



## Appeal Decision

Site visit made on 12 April 2018

**by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 April 2018**

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### **Appeal Ref : APP/Y9507/C/17/3179665**

#### **Land at Wootton Farm, Novington Lane, East Chiltington, 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 Mrs Sharon Vaisey against an enforcement notice issued by Lewes District Council on behalf of the South Downs National Park Authority.
- The notice was issued on 9 June 2017.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agricultural use to residential by the siting of a mobile home for use as a residential dwelling, in the approximate position marked with green hatching on the plan attached to the notice.
- The requirements of the notice are (i) cease the use of the land for the siting of a mobile home as a residential dwelling and (ii) remove the mobile home from the land, along with any materials and debris resulting from its removal.
- The period for compliance with the requirements is 3 months for step (i) and 4 months for step (ii).
- The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

### **Summary of Decision: the appeal is dismissed**

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#### **Preliminary matter**

1. An initial ground (a) appeal was withdrawn by the Appellant during the course of the appeal. Accordingly, I shall therefore determine this appeal on ground (g) only.

#### **Ground (g) appeal**

2. This ground of appeal is that the period for compliance is too short. The notice includes a compliance period of 3 months for the cessation of the use of the land for siting of a mobile home as a residential dwelling and 4 months to remove the mobile home from the land.
3. The site is a large former farm located within the South Downs National Park. The mobile home the subject of this appeal is situated in a relatively open location that is visible in wider views of the countryside.
4. A series of successive temporary planning permissions have been granted for occupation of the mobile home on an annual basis. The most recent expired on 30 September 2016. In December 2016 in the absence of meaningful progress in finding alternative living accommodation for the

occupier and without special justification for the identified harm to the National Park planning permission was refused.

5. The occupier of the mobile home is the livery manager who has been in occupation since 2012. The Appellant says that she will move into alternative accommodation following the implementation of planning permission (SDNP/17/03957/FUL) which grants consent for the creation of a 1 bedroom dwelling unit. She says that the new accommodation is scheduled to be complete and ready for occupation by no later than 30 April 2018. She seeks variation of the time period for completion of step (i) (cessation of the use of the land for the siting of a mobile home as a residential dwellings) to 30 April 2018 and step (ii) (removal of the mobile home from the land) to 31 May 2018.
6. The Council in its submissions considers the Appellant's request for variation of the period of compliance acceptable subject to the works on the new dwelling being completed as approved by the permission.
7. The requirements of the notice affect the home of an individual and the livery business on the site. Interference with the way the Appellant uses her land must be proportionate taking into account the conflicting considerations of private and public interest.
8. I consider that compliance periods set out in the notice are reasonable and balance business and individual needs with the identified harm to the National Park. They strike the appropriate balance between the conflicting public and private interests and are proportionate so as not to violate the individuals' rights. They take account of the plans for the occupier to move into alternative accommodation.
9. The three and four month compliance periods in the notice do not commence until the notice takes effect. An enforcement notice is of no effect pending the final determination (or withdrawal) of an appeal. Final determination is the date of this decision letter (if there is no further appeal to the High Court). The timing of the appeal means that the Appellant's desired compliance dates (of 30 April 2018 and 31 May 2018) fall within the 3 and 4 months periods set out in the notice.
10. I have considered varying the compliance period to link it to future completion of the new accommodation rather than a specified time period but I consider that would introduce an unnecessary uncertainty.
11. In any event the Council has the power to extend the compliance period whether or not the notice has taken effect by virtue of section 173A of the 1990 Act (as amended) should any relevant changes in circumstances mean that it is reasonable to do so.
12. For the reasons given above, I conclude that the appeal should be dismissed.

**Formal Decision**

13.The appeal is dismissed.

*S.Prail*

**Inspector**