



Appeal Decisions

Site visit made on 5 May 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal A: Ref APP/U1430/C/24/3339523

Land at Hooters (formerly known as The Dell), Moat Lane, Westfield, East Sussex

- 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 Martin Hawkins against an enforcement notice issued by Rother District Council.
 - The enforcement notice (Notice A) was issued on 26 January 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the formation of a hardstanding and track in the approximate position shown coloured green on the attached plan.
 - The requirements of the notice are to:
 - (i) Break up and remove the track and hardstanding from the Land.
 - (ii) Remove from the Land all rubble, rubbish, debris, materials, tools and equipment and plant arising from compliance with the first requirement above.
 - (iii) Replant and restock the felled area covered by the Forestry Commission Order dated 8th June 2023 in accordance with the requirements set out in that Notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended (the Act).
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Appeal B: Ref APP/U1430/C/24/3340691

Land at Hooters (formerly known as The Dell), Moat Lane, Westfield, East Sussex

- 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 Martin Hawkins against an enforcement notice issued by Rother District Council.
 - The enforcement notice (Notice B) was issued on 26 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a storage barn ("the Barn") in the approximate position shown edged blue on the attached plan.
 - The requirements of the notice are to:
 - (i) Demolish, dismantle, and remove the Barn from the Land.
 - (ii) Remove from the Land all tools and equipment used in connection with the Barn.
 - (iii) Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the first requirement above.
 - (iv) Replant and restock the felled area covered by the Forestry Commission Order dated 8th June 2023 in accordance with the requirements set out in that Notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decisions

1. It is directed that Notice A be corrected by replacing the plan attached to the notice with the plan attached to this Decision.

Subject to that correction, which is due to limited success on ground (d), Appeal A is otherwise dismissed and Notice A is upheld.

2. Appeal B is dismissed and Notice B is upheld.

Procedural Matters

3. Appeal A relates to the hardstanding and track associated with the barn which is the subject of Appeal B.

Appeal A

4. For success on ground (d), the appellant must demonstrate on the balance of probabilities that enforcement action was not possible on the date the notice was issued. The burden of proof rests with the appellant.
5. As it applies to the appeal development, S171B(1) of the Act provides that no enforcement action may be taken in respect any unauthorised operational development after the end of the period of 4 years beginning with the date on which the operations were substantially completed. Accordingly, the relevant date is 26 January 2020.
6. I have considered all of the evidence carefully, including all of the photographic imagery. As the Council now does, I find that a discrete element of operational development appears to have been substantially completed before the relevant date and I am accordingly substituting in a new plan to be attached to the notice which reflects this limited success on ground (d). The enforcement plan now only relates to development which the appellant has not satisfactorily demonstrated had been substantially completed before the relevant date.
7. While the appellant comments upon an April 2020 photograph showing 'newly' cleared land (upon which the barn was to be erected), and asserts that the land was cleared in January 2020 (though no specific date is provided), the correct date for determining lawfulness is the date that the operational development targeted by the notice was substantially completed. It is apparent from the above photograph that the hardstanding had not been substantially completed.
8. For these reasons, ground (d) partially succeeds to the extent indicated and I am correcting the notice accordingly.

Appeal B

Main Issues

9. The main issues in ground (a) and the deemed planning application are those identified in section 4 of Notice B:
 - whether or not there is an agricultural or forestry need for the barn; and
 - the effect of the development on the rural character and appearance of the area, being next to Ancient Woodland within the High Weald National Landscape (HWNL, previously AONB - Area of Outstanding Natural Beauty).

Reasons

10. On 28 November 2023, Inspector Hobbs dismissed the appellant's appeal against the Council's refusal to grant retrospective consent for the construction of the storage barn¹ – that being the same development before me.
11. If Inspectors reach significantly different conclusions about obviously similar cases with no explanation or acknowledgement then this can undermine confidence in the appeal process. Consistency in the planning system is therefore important for appellants, local planning authorities and the public. The courts have established that like cases should be decided in a like manner².
12. At the time of Inspector Hobbs' Decision, there was 'no substantive evidence which demonstrates the need for the barn'³. However, there has been substantive evidence submitted with this appeal. For instance, I have seen documentation relating to the keeping of pigs (DEFRA/Animal Health, Rural Payments Agency, a purchase invoice) and photographs of the animals apparently being kept upon the appeal site. In my view, a reasonably-sized barn is needed in connection with the keeping of the pigs and for storing their feed, bedding and other related items⁴. I have also seen photographs of the tractor with hedge-cutter and roller (which I also saw on my site visit) and which would appear to need the headroom and space provided by the building for access and storage. All in all, notwithstanding that the barn is also used for the storage of non-agricultural items, I find as a matter of fact and degree that the barn is of an appropriate size needed for the farming enterprise to which it directly relates.
13. However, notwithstanding that there had been a sizeable number of (possibly unaesthetic) outbuildings/containers to the south nearer the dwelling, the new barn has been sited on a previously wooded area close to the Ancient Woodland within the HWNL. The appellant seems to take issue as to whether the land was cleared for the development (said by the appellant to have been substantially completed in May 2020), but it seems clear to me looking at the aerial photography submitted with Appeal A that the 'newly' cleared' area upon which the barn was to be erected (as seen in the April 2020 image) was significantly wooded in the preceding aerial May 2018 image.
14. These issues, pertinent to the effect of the development on the local character and appearance of the area and upon the HWNL/AONB, were well considered by Inspector Hobbs. The development is the same as in the earlier appeal. The policy context remains the same and I can see nothing in the new appeal submissions which indicates that anything has materially changed since the Decision of Inspector Hobbs. Accordingly, I place considerable weight upon the findings of Inspector Hobbs and upon the reasons for those findings – with which I entirely agree. For instance:

"10. The appeal site is located within the High Weald AONB, an area designated for its landscape and scenic beauty. The surrounding area is characterised by the verdant landscape, including large pockets of woodland.

¹ Planning application Ref RR/2021/3023/P; Refused on 5 July 2022. Appeal Ref APP/U1430/W/22/3311075.

² *North Wiltshire DC v SOSE* (1993) 65 P & CR 137

³ Paragraph 8 of the Decision Letter

⁴ I also note (notwithstanding the lack of substantive evidence on this matter) that the appellant says that rescue chickens have also been accommodated on the appeal site, with a future intention to home up to 100.

Agricultural and equestrian buildings are scattered across the landscape and there is a loose pattern of ribbon development along Moat Lane, comprising a few dwellings.

11. The appeal site forms part of the land attached to a large property, Hooters, and a detached garage as well as a large amount of surrounding land. This includes a formal garden area and a piece of land which appears to be recently cleared, surrounding the barn. The barn is cut into the slope of the land and is surrounded by a gravelled area, this leads to the extended driveway which is located between Hooters and the detached garage. The barn is sited between an area of ancient woodland and a neighbouring property.

12. The clearance of an area of established woodland and installation of a gravelled area to site the barn has had a harmful effect on the verdant and sylvan character of the area and consequently the landscape and scenic beauty of the AONB.

13. Given the siting of the barn and established landscaping it is largely screened from wider public views. The modern design and utilitarian appearance is similar to several other agricultural buildings within the AONB. Nonetheless, the woodland clearance and installation of gravel has detrimentally changed the character of the area and is a harmful intrusion in the AONB."

Further:

"18. The made ground surrounding the barn is within 15m of the ancient woodland. This is contrary to Natural England's and the Forestry Commission's standing advice; the buffer is recommended to avoid root damage to ancient woodland. Given the barn is cut into the slope of the land, the potential manoeuvring of heavy machinery could cause harm to the roots of ancient woodland."

15. For the above reasons, the development is in conflict with Policies OSS3, OSS4, RA2, RA3, EN1 and EN5 of the Rother Local Plan Core Strategy (2014) and Policies DEN1, DEN2 and DEN4 of the Development and Site Allocations Local Plan (2019) which together seek to protect character and appearance and the HWNL/AONB.

Conclusion on Appeal B

16. The appeal development does not accord with the development plan as a whole, and there are no other considerations which outweigh that finding.
17. The appellant has said that he is "prepared to undertake re-stocking [of trees] to the area that has been cleared". However, that is clearly impossible with the barn *in situ* and the suggested soft landscaping condition would also not make the loss of woodland caused by the siting of the barn to become acceptable. Restricting the use of the barn and/or restricting the future use of permitted development rights would also not make the harm caused by the erection of the appeal building to become acceptable.
18. I shall not grant planning permission, there being no conditions which would make the development acceptable in these circumstances. Ground (a) does not succeed.

Andrew Walker

INSPECTOR

Plan (Appeal A)

This is the plan referred to in my decision dated:

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

Land at: Hooters (formerly known as The Dell), Moat Lane, Westfield, East Sussex

Reference: Ref APP/U1430/C/24/3339523

Scale: Do not scale

