupation (including use of both the Eastern and Western Parcels for purposes incidental to the enjoyment of the dwellinghouse) and use of the Lodge as a holiday let (in accordance with the 2014 permission as amended and varied),
 - **To** a tripartite mixed use comprising use of Papermill Cottage as a single dwellinghouse in permanent occupation, use of the Lodge as a holiday let and the use of land as a caravan site.

The Materiality of the Change of Use

60. Whether a change of use is material is not the same question as whether it gives rise to planning harm. A change can be material in planning terms with positive, neutral or negative effects, so I consider materiality without prejudice to ground (a). A simple but important observation to start is that the caravan site component of the mixed use has served to introduce, for the first time, residential use to the Western Parcel, as opposed merely to uses incidental to that of the Cottage.
61. The site is not well-served by public transport, but the Shepherd's Hut is "a small 2 berth" structure as described by the appellants, so I shall assume it is normally occupied by persons arriving in one car. It is let to holidaymakers some 110 nights per year, as it was at the time of the 2023 decisions. I would expect an extra car to be on the site, and to be moved for local trips as well when the guests check in and out, for around three 24-hour periods out of every ten.
62. To put that in context, I assume for the sake of argument that the Lodge is also normally let to persons arriving in one car. I discount the parking needs of friends or relatives of the appellants who stay in the caravan on the basis that they could otherwise stay in the Cottage or Lodge. I do not know how many cars the appellants own personally, but that does not matter because the number, size and

⁵ I also note the Council's point that, with the caravan being let through Airbnb, there is no evidence of it ever being used by members of the exempted organisation who issued the exemption certificate. However, since the site is in a mixed use which is not permitted by the GPDO, I do not need to decide whether the caravan has been let in accordance with Natural England's guide for applicants on Camping and Touring Caravan Exemption Certificates.

type of vehicles used in association with the Cottage and the Lodge could fluctuate anyway, at least to the 4-5 vehicle limit of the car park.

63. I estimate, therefore, that the change of use has probably led to an increase in the number of vehicles and vehicular movements on the site, compared to the lawful dual use, by up to 20 or 25% just under a third of the time. The change of use has also probably increased movements on the Eastern Parcel between the car park and caravan site, as well as movements on the Western Parcel itself. The Shepherd's Hut would still have been accessed via the Eastern Parcel, albeit more shortly, if the 2024 application had been approved.
64. I accept that caravan site users, the appellant family and, to a more limited extent, users of the Lodge may equally walk about the site or sit out. They may equally use paraphernalia such as outdoor seating or cause noise or light pollution. However, there has still been a change because the caravan site is an additional use carried out alongside the others, and because it involves people sleeping on the Western Parcel as well as carrying out incidental parking and recreation. Again, it is not enough for the appellants to assert that what has changed is trivial. They have not shown that the introduction of the caravan site use probably had an insignificant effect on the overall character of the use of the planning unit.
65. Moreover, were I to find that appeal mixed use lawful, the Shepherd's Hut could be let for more than 110 nights per year and/or replaced by a larger caravan or indeed caravans. The number could exceed one, perhaps under a future owner of the site, because this component use is simply a "caravan site". If I found the mixed use lawful, the notice would be quashed, and I would have no means to condition the mixed use. However, I do not need to speculate as to where success on ground (c) might lead or go further to address off-site impacts of appeal mixed use.

Conclusion on Ground (c) – the Mixed Use

66. I find that that the 2021 change from a dual use to the tripartite mixed use alleged probably led to an increase in vehicular movements to, on and from the site, incidental parking on the site and movements across plus incidental recreational activities on the site. The appellants have not shown these effects to probably be immaterial as a matter of fact and degree.
67. I conclude that, on the balance of probabilities, there has been a material change of use of the site to the mixed use alleged, and planning permission is required but not granted for that. There has been a breach of planning control such that Appeals A and B must fail on ground (c) in relation to the mixed use of the site.
68. The silver lining is that I can clarify the current lawful use. The 2023 Inspector found that lawful use rights accrued in respect of the Western Parcel were lost by the 2021 change of use. My update is that the issue of the notice will have given the appellants a right of reversion. S57(4) of the TCPA90 provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out.
69. Given the 2014 permission, the 2023 LDC appeal decision letter, my findings, and the notice together with s57(4), planning permission is probably not required for a material change of use of the site back to the dual use comprising use of Papermill Cottage as a single dwellinghouse in permanent occupation (including use of both

the Eastern and Western Parcels for purposes incidental to the enjoyment of the dwellinghouse) and use of the Lodge as a holiday let (in accordance with the 2014 permission as amended and varied).

APPEALS A AND B ON GROUND (C) – THE STORAGE BUILDING

70. The appellants argue that the erection of the storage building (B) on the Western Parcel did not constitute a breach of planning control because it did not involve ‘development’ that required planning permission. They say that works were carried out merely to repair a pre-existing building, not erect a new one.
71. ‘Development’ is defined under s55(1) of the TCPA90 as including the carrying out of building operations on land. S55(1A) specifies that ‘building operations’ includes demolition, rebuilding, structural alterations or additions, and other operations normally undertaken by a person carrying on business as a builder. S55(2)(a), however, exempts works carried out for the maintenance, improvement or other alteration of a building which do not materially affect its external appearance.
72. The pre-existing storage building was constructed in 2010, and the appellants’ photograph suggests it was at least partly open-sided. Their written evidence is that the building was ‘repaired’ in 2021 through the replacement of the roof, addition of cladding to the sides and replacement of some posts, again as shown on photographs. I infer that the works probably resulted in the most visible structural components of the building, the walls and roof, being entirely new.
73. The appellants have not explained why or how those works did not amount to ‘rebuilding’ or ‘structural alterations’ as a matter of fact and degree. They have not shown that the works did not materially affect the external appearance of the building. I find, on the balance of probabilities, that the ‘repairs’ carried out in 2021 probably amounted to operational development, namely the erection of a storage building as alleged, which required planning permission.
74. Planning permission has not been granted for the development. It was probably not permitted under Part 1, Class E of Schedule 2 to the GPDO because that permits the provision within the curtilage of a dwellinghouse any building required for a purposes incidental to the enjoyment of the dwellinghouse as such. The appeal building is used for storage in connection with the mixed use and not just purposes incidental to the enjoyment of the Cottage. It is not within the curtilage of the dwellinghouse, as the 2023 Inspector found, because the Western Parcel does not have the requisite intimate association with the Cottage.
75. The building is also sited forward of a wall forming the principal elevation of the dwellinghouse in breach of limitation E.1 to the Class E permission. In the event that the building was initially constructed in the Eastern Parcel in hopeful exercise of permitted development rights, the fact of its relocation would add weight to my finding that the 2021 works amounted to development. I conclude that the storage building was probably erected in breach of planning control as alleged. Appeals A and B fail on ground (c) in relation to the building.

APPEAL A ON GROUND (A) AND THE DEEMED PLANNING APPLICATION

Preliminary Matters

76. Ground (a) is that planning permission ought to be granted for what is alleged by the notice. It therefore bears repeating that the corrected allegation is: ‘the making

of a material change of use to a mixed use comprising use of Papermill Cottage as a single dwellinghouse in permanent occupation, use of the Lodge as a holiday let and the use of land as a caravan site as well as 'the erection of a storage building'.

77. Ground (a) is pleaded in respect of both the mixed use and storage building. While planning permission would be granted or refused for the tripartite mixed use as the use, I shall consider the planning merits on the basis that a dual use of the land as a single dwellinghouse plus holiday let is probably lawful and a realistic fallback position. This narrows my focus to the merits of the caravan site component use.
78. The evidence before me in relation to the building includes documents prepared for a planning application that the appellants intended to make before the notice was issued. The allegation does not encompass the creation of a parking space (and steps) as proposed in 2024 and I could not tie any deemed planning permission to plans that do not form part of the notice. However, I shall consider whether changes to the site layout might overcome any planning objections.

Main Issues

79. With regard to the location of the appeal site within the Bristol/Bath Green Belt (the Green Belt) and the Cotswolds National Landscape (CNL)⁶, and the evidence from third parties as well as the Council and appellants, the main planning issues are:
- Whether the material change of use to the appeal mixed use and the erection of the appeal storage building amounted to inappropriate development in the Green Belt with regard to the National Planning Policy Framework (the Framework) and relevant development plan policies.
 - The effects of the developments on the openness of the Green Belt, the character and appearance of the surrounding rural area and the landscape and scenic beauty of the CNL.
 - Their effects on biodiversity.
 - Whether the site is in a suitable location for the appeal mixed use with regard to planning policy objectives for travel and highway safety.
 - Any other considerations.
 - Whether any harm caused by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances if such are required to justify the appeal mixed use or building.

Reasons

Green Belt

80. The Framework provides that development in the Green Belt is inappropriate unless exceptions apply as set out in paragraphs 154-155. I shall discuss relevant exceptions in the order they are set out in the Framework.
81. **Paragraph 154.b)** states that the provision of appropriate facilities including buildings for outdoor recreation is not inappropriate development, so long as the

⁶ Previously designated as the Cotswolds Area of Outstanding Natural Beauty (AONB). The change of title has not altered the level of protection afforded to the landscape and scenic beauty of the area.

facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt, which include assisting in safeguarding the countryside from encroachment. I have found that the mixed use comprises three different kinds of residential use. All recreational uses of the site are incidental to one or more of the primary residential uses. It follows that the appeal building cannot be considered a facility for outdoor recreation.

82. **Paragraph 154.d)** of the Framework provides that a replacement building in the same use as and not materially larger than that it replaced will not be inappropriate development. The appeal building is not in the same use as that erected in 2010. The previous building can only have been used for storage incidental to the use of the Cottage as a dwellinghouse, whereas the appeal building was erected in 2021 to serve the current mixed use of the land.
83. **Paragraph 154.h)** allows that the making of a material change in the use of land is not inappropriate development provided that openness is preserved and there is no conflict with the purposes of including land within the Green Belt. The appeal change of use was facilitated by the stationing of a caravan. The caravan is not large, but it occupies enough space that it is visible from public vantage points in the area. The use has also increased the number of cars and items such as the willow screens on the site. It does not preserve the openness of the Green Belt.
84. **Paragraph 155** provides that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where it would utilise 'grey belt' land and not fundamentally undermine the purposes of the remaining Green Belt, there is a demonstrable unmet need for the development, and it would be in a sustainable location. The appeal use and building both fall at the first hurdle because the site is not in the grey belt by virtue of being in the CNL.
85. I conclude that both the appeal change of use and erection of a building were inappropriate development in the Green Belt. The Framework states that inappropriate development is harmful to the Green Belt by definition and should not be approved except in very special circumstances; substantial weight should be given to any harm to the Green Belt. Policy CP8 of the Core Strategy for Bath and North East Somerset (the CS) protects the Green Belt from inappropriate development in accordance with national policy.

Openness, Character and Appearance and the CNL

86. The Council suggested in their reasons for issuing the notice that the site has a 'built-up' appearance to the detriment of the Green Belt. In accordance with the Framework, I considered openness when addressing whether the change of use is inappropriate development. I have not yet assessed the impact of the building on openness and cannot avoid finding that it causes some loss. However, the effect is slight because the building is modest in absolute terms and in relation to the site.
87. Turning to effects on landscape character, I accept the submissions of a nearby occupier that the Shepherd's Hut and storage building can be seen from nearby public rights of way by persons otherwise enjoying the scenic beauty of the CNL. However, visibility is not the same thing as harm. Both structures are small and sensitively sited, designed and clad. Planning permission could be granted subject to conditions which limit the number of caravans to one of a timber type, and which minimise light pollution by requiring the approval of external lighting. The use and building need not detract from the landscape by night or day.

88. I also consider that, even if cars have been “rammed” on the site, they would not cause unacceptable visual harm given the screening of the car park from Leigh Lane, the fact that occupiers of Papermill Cottage could own more cars anyway, and because there will be relatively few passers-by, especially on foot. The increased travel to and parking on the site resulting from the caravan site will not cause unacceptable visual or noise impacts within this part of the countryside.
89. Although the 2023 Inspector refused to permit a new car park in the Western Parcel, they found the character of this part of the site **as it is**, with sitting out areas as well as the caravan and buildings plural, to be “not out of keeping with the rural landscape within which the appeal site sits or the wider National Landscape”. They also described the Eastern Parcel as having the “typical character of a rural cottage and cottage garden”. I agree with both assessments.
90. In accordance with the Framework and LPPU Policy NE2, I must give great weight to conserving and enhancing landscape and scenic beauty in the CNL, which has the highest status of protection in relation to these issues. However, the Council has not described any qualities of the CNL that are not conserved as a result of the use or building. I can identify no unacceptable harm to the landscape or scenic beauty of the area. The Shepherd’s Hut and storage building look like what they are: congruous and unobtrusive residential and tourism facilities.
91. I conclude that the storage building causes no unacceptable harm to the openness of the Green Belt, while neither the building nor mixed use harms the character and appearance or the surrounding rural area or the landscape or scenic beauty of the CNL. A grant of permission would not conflict with CS Policy CP6, which seeks to conserve or enhance the distinctive character and quality of Bath and North East Somerset’s environmental assets and landscapes. It would not conflict with Policies GB1 or D2 of the Placemaking Plan (the PP) or Policy NE2 of the Local Plan Partial Update (the LPPU), or with the Framework, which require that development does not prejudice the visual amenities of the Green Belt or local character and distinctiveness, but rather conserves landscape character.

Biodiversity

92. The Council also issued the notice for the reason that the appellants had provided insufficient information to ensure an appropriate net gain of biodiversity on site as required by LPPU Policy NE3. That policy reflects s90A and Schedule 7A of the TCPA90 which provides for grants of planning permission to be subject to a condition requiring that the biodiversity gain objective is met. However, s90A is not commenced, and a biodiversity net gain cannot be required in respect of planning permissions granted through the route of an enforcement appeal.
93. The Council also objects that the appellants have not provided information to demonstrate that the developments and effects such as light spill are controlled to avoid or mitigate harm to any protected species. However, the Council has not identified which protected species they may be concerned about. A nearby occupier has referred to bats, but I have noted that a condition could be imposed to subject external lighting to Council approval.
94. I conclude that, subject to conditions, the mixed use and storage building would cause no unacceptable harm to biodiversity, and a net gain in biodiversity cannot be required. A grant of permission would not therefore conflict with CS Policy CP6 or LPPU Policies NE3 or NE3A.

Travel and Highway Safety

95. The Council's final objection is that the development, which I take in this context to mean the caravan site component of the mixed use, is remote from services with limited potential of using active travel or public transport to and from the site. The property is indeed remote, but the Framework notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
96. LPPU Policy ST7 requires that users of development benefit from a genuine choice in mode of travel by sustainable modes. The Council's suggested condition requiring the provision of cycle parking facilities on site, in accordance with the Council's Transport and Development Supplementary Planning Document (SPD), would thus be necessary for permission to be granted and sufficient to render the mixed use policy compliant.
97. The Council did not object to the appeal developments on highway safety grounds. A nearby occupier has raised concerns about tourist cars on local roads, but their evidence does not give me cause for alarm in terms of congestion or risk of collision. Even if the Shepherd's Hut and Lodge were let all year round, and the Council has suggested no conditions to prevent that, approving the mixed use would be unlikely to result in unacceptable highway danger.
98. I conclude that the site is not an unsuitable location for the development in terms of sustainable travel or highway safety. A grant of planning permission subject to conditions as described would not conflict with LPPU Policy ST7, which requires development to not prejudice highway safety and provide appropriate car and cycle parking, as well as to give users a genuine choice in mode of travel.

Other Considerations

99. I have had regard to other concerns raised by the local objector, but none persuade me that the appeal mixed use or storage building cause any other harm. The developments do not conflict with PP Policy D6, which expects development to not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reasons including increased noise, traffic or other disturbance.
100. I have considered the letters submitted in support of the appellants. They add weight to my view that neither the use nor building causes landscape, biodiversity or traffic harm. I also note the view of at least one neighbour that the Cottage is an asset to the area, and the property has benefitted from the appellants' thoughtful stewardship. However, neither appellants nor others have pointed to planning benefits of the mixed use or storage building. The appellants have made no case that, in the event that I find either development inappropriate in the Green Belt, the harm caused should be balanced against other considerations.

Very Special Circumstances and the Planning Balance

101. The appellants claim that the material change of use carried out through the introduction of the caravan site use has no different planning impacts to the lawful use of the property. It does, however, because it amounts to inappropriate development in the Green Belt. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt caused by both the change of use and the erection of the storage building by reason of inappropriateness.

102. The appeal building causes no unacceptable loss of openness in the Green Belt. Subject to conditions to control the number and type of caravans plus external lighting, and to require the provision of cycle parking facilities, the use and building cause no unacceptable harm in terms of landscape character, biodiversity, sustainable travel or highway safety. However, none of those findings could amount to a positive consideration which might outweigh harm to the Green Belt.
103. With regard to all evidence submitted in support of the appellants, the other considerations in this case do not clearly outweigh the harm caused by the appeal change of use and building to the Green Belt by reason of being inappropriate forms of development in the Green Belt. In accordance with the Framework and CS Policy CP8, the mixed use and building should not be approved because the very special circumstances needed to justify them do not exist.
104. That there is no conflict with CS Policy CP6, PP Policies GB1, D2 or D6, or LPPU Policies NE2, NE3, NE3A or ST7 does not alter that conclusion. Nor does a finding that other development plan policies cited by the Council, and the SPD on Existing Dwellings in the Green Belt are not relevant in this case.
105. I have considered the rights of the appellants under the Human Rights Act 1998. A refusal of permission would give rise to a limited interference with their rights to peaceful enjoyment of their possessions and to a private and family life and home. However, those rights are qualified. Given the aim to protect the Green Belt from inappropriate development and since the appellants will be able to revert to using the whole site for the lawful dual use, it is proportionate and necessary to refuse to grant planning permission. The protection of the public interest cannot be achieved by means that give rise to less interference with the appellants' human rights.
106. I conclude that Appeal A must fail on ground (a) and the DPA should be refused. I regret that the appellants will be disappointed by that outcome, given that it means the notice will be upheld. However, I can consider mitigating the effects of the notice via ground (g) as addressed below.

APPEALS A AND B ON GROUND (F)

107. Ground (f) is that the requirements of the notice are excessive to remedy the breach of planning control constituted or, as the case may be, the injury to amenity caused by what is alleged by the notice. The appellants have pleaded this ground only in relation to the mixed use.
108. Given that the notice requires cessation of the use (and removal of the building), it follows that the purpose of the notice is to remedy the breach of planning control. That being so, and since I have found on the merits that planning permission should not be granted, I have no further remit to consider questions of amenity.
109. The appellants make the same points in support of ground (f) that they raised in arguing that the notice is null. The question here is different, but the outcome is the same. It is not excessive for the notice to require cessation of the mixed use or the removal of infrastructure related to the caravan. The requirements are necessary to remedy the breach of planning control, and they will not prevent the appellants from reverting to the lawful dual use of the property described above.
110. Appeals A and B fail on ground (f) although I shall correct the first requirement to align with the corrected allegation; doing so will cause no injustice.

APPEALS A AND B ON GROUND (G)

111. Ground (g) is that the period specified by the notice as the time for compliance with the requirements falls short of what should reasonably be allowed. The notice gives three months to comply with all requirements, but the appellants seek six so they can honour existing Shepherd's Hut bookings.
112. The appeal was made on that basis in July 2024, but I make this decision at an earlier time of year. It is reasonable and proportionate to afford them eight months to cease the use, and then an extra month to remove the caravan and storage building, so that the caravan may be booked through the spring, summer and early autumn seasons. Appeals A and B succeed on ground (g).

CONCLUSION ON APPEALS A AND B

113. For the reasons given, I conclude that Appeals A and B should be dismissed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under s177(5) of the Town and Country Planning Act 1990.

Jean Russell

INSPECTOR