Planning Inspectorate

Appeal Decision

Site visit made on 21 October 2026

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2026

Appeal Ref: APP/C1435/C/24/3357798
Land at Nabbscott Farm, Hackhurst Lane, Lower Dicker, Hellingly, East Sussex BN27 4BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Stacey Winchester against an enforcement notice issued by Wealden District Council.
- The notice was issued on 19 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, change of use of the Land from a mixed use as a reclamation yard and for agriculture to a mixed use as a reclamation yard, for agriculture and for the stationing of caravans for residential purposes.
- The requirements of the notice are to:
  - (i) Stop using the Land for the stationing of caravans for residential purposes
  - (ii) Remove all caravans from the Land.
  - (iii) Remove all residential and domestic goods, chattels, furniture and paraphernalia associated with the said unauthorised use from the Land.
  - (iv) Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the above requirements from the Land.
- The period for compliance with the requirements is: 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) 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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The National Planning Policy Framework (the Framework) was published during the course of the appeal. It is a material consideration of critical importance in considering whether to grant planning permission. The parties were given the opportunity to comment and I have taken its contents and those comments into account in coming to my decision.

2. The provisions of section 176(1) of the Act give Inspectors wide ranging powers to correct or vary enforcement notices in order to get them in order, provided that such alterations would not result in injustice to any party. The enforcement notice alleges the use of the land for a mixed use including “the stationing of caravans for residential purposes”. That use is required to cease at section 5 of the notice and to “Remove all caravans from the Land”. The appellant suggests that caravans on the land may be used for purposes other than residential that are not explicitly referred to in the breach of planning control. As a result and under section 176(1) of the Act, I will correct that requirement to state “Remove all caravans used for residential purposes from the Land”. This was raised with the parties during the course of the appeal and, taking account of their responses, I consider such a change does not cause any injustice to any party.

The Appeal on Grounds (b) and (c)

3. An appeal on ground (b) is that the matters described in the notice have not occurred and on ground (c) that those matters do not constitute a breach of planning control. The burden of proof for these grounds is on the appellant, with the relevant test of the evidence being on the balance of probability.

4. I will deal with these grounds together as the arguments of the appellant are essentially the same, in that only one of those caravans was used for residential purposes at the time the notice was issued. As a result, they suggest that the notice should be amended to refer to the stationing of a caravan for residential purposes in the singular.

5. There is no dispute that stationing of a caravan for residential purposes has taken place. Neither is there any dispute that the change of use of the Land from a mixed use as a reclamation yard and for agriculture to a mixed use as a reclamation yard, for agriculture and for the stationing of a caravan or caravans for residential purposes constitutes development within the meaning of section 55 of the Act for which planning permission is required. No planning permission has been sought from or granted by the Council for the change of use.

6. The test of evidence is on the balance of probability. Evidence needs to be sufficiently precise and unambiguous and should not be rejected simply because it is uncorroborated. The evidence provided comprises statements from the appellant's agent regarding the use. It is not corroborated with evidence directly from the appellant or other parties. Therefore, I consider that the evidence is not sufficiently precise and unambiguous and, on the balance of probability, more than one caravan would have been used for residential purposes, whether for separate occupation or related to the occupation of another caravan. Limited evidence has been supplied in support of the suggestion that other caravans were only used in relation to the lawful reclamation yard and agricultural uses. On that basis, I consider that it would not be possible to amend the notice to make reference to residentially occupied caravan singular.

7. Nevertheless, I note that the notice, as corrected in preliminary matters, would only require caravans in residential use to be removed from the site. This would have the effect that caravans in use as part of the lawful use of the land would not be required to be removed.

8. For these reasons, I conclude that the appeal under grounds (b) and (c) should fail.

The Appeal on Ground (a) and the Deemed Planning Application

Background

9. For clarity, the appellant suggests that the number of caravans to be used for residential purposes should be limited to one. This could be controlled by condition and I will consider the appeal on ground (a) on that basis.

Main issues

10. The enforcement notice sets out the reasons for the Council's decision to issue an enforcement notice. These relate to whether the residential use is in a sustainable location and the effect on the character and appearance of the area. In their

Statement, they further refer to the location being noisy given it is located next to commercial units. That indicates concern relating to the living conditions of occupiers of the site. I will take this into account in defining the main issues.

11. The main issues are:
    - Whether the location of a residentially occupied caravan would comprise sustainable development;
    - The effect of the caravan on the character and beauty of the landscape; and
    - Whether occupiers of the caravan have adequate living conditions, particularly in relation to noise and disturbance.

Reasons

Sustainable location

12. The appellant suggests that the land is located within a settlement. They draw my attention to a plan from the Hellingly Neighbourhood Plan (NP) that shows the part of the site closest to the road as within the village area of Lower Dicker as defined on that plan. The Glossary to the Framework defines a settlement as a built-up area, including areas defined as a settlement in a development plan using defined settlement boundaries or equivalent terms. The NP forms part of the development plan and I consider it to have defined the front part of the appeal site as being within the settlement.

13. The caravan used for residential purposes is located behind the large building on the site with the main agricultural activity located to the rear. The settlement boundary set out within the NP appears to be drawn through the site such that the residentially occupied caravan is within the settlement. However, I note that the development comprises a mixed use such that a caravan could be located anywhere within the identified site.

14. Policies S4 and S5 of the Framework relate to the principle of development within or outside settlements. Policy S4 states that development within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision making policies of the Framework.

15. Policy S5 of the Framework relates to development outside settlements. It states that certain forms of development should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision making policies of the Framework. The forms of development referred to include residential or mixed use development where it is the redevelopment of previously developed land, including a material change of use to residential or mixed-use including residential.

16. As the caravan is within the settlement, subject to any adverse effects arising from assessments against national decision making policies, it complies with policy S4 of the Framework. It would be possible to relocate the caravan within the site to a position outside the settlement, in which case it would fall within an area subject of S5. However, the enforcement notice makes clear that the existing use of the buildings and surrounding land is a mixed use as a reclamation yard and for agriculture, which would comprise previously developed land. As a result, the current mixed use would comprise redevelopment of previously developed land in

accordance with policy S5 of the Framework, subject to considering any adverse effects arising from assessments against national decision making policies.

17. As I have concluded that the caravan is within or would be adjacent to the settlement and on previously developed land, this is not an isolated home in the countryside. As a result, policy HO11 of the Framework does not apply.

18. Given my conclusion that the development is located within the settlement, it would not conflict with Policy GD2 of the Wealden Local Plan (LP) relating to development outside development boundaries. Similarly, Policy DC22 of the LP relates to caravans within the countryside such that the policy is not applicable to this caravan within a settlement. Policy GD1 of the LP relates to development within those boundaries, where it would be permitted if it is in accordance with other policies and proposals in the plan. I will return to that in my conclusion on ground (a) and the deemed planning application.

19. The Council have drawn my attention to Policy LD1 of the NP in relation to this matter. However, it addresses effects on matters relating to character and appearance that I will return to in the next main issue.

Character and appearance

20. Nabbscott Farm is located within the Low Weald, an area of largely open countryside with low rolling hills interspersed with settlements. To the front is the busy A22 road and development of Lower Dicker comprising a mix of residential and commercial development and open fields along the roadside and extending to the rear. To the front of the site is the reclamation yard with houses to the side and commercial development to the rear. The site is visible from surrounding development and the public footpath beyond the site boundary and leading from the A22 into the countryside beyond.

21. This mixed surrounding development means that a single residentially occupied caravan results in limited additional development within a site that includes a reclamation yard. Although neighbouring open fields, given the development to the side and rear of the site it would not materially extend development into the countryside surrounding Lower Dicker.

22. For these reasons, I conclude that the caravan does not affect the character and beauty of the surrounding landscape. It would not conflict with Policies EN8 and EN27 of the LP, Policy LD1 of the NP and policy N2 of the Framework that seek development to respect the character of adjoining development and conserve the low rolling agricultural landscape character and natural beauty of the Low Weald landscape.

Living conditions

23. The caravan is located to the rear of the reclamation yard and close to a number of commercial units on neighbouring land. Those commercial units include use for repair and manufacture of vehicles and were granted permission under reference WD/2018/2483/F on 2 October 2019 for conversion of existing building to class B1/B8 use, minor alterations to buildings, parking and landscaping, use of access to the A22. That was subject to a number of conditions, including condition 7 limiting the hours of use to 0800-1800 Mondays to Fridays and 0800-1300 Saturdays. I understand that is similar to the planning permission for the existing

use of the site, described as salvage yard, associated buildings and agricultural holding, under reference WD/2020/0895/FR.

24. Use under class B1 is, by definition, suitable in a residential area. That condition limits the use outside set hours that limits disturbance to normal working hours. Given the residential use in this case is part of a mixed use, including the reclamation yard, and taking account of the conditions limiting hours of use, the noise and disturbance from neighbouring uses do not result in unacceptable living conditions for occupiers of the caravan.

25. For these reasons, I conclude that the occupiers of the caravan have adequate living conditions in relation to noise and disturbance. As such, the development does not conflict with Policy EN27 of the LP that seek development to provide a satisfactory environment for future occupants, which would include in relation to noise and disturbance.

Other matters

26. I understand that bonfires have taken place on the site that have affected the living conditions of occupiers of nearby residential properties. Such activity is controlled by other legislation. It is unclear whether these relate to the uses taking place on the site or how these are affected by the residential use within a caravan that is the focus of this ground of appeal. I note the issues that these bonfires cause but consider they would not be affected by the grant of planning permission from the lawful use to the mixed use including stationing of a caravan for residential occupation.

27. My attention has been drawn to the need for homes within this area. The appellant suggests a need for homes within the district, referring to housing need increasing to 1,400 homes as identified in the Council's Housing Land Supply Statement updated February 2025 and the Strategic Housing Market Assessment (SHMA) identifying a need for smaller units such as proposed. This indicates the supply of this single residential unit would contribute toward meeting the evidenced accommodation needs of the community. Policy HO7 of the Framework states the benefits of providing homes in these circumstances should be given substantial weight.

28. Policy L2 of the Framework states that substantial weight should be given to the benefits where a development would make better use of vacant and underutilised land and buildings, including service yards. The development results in further use of the reclamation yard and agricultural land in providing a residential unit such that it would make better use of this land.

29. In considering whether to grant planning permission, policy DM8 of the Framework states that substantial weight should be given to unauthorised development where it is concluded that it is intentional. In this case, I have limited evidence as to whether the unauthorised development was intentional. Nevertheless, and on the balance of probability, I will give substantial weight to the fact it was intentional unauthorised development in this case.

30. The appellant suggests that the residential use is needed to support the agricultural use. There is limited evidence why it would be necessary for residential occupation of the site to be necessary to support the agricultural use of the land.

However, taking account of my conclusions on the main issues, further consideration of this matter is not necessary.

Conditions

31. A number of conditions were suggested by the Council and subject to discussion during the course of the appeal. I will attach conditions for the following reasons:

    1) Limiting the number of caravans on site is necessary to reflect the development sought by the appellant and considered in the appeal under ground (a).

    2) This condition is imposed to ensure that a scheme for parking and turning within the site and foul drainage disposal are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the scheme for parking and turning and foul drainage disposal before the development takes place.

       The condition will ensure that the development can be enforced against if the scheme for parking and turning and foul drainage disposal are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

    3) A condition restricting external lighting is necessary to protect the living conditions of nearby dwellings and the ecology and biodiversity of the surrounding area.

Conclusion

32. I have concluded that the residentially occupied caravan is located within a settlement so would comprise sustainable development, does not affect the character and beauty of the surrounding landscape and provides adequate living conditions for its occupants. As a result, I have not found conflict with related development plan policies. It also complies with Policy GD1 of the LP that states development should be permitted within settlement boundaries, where it is in accordance with other policies and proposals in the plan.

33. I need to give substantial weight to the contribution to housing supply in accordance with policy HO7 and to making better use of this land under policy L2 of the Framework.

34. Policy WCS 14 of the Wealden Core Strategy Local Plan (CS) seeks development to reflect the presumption in favour of sustainable development in the Framework. That presumption is set out in policy S3 of Framework that states policy S4 should be applied when considering development proposals within settlements and, if outside settlements, policy S5 should be applied. In circumstances where development is partly within and partly outside a settlement, both policies should be applied before coming to an overall view. I have concluded the development complies with policies S4 and S5 of the Framework, subject to considering any adverse effects arising from assessments against national decision making policies.

35. I have stated that I need to give substantial weight to the fact it was intentional unauthorised development as set out in policy DM8 of the Framework. However, I consider that the substantial weight arising from the contribution to housing supply and making better use of the land would not be substantially outweighed by the adverse effect arising from the intentional nature of the unauthorised development. As a result, it complies with policies S4 and S5 of the Framework. That means it also complies with policy S3 of the Framework and, therefore, Policy WCS14 of the CS.

36. For the reasons set out above, I conclude that the change of use of the land from a mixed use as a reclamation yard and for agriculture to a mixed use as a reclamation yard, for agriculture and for the stationing of caravans for residential purposes accords with the development plan. I have not found any material considerations that would lead me to a conclusion other than that the appeal on ground (a) should succeed.

Formal Decision

37. It is directed that the enforcement notice is corrected by the deletion of the words "Remove all caravans from the Land" and their substitution with the words “Remove all caravans used for residential purposes from the Land” in section 5. What You Are Required To Do, paragraph (ii).

38. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely without planning permission, change of use of the Land from a mixed use as a reclamation yard and for agriculture to a mixed use as a reclamation yard, for agriculture and for the stationing of caravans for residential purposes at Nabbscott Farm, Hackhurst Lane, Lower Dicker, Hellingly, East Sussex BN27 4BB as shown on the plan attached to the notice and subject to the conditions in the schedule at the end of this decision.

AJ Steen

INSPECTOR

Schedule of Conditions

1) No more than 1 (one) caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended) shall be stationed on the land for residential purposes at any time.

2) The stationing of caravans for residential purposes hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

   i) Within 3 months of the date of this decision a scheme for parking and turning within the site and foul drainage disposal shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

3) No external lighting shall be installed on the site without first having been submitted to and approved in writing by the Local Planning Authority.