



Appeal Decision

Site visit made on 24 March 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2026

Appeal Ref: APP/U1430/C/23/3330524

Long Acre Farm, Whydown Road, Bexhill-on-Sea, East Sussex TN39 4RB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr. Wesley Clark against an enforcement notice issued by Rother District Council.
- The notice was issued on 6 September 2023.
- The breach of planning control as alleged in the notice is *without planning permission, change of use of the Land from agriculture to a mixed use for agriculture and for residential purposes, including the associated siting of shipping containers, residential outbuildings, portacabin, motor vehicles, and stationing of caravans.*
- The requirements of the notice are:
 - (i) *Stop using the Land for residential purposes.*
 - (ii) *Remove all shipping containers, residential outbuildings, portacabins, motor vehicles and caravans from the Land.*
 - (iii) *Remove all sewage, drainage and gas and electrical infrastructure associated with the residential use from the Land.*
 - (iv) *Break up and remove all/any hardstandings upon which the shipping containers, residential outbuildings, portacabins and caravans are standing from the Land.*
 - (v) *Remove all residential and domestic items and paraphernalia associated with the unauthorised use from the Land.*
 - (vi) *Remove from the Land all materials, debris, rubble, rubbish, tools, equipment and machinery arising from compliance with the above requirements above from the Land.*
- The period for compliance with the requirements is: *twelve months after this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Formal Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Preliminary Matters

2. There are two other appeals at this site made by the same appellant against two additional enforcement notices issued by Rother District Council which are subject to separate decisions. These notices relate to a) the formation and laying out of a means of new access including the removal of a field gate and hedgerow, the construction of brick piers with timber gates, sleepers and fencing and the laying of hardcore and the associated formation of an access track¹; and b) the erection of a barn and smaller buildings².

¹ PINS Ref: APP/U1430/C/23/3330526

² PINS Ref: APP/U1430/C/23/3330531

Hidden ground (e) appeal

3. The enforcement notice alleges that a material change of use has occurred at the whole site, from agricultural to a mixed use of agriculture and residential. However, the appellant questions the validity of the notice, as part of the appeal site had been sold to another party independent of the appellant, when the enforcement notice was issued.
4. An appeal on this ground relates to whether the notice was served as required by section 172 of the 1990 Act (as amended). Section 172(2) of the 1990 Act (as amended) requires a copy of the notice to be served on the owner³, occupier and any person having an interest in the land which, in the opinion of the Council as Local Planning Authority, is materially affected by the notice. Such persons normally include mortgagees, tenants, and sub-tenants. It is for the Council to decide who is materially affected.
5. The appellant highlights that they sold part of the land in August 2022 to Mr Stephen G Demain, which was prior to the enforcement notice being issued. Mr Demain had been a resident at the site when the notice was issued. Therefore, as an owner and/or occupier and/or person having an interest in the land he should have been served a copy of the enforcement notice.
6. From the information before me, Mr Demain was indeed issued with a copy of the enforcement notice. Therefore, I am satisfied that all parties with an interest in the land received a copy of the notice and as a result no recipient has been prejudiced.
7. Consequently, the hidden ground (e) appeal fails.

Appeal under ground (a), the deemed planning application

Main issue

8. The main issue is whether there is a need for a mixed use of agricultural and residential use at the appeal site.

Reasons

Need for mixed agricultural and residential use

9. The appeal site is an agricultural field approximately 17.5 acres located close to Bexhill-on-Sea in Sussex. The surrounding area is mainly rural with verdant rolling fields, albeit there are pockets of houses interspersed within the immediate area along with a large solar farm to the north. The appeal site was originally used for grazing and has an agricultural land classification as poor.
10. The farm is accessed via a gated entrance from Whydown Road to the south of the appeal site. There are several buildings and structures at the site consisting of a mixture of agricultural barns, sheds, and containers for the welfare of animals. There is also a residential unit consisting of shipping containers joined together in the middle of the site where the appellant resides, along with a portacabin closer to the entrance under separate ownership but also in residential use by Mr Demain.

³ Under s336(1), "owner", in relation to any land, means...a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let'.

11. The appeal site is located outside settlement boundaries as defined within the saved policies of the Adopted Rother District Local Plan (RLP), adopted July 2006, Rother District Council Local Plan Core Strategy (RCS), adopted 29 September 2014 and Rother District Council Development and Site Allocations Local Plan (RSALP), adopted 16 December 2019. As such, for planning policy purposes the appeal site is deemed to be within the open countryside.
12. Collectively, RLP policy DS3; RCS policies OSS2, OSS3, OSS4 and RSALP policies DEN1 and DIM2 forms part of an overall development strategy for development within the district. They generally seek to direct most new development to those locations that are accessible by means other than private car, and which contain the widest range of services and facilities. In open countryside locations, and with some stated exceptions, RCS policies RA2 and RA3 state that only development that is essential in connection with certain purposes, including uses that are appropriate to a rural area, will be permitted.
13. In particular, RCS policy RA3 only allows the creation of new dwellings in the countryside subject to extremely limited criteria. These include (a) dwellings to support farming and other land-based industries. All such planning applications (including those for temporary permission) are required to demonstrate (i) a clearly established functional need, relating to a full-time worker primarily employed in farming and other land-based businesses; (ii) the functional need cannot be fulfilled by other existing accommodation in the area; (iii) the unit and agricultural activity concerned are financially sound and have a clear prospect of remaining so; and (iv) dwellings are of an appropriate size, siting and design.
14. Paragraph 84 of the National Planning Policy Framework (the Framework) states that isolated homes in the countryside should be avoided unless at least one of a closed list of circumstances would apply. The first such circumstance is where there is an essential need for a rural worker, to live permanently at or near their place of work in the countryside. Policy RA3 and paragraph 84 are broadly consistent with each other, as they both seek to restrict rural housing unless stated exceptions apply.

Functional need

15. The appellant contends that given the varied and mixed types of rare and niche market livestock on site, there is a necessary and essential requirement to have a full time farm worker on the site 24 hours a day. From the information before me Long Acre Farm consists of livestock which include horses, sheep, goats, pigs, turkeys, and chickens.
16. In respect to the horses, the appellant has supplied information in the form of Equine Vet letters detailing that the horses kept at the site require specialist care which would necessitate the need for the appellant to reside at the site. The letters indicate that in the past, emergency assistance has been required for the horses, due to colic. Given the symptoms were identified quickly, it prevented the illness becoming more serious and potentially fatal. I would acknowledge that quick identification of these types of illness is desirable from an animal welfare perspective, albeit the veterinary letters highlight a person being available on-site at most times of the day and night does not prevent such occurrences.
17. Routine tasks such as the checking and feeding of horses and the maintenance of the farm would not ordinarily require a person to be available at most times.

Furthermore, I have been supplied with limited details in respect to any foaling or the care of young foals, undertaken at the site which may require additional and/or more frequent checks and occupation at the appeal site. Whilst I accept that there are instances where it would be necessary to tend to the horses during the night and early in the morning, I have not been supplied with information that these types of instances would be more than occasional.

18. The agricultural statement⁴ provided with a refused planning application⁵ highlights that a 24 hour presence is also required to assist lambing ewes and farrowing pigs. The eight ewes are lambed once a year (March/April). The main time when difficulties can occur during the birthing period, appears to be in the night. In terms of the welfare of the pigs, the six sows farrow twice a year. The welfare of piglets is particularly prevalent when they are new-born. Assistance can be required to prevent nursing sows inadvertently lying on top of their young whilst they are feeding, with potentially fatal results. I recognise that given that animals are kept on site, these would require a degree of tending, observation, and supervision throughout the year. The appellant's presence on site would clearly assist with essential care at short notice.
19. It was notable during my site observations that the numbers of livestock at the site appears to have decreased since the agricultural statement was written in 2020. Although, I am aware that the appellants livestock had recently experienced issues associated with barber pole worm (a parasite of sheep and goats) which can cause significant economic losses in livestock operations, which may explain the lack of livestock during my visit.
20. Nevertheless, based on the evidence before me, while the sheep, pigs and other animals on site may give birth throughout the year, these numbers are limited to once for the sheep and twice per year for the pigs. I would acknowledge that during these times it is particularly busy for the farmers and would require the appellants to reside at the site. However, given the modest numbers of livestock involved it is anticipated that occasional stays during these periods in a caravan or similar, could be considered ancillary given the lawful agricultural use at the site. This would allow animal welfare to be maintained, as the stock could be monitored at critical times. Thus, negating the requirement for the appellant to permanently reside at the appeal site.
21. The appellant highlights that there have been issues associated with thefts and trespass at the property. Whilst the use of the dwelling and the presence of a rural worker could reduce the risk of theft or harm by trespassers, I have limited substantive evidence that the area is particularly vulnerable to crime. Furthermore, the use of other deterrents such as signage, gates, fencing and prominently positioned security cameras, could have a similar preventative effect without the need for a rural worker to permanently reside at the site.

Existing local accommodation

22. The appellant's agricultural statement highlights that it is essential for a farm worker to be housed in close proximity to the holding. As such, the dwelling is required to support the existing agricultural unit, as well as to enable the proposed expansion of the rural business. The agricultural statement has not been updated

⁴ Agricultural Statement prepared by Bloomfields Chartered Town Planners dated November 2020

⁵ Rother District Council Planning Ref: RR/2020/1779/P

since its submission in November 2020. At the time of its submission, very few properties were available in the local area, and those that were, were considered unviable to either rent or buy by the appellant. However, I have not been presented with an updated picture in terms of the local accommodation nor the financial position of the appellant.

23. I acknowledge that the provision of residential accommodation on the appeal site would undoubtedly be more convenient for the appellant. It would also make the running of the enterprise more efficient. Nevertheless, I note that there are small developments within the vicinity, and the site is also close to the town of Bexhill-on-Sea, albeit this would incur additional time and costs to commute to the appeal site on a daily basis. However, given the lack of an up-to-date picture of the availability, accessibility, and affordability of alternative local accommodation, I cannot conclude that there is a lack of suitable existing accommodation in the area.
24. Overall, based on the current evidence before me, it does not amount to an essential need for a year-round residential presence on the appeal site to support a rural business.

Financial soundness

25. In regard to whether the business is financially sound and has a clear prospect of remaining so, the current evidence is also inconclusive. Both parties refer to a letter⁶ from the Rural Estates Surveyor in which he concluded the overall enterprise had not been shown to have, or to be planned upon, a sound financial basis.
26. The appellant draws my attention to the assessment being undertaken during the start-up phase when it is unlikely that a business would make a profit. They also highlight that no adjustment was made for the covid-19 pandemic, stating that the 2024/2025 financial situation would look different. However, I have not been supplied with this information.
27. Limited accounting information has been provided in respect to the farm, thus I cannot be confident of any incomings and outgoings which accurately reflect the current business, or that profits have been made in recent years. Moreover, the appellant has highlighted they are unable to obtain insurance cover for the farm, as they have been unable to obtain planning permission, leading to further financial difficulties.
28. Consequently, it has not been demonstrated that the business has or is financially capable of supporting a full-time worker in their primary employment. In the absence of a compelling business plan, at this stage I am unconvinced that the business is likely to be able to support a full-time worker in their main employment in the future.

Size, siting, and design

29. The appeal site is on the periphery of any local settlement where the relatively tight and more urban development pattern becomes sporadic and distinctly rural in appearance. The site itself is linear, well-screened and hidden from most public

⁶ Letter dated 18 March 2021 from Richard Lloyd-Hughes of Rural Planning Ltd.

vantage points with boundary treatments consisting of well-established mature hedgerows and trees, adding to the verdant feel of the area.

30. Whilst located close to a small cluster of existing development along Whydown Road, the area to the north is largely devoid of built structures providing an undeveloped, agricultural appearance. I have taken account of the pattern and form of development which exists locally, and the site appears more as part of the rural area to the north rather than either the small cluster of development close to the site or the established settlement of Bexhill-on-Sea to the south.
31. Whilst small scale, the collective introduction of the residential development at the appeal site, including shipping containers, residential outbuildings, portacabin, motor vehicles, caravans and other residential paraphernalia provide additional sprawl with an increased developed effect, harmful to the overall appearance of the area. The appeal scheme therefore provides discordant built forms in the locality, which fail to protect or enhance the character of the countryside.
32. Whilst limited, the residential development does harm the rural character of the area, and as a result would be contrary to RCS policies RA2 and RA3, which require development to be of a high quality of design, whilst conserving the intrinsic value, local distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside, amongst other things.

Other Matters

33. National policy emphasises the need for new housing. I acknowledge that the current development provides homes for the appellant's family and also Mr. Demain, which would be removed as per the requirements of the enforcement notice. Clearly from the sincerity of evidence before me, I am in no doubt how important the loss of a home would be to the people concerned.
34. This is an important consideration and would also represent a serious interference with their right to respect for private and family life and the home, as outlined in Article 8 of the European Convention on Human Rights, as incorporated in UK Law by the Human Rights Act 1998. This is a qualified right, and interference may be justified if it is necessary, proportionate and serves a particular planning purpose. I return to this in my conclusion under ground (a).
35. I also acknowledge that various wildlife features have been provided at the site, these include but are not limited to the planting of various trees species and the creation of a new wildlife pond. These actions have increased habitats and species and have enabled birds, aquatic life, reptiles, and mammals to remain at the site. Whilst the contributions to biodiversity could result in an enhancement at the site, the extent of any biodiversity net gain is unclear based on the limited information provided. As such, this would weigh only modestly in favour of the proposal.

Conclusion on ground (a)

36. For the reasons given above, in respect of local and national development strategies for housing, there is not an essential need for a dwelling on the appeal site to accommodate a rural worker. Consequently, the development conflicts with the relevant development plan policies and paragraph 84 of the Framework, to which I afford significant weight.

37. While the notice would result in the appellant's family and Mr. Demain losing their current homes, I cannot see that the aim of protecting the Council's spatial strategy could be achieved by any other means which would cause less interference with their rights under Article 8, as outlined above. In my judgement, the dismissal on ground (a) is a necessary and proportionate response and would not result in any violation of those rights.
38. Consequently, the ground (a) appeal does not succeed, and planning permission will be refused in respect of the appeal development.

Appeal under ground (f)

39. An appeal on ground (f) is whether the requirement is excessive to achieve the purpose of the notice. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the 1990 Act (as amended) sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or b) remedying any injury to amenity which has been caused by the breach.
40. The requirements of the enforcement notice are clear, as it requires the cessation of the use of the land for residential purposes and removal of the buildings, structures and amenities which facilitate its residential use. Consequently, I am satisfied, that the purpose of the notice is to remedy the breach of planning control by discontinuing the unauthorised use of the land and returning it to a condition before the breach took place, as set out under section 173(4)(a) of the 1990 Act.
41. The requirements to remove all residential buildings, structures and facilities would prevent occupation of any of the units as separate residential accommodation and would allow the land to return to an agricultural use only. The requirements of the notice remains necessary and proportionate to remedy the breach of planning control, namely the separate residential use on the land.
42. The appellant suggests lesser steps of redesigning and/or relating the living accommodation elsewhere on the site. However, the enforcement notice is specific in its requirements to remove all shipping containers, residential outbuildings, portacabins, motor vehicles and caravans from the land, and sewage, drainage and gas and electrical infrastructure associated with the residential use which would serve a clear planning purpose. These requirements are the minimum necessary and thus remain proportionate to remedy the breach of planning control as set out by the notice.
43. Consequently, I find that the requirements of the enforcement notice, as stipulated, would be appropriate to remedy the breach of planning control, and as such the requirements of the enforcement notice are not excessive. Given that no lesser steps have been identified that would achieve the aims of the notice, the appeal on ground (f) therefore fails.

Overall Conclusion

44. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on

the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR