



Appeal Decisions

Site visit made on 4 April 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 27th April 2026

Appeal A and B Refs: APP/L2250/C/23/3335400 and 3335401 Paternoster Farm, Hope Lane, St Mary in the Marsh Kent TN29 0DD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act").
 - The appeals are made by Mrs Julie Gander (Appeal A) and Mr Jason Gander (Appeal B) against an enforcement notice issued by Folkestone and Hythe District Council.
 - The enforcement notice was issued on 17 November 2023.
 - The breach of planning control as alleged is described as follows: *unauthorised change of use from an equine use to a mixed use as a caravan site for residential use and the keeping of dogs; and siting of a lorry body for storage use.*
 - The requirements of the enforcement notice are to:
 - (1) Cease the residential use of the land
 - (2) Remove the static caravan and lorry body from the land
 - (3) Cease the keeping of dogs on the land
 - (4) Remove all vehicles and paraphernalia associated with the residential use and the keeping of dogs from the land, and
 - (5) restore the land to its previous condition.
 - The period for compliance with the requirements is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (b) of the Act. Since ground (a) has not been pleaded in Appeal A and B, the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Ground (b) – has the alleged breach in fact occurred

2. The appeal site, which comprises agricultural land, is situated within the open countryside. In addition to dogs kept on the land, there are other animals kept on the holding. There are a mobile home and several utilitarian buildings used in connection with the keeping of livestock. The notice alleges a single mixed use of the land. However, the appellants attack the description of the alleged breach of planning controls. Essentially, they argue the allegation is incorrect because there is no mixed residential and keeping of dogs or storage use and they also argue elements of the mixed use do not constitute a breach of planning controls. Although only ground (b) has been selected, I will address the appellants' challenge in the round.
3. The Council's photographic evidence taken of the site during its investigation before issuing the notice is particularly instructive of the alleged activities. Collectively, the evidence clearly shows the extent and level of activity. The enforcement investigation began in around 2021 following reports of a residential use of the land, which was alleged to have been facilitated by the stationing of a mobile home. It appears to me that the notice has been issued sometime after the breach was detected and the appellants suggest the residential use is not happening.

4. However, it makes no difference whether the breach has been genuinely stopped or not. An appeal on ground (b) cannot succeed simply on the basis that the alleged activities ceased. Section 174(2)(b) is worded in the past tense, and the question is whether the breach had occurred during the period leading up to the issue of the notice and date of issue.
5. Turning first to the alleged residential use, the evidence before me clearly indicates the land was used for this purpose during the Council's initial enforcement investigation in 2021 albeit by a different occupier. Following detailed investigations, an application for lawful development certificate (LDC) was made in 2021, and this sought a declaration that the existing residential caravan site use was lawful. Given the lack of clear and concise evidence, the LDC application was refused and subsequently dismissed on appeal. In March 2022 the appellants submitted their own LDC for an existing residential use of the caravan, but the Council say that application was invalid. Nevertheless, the submission of the LDC applications and a positive argument made about an existing residential use as a caravan site casts some doubt in my mind over the veracity of the claim that the land has not been used for residential purposes during the period leading up to the issuing of the notice.
6. Be that as it may, the appellants vehemently argue that the mobile home is not used for residential purposes at the date of issue, but it is important to keep in mind the latter facilitates the use of land. Residential occupation can occur through a pattern of overnight stays, presence, and domestic activity. The mobile home was, and is, on site and, while in a dilapidated condition, facilitates a residential use because it contains cooking, washing and sleeping facilities.
7. To support their claim that the residential use stopped and that the mobile home is used as a dayroom, the appellants say that they have a rental property in Sussex. However, the supporting documentary information does not clearly show occupation and use of that dwelling. For example, it is unclear to me as to how long they have occupied the rental home as no specific details have been submitted. In addition, the property is some distance and there is a lack of detailed information showing how they come and go to and from the site in terms of timings or frequency.
8. Furthermore, the appellants say they have a place to stay near the farm, but the owner simply says Appellant A has a room at the property and uses the address for post. The appellants' statement of case explains the address is used for deliveries from online purchases, yet it is unclear to me how often and when the cottage is occupied and used for residential purposes and the Council's evidence includes an image of a post box at the site's entrance. In my mind, there is significant doubt over the veracity of the appellants claim that the land was not used for residential purposes during the period leading up to the issue of the notice given the lack of detailed evidence about the nature, extent and scale of the two alternative addresses residential use.
9. Officer visits at unsociable hours discovered an onsite presence especially early mornings and late evenings. In response to searching questions found in the Planning Contravention Notice (PCN) dated 7 March 2022, it is said that a van is used for occasional overnight stays. At final comments stage the appellants question whether it is possible to keep a detailed log of comings and goings or maintain a frequency record of overnight stays.
10. However, given the onus, it is for the appellants to demonstrate the nature and scale of the residential use. Apart from generalised statements that animals need to be cared for,

there is no plausible explanation, nor is there clear and precise evidence before me, to show a viable farming activity or enterprise. Given the limited number of animals I saw, it is unclear to me as to why overnight stays are required.

11. In a similar vein, the Council say a previous planning permission was granted in 1999 for the keeping of dogs at this site, but this was personal to the then applicant and limited to 9 dogs. Apart from general assertions, there is lack of precise evidence showing dogs kept on the land are for personal use. The Council's photographic evidence shows the stable-like structures contained considerable number of dogs: the appellant's own PCN reply indicates 60 dogs were kept in March 2022. Such a type of use exceeds what can reasonably be described as incidental or too trivial or minor so as not to have planning consequences, due to the number of canines kept on the land and scale of activity. Finally, I also disagree with the claim the lorry body is moveable – there is no evidence that the structure can be moved without the aid of plant or machinery. The Council's images clearly show the structure's use for the storage purposes.
12. The appellants explain that the caravan is used as a dayroom, but the evidence presented does not clearly show the type of agricultural use taking place on the land to which the caravan is functionally linked to. In any event, the land is in a mixed use the nature and type of that activity do not meet the statutory definition of "agriculture"¹. Based on the available evidence, I cannot be certain that the stationing of the caravan and its use as a dayroom fitted, or is incidental to, the lawful use of the land.
13. The notice clearly identifies the unit of occupation. The latter is primarily used for residential, dog keeping and storage purposes. These components make up the alleged single mixed use.

Conclusion

14. Drawing all the above threads together, in my assessment and on the balance of probabilities, there is sufficient evidence to contradict the appellants claims that, during the period leading up to the notice's issue and at the date of issue, the land was not in a single mixed use.
15. For the above reasons and having considered all other matters raised, I conclude that the appeals on ground (b) must fail because the quantum of evidence points in the likelihood that the alleged breach had in fact occurred. The appeals should be dismissed.

A U Ghafoor

INSPECTOR

¹ Section 336(1) of the 1990 Act applied.