

SOUTHEND FARM, SOUTHEND LANE, SOBERTON, HAMPSHIRE SO32 3QB

Appeal ref: APP/L1765/C/21/3286358

Land North of Dradfield Lane, Dradfield Lane, Soberton, Hampshire SO32 3QD

Planning Authority: Winchester City Council (WCC)

REPRESENTATIONS ON PLANNING APPEAL

1. These representations are from Angus and Sarah McCullough. We live on a neighbouring property to the site that is the subject of this appeal. Our address is at the head of this document.
2. We respectfully contend that the appeal should be dismissed. None of the grounds advanced is sustainable.
3. Although our property is not adjacent to the appeal site, the development is highly visible from our land – as well as other parts of the open countryside at the boundary of the South Downs National Park. The Inspector is invited to visit our property if the visual impact on the landscape is considered to be an issue relevant to the appeal.

Response to Grounds of Appeal

4. Significantly, no appeal has been made under ground (a) [*That planning permission should be granted for what is alleged in the notice.*] There is no challenge to the Council's reliance on policy MTRA4 (a residential dwelling in the countryside for which there is no justification), or the Habitats Regulations 2017 (failure to demonstrate nitrate neutrality). The grounds raised are addressed below. We then set out further evidence and information in relation to the appellan development of the site.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
5. In so far as it may be understood, this ground has three aspects:

- (i) The first focuses on the hardstanding on which the residential trailer is sited. The appellant's argument is that because the hardstanding is capable of having a use that is not associated with non-permitted residential use, then the enforcement notice requiring its removal is flawed.
 - (ii) It is then asserted that the relevant hardstanding "has already been accepted as permitted development", by reference to the outcome of the appellant's previous appeal (APP/L1765/C/20/3256531).
 - (iii) Thirdly, it is suggested that the enforcement notice should not have extended to any breach other than the use of the trailer for overnight accommodation (which breach appears to be implicitly admitted). Thus, it appears to be argued that removal of the trailer, hardstanding, sewage system, and restoration of the land to grass, are steps that should not have been required.
6. This ground of appeal is based on a misreading of the enforcement notice. The enforcement notice is based on "material change of use". It is obvious that the hardstanding on which the residential trailer is sited is, as alleged in the notice, "to facilitate the residential use" of the land. It is irrelevant whether or not the hardstanding was "created to support a residential use". The appellant's denial that this hardstanding was created for the purpose for which it is now being used cannot support the appeal.
7. In any event, the appellant is wrong as a matter of fact in asserting that the relevant hardstanding has been accepted as permitted development. The hardstanding that was the subject of the previous enforcement notice was associated with an alleged material change of use "from agriculture to use for the storage/parking of trailer units(s)/mobile unit(s) and vehicles, and the siting of containers/trailer units" [see the terms of the Enforcement Notice that was the subject of the previous appeal, APP/L1765/C/20/3256531]. The Inspector in that appeal accepted that a non-residential trailer unit and shipping container were in agricultural use and therefore that the hardstanding on which they were sited had not been created to facilitate a material change of use, and so fell under relevant agricultural permitted development rights [see paragraphs 11 and 12 of the Inspector's decision]. None of this has anything to do with the hardstanding that has been installed to support the residential trailer.
8. The relevant hardstanding on which the residential trailer is sited was not under consideration in the previous appeal, and had not even been constructed at the time of the previous enforcement notice. Thus the relevant hardstanding in the enforcement notice presently under appeal has never had an agricultural use (and no past or current agricultural use is identified by the appellant), and cannot fall within relevant agricultural permitted development rights.

9. All aspects covered by the enforcement notice are ancillary to the current non-permitted residential use: the hardstanding on which the trailer is sited; the sewage system; and the trailer itself. This does not appear to be denied by the appellant. The breach of planning control is therefore established as a matter of fact.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

10. The appellant contends that the hardstanding and septic tank are permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015, referring to Class B in Part 6 of Schedule 2. Class B relates to units of less than 5 hectares. Paragraph B(c) refers to "the provision ..of a sewer .." and B(e) to "the provision of a hard surface".
11. The development permitted by para B is expressly "*where the development is reasonably necessary for the purposes of agriculture within the unit*" under the terms of that paragraph. Furthermore, para B.4 limits the area of hardstanding permitted by B(e) to 1,000 sq metres, which is likely to have been exceeded on this site, subject to measurement on a site visit.
12. Even assuming that the septic tank constitutes "a sewer", neither that nor the hard surface on which the residential trailer is sited are "reasonably necessary for the purposes of agriculture within the unit". The appellant does not suggest that these aspects of the development are necessary, and his reliance on the 2015 Order is therefore misplaced.
13. The Appeal Form asserts that "Provided the trailer is not used for overnight accommodation, its use as a day facility in support of the agricultural use, with the provision of a toilet and kitchen facilities would not in itself be a breach of planning control." As a matter of law, that is not correct, as it overlooks the requirement of reasonable necessity for the purposes of agriculture. Furthermore, the assertion is hypothetical. The fact is that the trailer is being used for overnight accommodation and is not being used "as a day facility".

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

14. In support of this ground the appellant repeats the assertion that if the trailer were used as “a day base” it would be lawful. On that basis it is argued that all that should have been required was for him to cease residing in it overnight.
15. This ground of appeal is flawed on a similar basis to (c) above. There is no requirement for a “day base”, and so there is no basis for permitting the development of the trailer / hardstanding / septic tank, which are all associated with the non-permitted residential use. No lesser steps would overcome the objection set out in the enforcement notice, the requirements of which are not excessive.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

16. The appellant suggests that he should be given a year to relocate his residential trailer or find alternative accommodation, whereas the enforcement notice allows 6 months. To remove the hardstanding and sewage treatment plant he contends that 15 months (i.e. a further 3 months beyond the time for relocation on his argument) would be required, rather than the 7 months (i.e. one month after relocation) provided in the notice.
17. The appellant has not been candid in relation to the position in relation to his children. He is not their primary carer and they are only present with him on the site on some weekends. In any event, he gives no reason as to why he could not return the residential trailer to the site on which he was living before moving it to Dradfield Lane in late August 2021. His reference to “the individual and specific nature of the trailer” is not particularised and there is no reason provided as to why this should take a particularly long period to relocate, let alone more than the 6 months provided in the notice.
18. We would contend that a period of 6 months provided in the enforcement notice to remove the trailer and a further month to reinstate the site is generous, and entirely reasonable.

Further information and evidence

19. Although the appellant keeps some pigs and sheep on the site there is no evidence that this is a viable agricultural business. It is not suggested that any non-residential accommodation on the site is required. No business plan has been produced in support of the appeal. The appellant’s business is in creating ponds

and water features: [NEB Waterscapes](#) which has a contact address at 33 Highland Road, Emsworth PO10 7JL. This is a residential address.

20. Having acquired the site in May 2020, the appellant destroyed some 20 metres of mature native hedgerow (statutorily 'important' as being a known breeding site of a protected species, the Brown Hairstreak butterfly *Thecla betulae*) to create an enlarged entrance and gateway. The hedgerow destruction was a criminal offence under regulation 7 of the Hedgerows Regulations 1997. This development was the subject of a retrospective planning application, refused by the planning authority on 11 September 2020, and the refusal upheld by the Planning Inspector on appeal in a decision dated 8 March 2021 (Mr Hocking, APP/ L1765/ W/ 20/ 3263363). This established breach has been used to introduce the residential trailer that is the subject of this appeal, and its associated hardstanding, car park, and sewage system. The planning authority did not enforce against the breach but invited a further retrospective application which remains undetermined (Appeal ref [21/01858/FUL](#))
21. The appellant's intentions in relation to the site have been publicised by him on social media: see evidence set out at Annexe A below. These intentions are to live on the site in his own converted residential trailer, and install a series of other converted trailers. To that end he sited a white articulated lorry trailer on the site in late May 2020, which remains there (as yet unconverted), and moved the converted grey residential trailer onto the site over the August Bank Holiday weekend in 2021.
22. The appellant's intentions have also been stated to planning officers, as evidenced by the report of their site visit on 27 May 2020 (lodged on the appeal by WCC as part of its costs rebuttal to the previous appeals referenced above): extract below.

During the site visit Mr Butler advised the following:

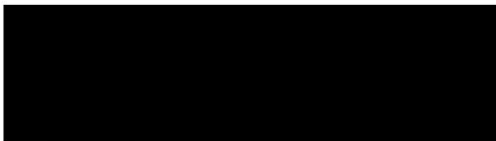
- 1. His clear intention to live on the site. He had purchased this land to live on. He would be converting the trailer for residential occupation. He showed Richard Botham and I a photograph (from his mobile phone) of a converted trailer, which was timber clad, with window and door openings and advised that was what he intended to do with the trailer that had been delivered to site.**

I advised Mr Butler that the site was situated in the countryside and residential use would be contrary to Local Plan policy (MTRA4). Mr Butler said that he was of no fixed abode and would in 3 weeks be homeless and he would live at the site. I advised Mr Butler that if it was his intention to live at the site he would require planning consent and should submit a planning application. I explained that if the Council did refused planning permission, he would have a right of appeal and could pursue the matter through the application route available.

23. Thus, it may be seen that in May 2020 the appellant told the planning authority that he would be homeless, yet in fact did not move his residential lorry onto the site for a further 15 months. He was not homeless over this period, but living in his converted trailer elsewhere. This is relevant to his unsupported assertion that he would require a year to relocate his residential trailer from the appeal site. He was clearly advised that residential use of the land would be contrary to the MTRA4 and yet proceeded to take up residence.

Conclusion

24. We contend that none of the grounds of appeal advanced is sustainable. The appellant has taken up residence on the site in the face of clear advice that this would be contrary to local planning policy. We respectfully submit that the appeal should be dismissed.



Angus and (pp) Sarah McCullough

ANNEXE A

Extracts from Applicant's public Instagram posts

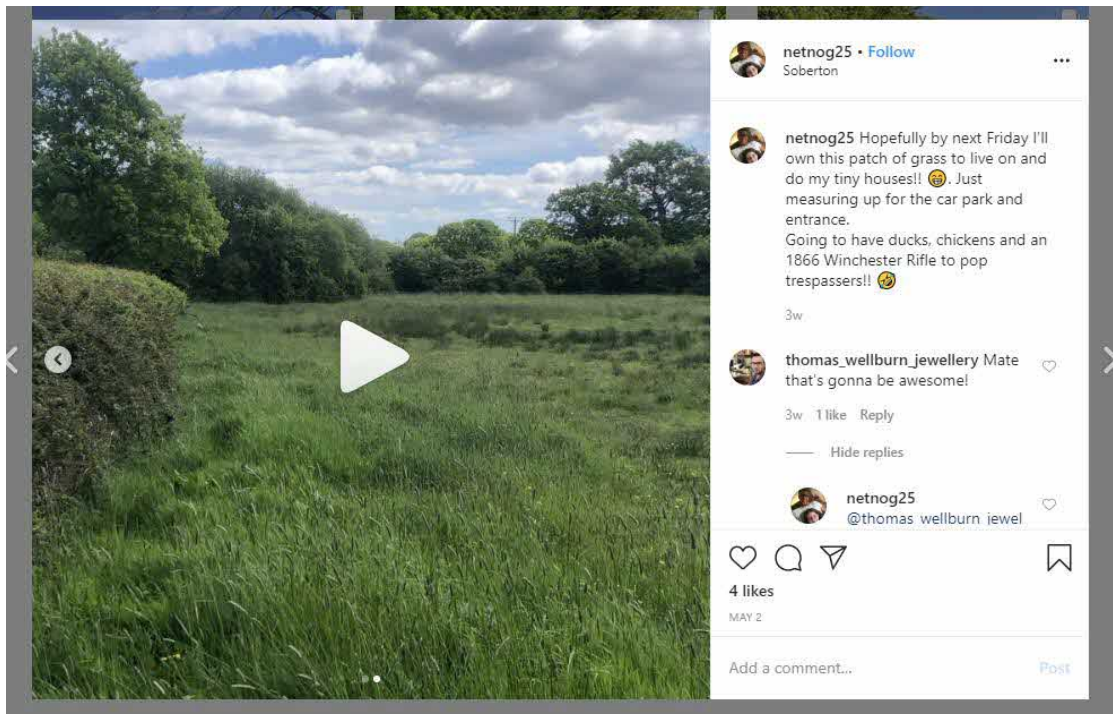
3 January 2020




23 March 2020



2 May 2020



15 May 2020



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Soberton

netnog25 Finally own this field, so now the hard work starts. Sorting the entrances for access and tidying up the hedgerows. Concrete being poured next Thursday so there's a lot to do on my own!! 🤖
#offgrid #offgridsolar #tinyhouse #tinyhouseliving #tinyhouses #tinyhousesiesta #trailer #trailerparkboys #offgridliving #livingthedream #fieldofdreams #newadventures #newadventure #newbuisness #countryliving #countryside #countrysidelife

1w

lauracakes2 congratulations!!!! 🍌🍌

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31 May 2020





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This in 6-8 months



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