

## Planning East – Appeal Decisions

Please see below list of appeal decisions made by the Planning Inspectorate between 17<sup>th</sup> November 2023 and 19<sup>th</sup> December 2023.

Full details of all appeals, can be found on the Council's website <https://publicaccess.mendip.gov.uk/online-applications/>

Enforcement Reference	ENF/2020/0073
Site Address	Moors Barn, March Road, Standerwick, Frome
Appellant/Organisation	C Luxmoore (Hemp Construction Ltd)
Appeal Type	Appeal Against Enforcement Notice
Appeal Decision	Appeal Allowed
Appeal Decision Date	08.12.2023

Enforcement Reference	ENF/2020/0073
Site Address	Moors Barn, March Road, Standerwick, Frome
Appellant/Organisation	D M Van Tromp
Appeal Type	Appeal Against Enforcement Notice
Appeal Decision	Appeal Allowed
Appeal Decision Date	08.12.2023



## Appeal Decisions

Inquiry held on 1-3 November 2023

Site visit made on 31 October 2023

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

**Decision date: 08 December 2023**

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### **Appeal A: APP/Q3305/C/22/3305403**

#### **Moors Barn, Marsh Road, Standerwick, Frome, Somerset, BA11 2PZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Coryndon Luxmoore (Hemp Construction Ltd) against an enforcement notice issued by Mendip District Council.
  - The notice, numbered ENF/2020/0073, was issued on 22 July 2022.
  - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised change of use of the land from a mixed use of agricultural, equestrian and the stationing of residential caravans to a mixed use of agricultural, equestrian, the stationing of additional residential caravans and the carrying out of commercial and industrial uses.
  - The requirements of the notice are: 1. Cease the use of the land for commercial and industrial uses; 2. Cease the residential occupation of any caravan unless otherwise in accordance with the terms of planning permissions 116987/003 and 2014/0250/VRC; 3. Remove from the land all caravans unless otherwise stationed in accordance with the terms of planning permissions 116987/003 and 2014/0250/VRC; and 4. Restore the land to its previous condition before the breach took place.
  - The periods for compliance with the requirements are: Requirement 1 and 2 - 6 months; Requirement 3 - 9 months; and Requirement 4 - 12 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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### **Appeal B: APP/Q3305/C/22/3305404**

#### **Moors Barn, Marsh Road, Standerwick, Frome, Somerset, BA11 2PZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Dilys Mary Van Tromp against an enforcement notice issued by Mendip District Council.
  - The notice, numbered ENF/2020/0073, was issued on 22 July 2022.
  - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a building in the approximate position shown coloured grey on the attached plan.
  - The requirements of the notice are: 1. Demolish the unauthorised building and restore the land to its previous condition before the breach took place; and 2. Remove all materials, debris, waste and equipment resulting from the demolition of the building.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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## Decisions

### Appeal A

1. It is directed that the enforcement notice be corrected by the deletion of the description of the breach of planning control in Section 3 and its replacement by the following:  
"Without planning permission, the material change of use of the Land to a mixed use of agriculture, equestrian, the stationing of caravans for residential purposes, including additional caravans to those approved under planning permissions 116987/003, 2014/0250/VRC and 2014/1433/FUL, and use as a builder's yard with associated ancillary activities."
2. And, in Section 5, by the deletion of requirement 1 and its replacement by the following:  
"1. Cease the use of the Land for a mixed use a mixed use of agriculture, equestrian, the stationing of caravans for residential purposes and use as a builder's yard and associated ancillary activities."
3. by the insertion, at the end of Section 5 requirement 2 and requirement 3, of the following:  
"and 2014/1433/FUL."
4. and by the insertion, in Section 5 requirement 3 after the word "all" of the word "residential"
5. Subject to these amendments, 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 use of the Land at Moors Barn, Marsh Road, Standerwick, Frome, Somerset, BA11 2PZ shown on the plan attached to the notice for the material change of use of the Land to a mixed use of agriculture, equestrian, the stationing of caravans for residential purposes, including additional caravans to those approved under planning permissions 116987/003, 2014/0250/VRC and 2014/1433/FUL, and use as a builder's yard with associated ancillary activities, subject to the conditions in the Schedule of Conditions attached to this decision.

### Appeal B

6. 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 erection of a building at Land at Moors Barn, Marsh Road, Standerwick, Frome, Somerset, BA11 2PZ, subject to the conditions in the Schedule of Conditions attached to this decision.

### **Appeal A**

#### *The appeal site*

7. The appeal site is a roughly rectangular parcel of land enclosed by an embanked railway track to the north, the A36 to the west, Marsh Road (B3099) to the south and Tennis Corner Drove to the west. Publicly available aerial imagery shows the progress of development of the land over the years. Up to

about 2003-4 the site was an open field with a single small barn. Planning permissions were granted in November 2003 and August 2004 for the erection of 6 stables and tack room and for the erection of a barn, all at the south eastern corner of the site. Permission was then granted on appeal in 2007 for the change of use of the land to use as a residential gypsy site for one family. Access to the site was from an entrance on the corner of Marsh Road and Tennis Corner Drove. By mid-2006 development comprising additional hardstanding and a building saw the yard extended northwards to the railway embankment with an additional entrance created to this extended yard from Tennis Corner Drove. By 2009 there was further building on the northern part extending to the west and a manege had been constructed alongside the railway embankment with further hardstanding to the west of the manege. In 2013 the site was much the same. Planning permission for 2 further gypsy/traveller pitches was granted in 2014, the pitches being located on the hardstanding near the Marsh Road and Tennis Corner Drove access. In 2016 the manege had been relocated further west and enlarged, with new hardstanding west of the manege. By 2018 six open storage bays had been erected on the hardstanding beyond the manege, being the westernmost extent of the yard at that stage. The plans accompanying an application made in January 2020 for planning permission for 'change of use of land from equestrian use to a general industrial use and erection of office/storage barn' shows the extent of the yard approximating that evident in the 2018 aerial photographs submitted. Since then some waste piles can be seen further west, but there does not appear to have been any further operational development in the yard area.

*The appeal A notice and the grounds of appeal*

8. In the course of the appeal the appellant sought to introduce an appeal on ground (b), which is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters have not occurred. What was argued was that the description of the development was wrong, in part because the relevant planning unit was not correctly identified, and that it was not sufficiently clear what was alleged.
9. The latter concerned the use of the term 'commercial and industrial uses'. It appears that the term originated from the application<sup>1</sup> for retrospective planning permission in January 2020 to regularise what had been occurring on the north-eastern part of the site. The use was described as a builder's yard, but it was erroneously considered to fall within Class B2 of the Use Classes Order<sup>2</sup>(UCO), that is use for the carrying on of an industrial process other than one falling within class B1, hence the use of the term 'industrial'. However, it is clear from the evidence of past use and the layout and character of this part of the appeal site that it is and has been operating as a builder's yard, a *sui generis* use for UCO purposes, and that description was agreed by the parties at the Inquiry to properly encompass the activities comprised in the use. This use has included the fabrication of hemp blocks, but these are solely for use in the appellant's construction business, while there has also been recycling of soil and construction waste arising from the construction activities. Both of these activities are intimately associated with the construction business and are not of a scale and intensity that would make them a primary use, rather they are

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<sup>1</sup> Council Ref. 2020/0132/FUL

<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

most appropriately considered to be activities ancillary to the primary use of the yard area as a builder's yard, which can include elements of fabrication and the return to the yard of excess or used materials for storage and potential re-use.

10. The description of the site by the Inspector determining an appeal<sup>3</sup> against the refusal of the 2020 commercial/industrial use application accords with what I saw on my site visit, a hard surfaced yard with open concrete bays, small containers, skips and machinery with the open storage of building materials, including in the concrete bays, and a portacabin used as an office, all consistent with a description of the use of the land as a builder's yard. It was agreed at the Inquiry that the description of the development enforced against should be corrected to refer to use as a builder's yard rather than for commercial and industrial uses, and that this correction would not cause injustice to the main parties. On this basis no appeal on ground (b) was pursued at the Inquiry.
11. Ground (b) was also argued on the basis that the appeal site was actually comprised of 2 separate planning units, comprising roughly the northern and southern parts of the site, the former being in use as a builder's yard and for equestrian purposes, and the latter in use for the stationing of caravans for residential use and for equestrian purposes. If that was so then the description would have been incorrect, but this argument was not pursued at the Inquiry, correctly in my view. I am satisfied from my observations and the available evidence that the different activities comprised in the mixed use the subject of the notice as corrected are not confined within separate and physically distinct areas of land.
12. To get the notice in order, however, some further amendments to the requirements are also necessary. First it is the corrected use that must be required to cease by Requirement 1. Second, it was clarified by the Council that the reference to the stationing of additional caravans for residential purposes was only intended to refer to the additional residential caravans sited on the southern boundary with Marsh Road, whose removal it sought, whereas other caravans in use for storage or as mess facilities for the builder's yard would not need to be removed in order to remedy the breach of planning control, which was the purpose of the notice. I shall therefore amend the wording of Requirement 3 so that it is only caravans in use for residential purposes and that do not benefit from the planning permissions governing the site that need to be removed. Third, a reference to a 2014 planning permission for the re-positioning of an existing mobile home and the erection of a day room should be added to the requirements to clarify which residential caravans could remain on the site. These amendments can be made without injustice.

*Ground (d)*

13. An appeal on ground (d) is that it is too late to take enforcement action. For the ground (d) appeal to succeed the onus is on the appellant to demonstrate that the mixed use commenced 10 years or more before the notice was issued, and has been sustained for a 10 year period during which enforcement action could have been taken against it. The material date is 25 August 2012.

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<sup>3</sup> Appeal Ref. APP/Q3305/W/21/3283229

14. The appeal on this ground was focussed solely on the builder's yard use. The appellant's evidence on oath was that he helped in the construction and extension of the equestrian yard, which was about 2006. In about 2007 he began working as a sole trader, trading as Complete Driveways, operating from the appeal site. In 2015 he started trading as Complete Construction, having developed the business from driveway/paving to include the construction of house extensions and new buildings. There was a significant increase in turnover in 2016, which he attributed to having become VAT registered. Invoices for aggregate deliveries to the site from 2016 have been provided. He gave evidence that he has always taken stone and soils from jobs to return to site for re-use, though when he started out it was at a much lesser scale.
15. Two local business owners gave evidence of buying topsoil and/or aggregates from the appellant, Mr Tan from 2013 and Mr Holding from 2012, and a statement from another, Mr Griggs, who was unable to attend the Inquiry due to illness, but claimed to have been getting recycled stone and topsoil from the site since 2011. Although Mr Grigg's evidence cannot carry the weight of sworn evidence, it is consistent with other evidence from that period. This includes receipts for crusher hire from April and October 2012, and the presence of what appears to be some piles of materials at the western end of the yard that is consistent with a small soil and construction waste recycling operation. Beyond that however the aerial photography provides little evidence of the presence of what might be recognisable as a builders yard in 2012, and crusher hire before 2012 is linked to laying of hardstanding on the site itself.
16. The aerial photographs from 2009 and 2013 show much the same. The area of hardstanding west of the manege, which apparently is where the Complete Driveways business was operating, appears recently laid in 2009, and it had some vehicles parked on it in 2013, but there is little else to suggest the establishment of a builders yard. Consistent with the establishment of Complete Construction and the expansion of the business, significant change is evident in 2016, the manege having been relocated to the west, a much larger working area is established and a new building, now used for storage associated with the building business, is erected in the north-east corner beside the yard access with a large open area between that and the relocated manege. What appears to be containers and open storage of materials is also evident on the southern edges of the yard. By 2018 the open storage bays have been constructed and the yard is laid out much as it is now. In 2020 it can be seen that there are substantial quantities of materials stored on the site.
17. Looking at this evidence as a whole, I consider it most likely that there was initially, from about 2009 at least, use of a part of the yard as a base for the appellant's driveways business and some associated recycling of materials, some of which was sold, used in other jobs or used in the construction of the hardstanding in the yard itself. However, having regard to what can be seen in the aerial photographs, the documentary evidence and the appellant's account, I consider that what was occurring did not, on the balance of probabilities, amount to a primary use as a builders yard until somewhere between 2013 and 2016. It is not unusual in my experience for land in use for equestrian purposes and gypsy/traveller accommodation to have uses such as vehicle and equipment parking and the storage of some building materials, particularly when the occupants work in the construction industry and travel for those purposes. Such use, where considered undesirable in the planning context, is

often controlled by the imposition of conditions, as was the case here<sup>4</sup>, but mere use, or indeed a failure to comply with a planning condition, is not development. I consider that the builder's yard use became a primary use of the land as a component of a mixed use some time between 2013 and 2016, most likely soon after the initiation of Complete Construction and the significant growth in operations based at the site, including the use of buildings for storage and fabrication purposes that would not have been required for the driveways work that had operated from the site prior to that. With the addition of a builder's yard use as a primary use to the mixed equestrian and residential use there was a material change of use, development which requires planning permission. Since that material change of use occurred less than 10 years before notice was issued, the mixed use is not immune from enforcement and the appeal on this ground cannot succeed.

*Ground (a) and the deemed planning application*

18. This ground, and the deemed planning application, seeks planning permission for the matters comprising the breach of planning control. The components of the mixed use at issue are the builder's yard use and the quantum of residential caravan use. On the latter, the three mobile homes sited within the original equestrian yard benefit from planning permission. When the notice was issued a further 5 residential mobile home pitches had been established on land to the west that had previously been open paddock land. This was largely on an area granted planning permission in 2018 for 3 Gypsy/Traveller pitches and a dayroom. It was initially claimed that the 2018 permission had been implemented and remained extant. This is no longer pursued, but for clarity I consider that the differences between what was permitted and what was established on the relevant land, in terms of both use and operational development, are so significant that they could not properly be said to be undertaken pursuant to the grant of the planning permission in question, and it follows that the planning permission, dated 23rd January 2018, had not begun within the 3 year period required by condition 1 of that permission and has therefore lapsed.
19. However, there have been no significant policy or material circumstances changes since 2018, so that the Council's reasons for granting the permission essentially endure. The appellant seeks permission through the deemed planning application for 3 pitches, as permitted in 2018. The 2018 permission included a dayroom, but I shall consider that aspect of the development under Appeal B. The Council agreed at the Inquiry that it would not object to a 3-pitch site as proposed, for the reasons it approved the 2018 scheme. Since there remains a significant unmet need I see no good reason to come to a different view. The proposal fits within the terms of the deemed planning application, hence it is open to me to consider the appeal on that basis.
20. The Council, however, maintains its objection to the builder's yard use. The main issues are whether the site is a suitable location for the development having regard to relevant development plan policies and national policy, and to the effect on the character and appearance of the area.
21. The site is in the open countryside. Core Policy 1 of the Mendip District Local Plan 2006-2029 Part I: Strategy and Policies (adopted 2014) (the LP) is concerned with enabling a sustainable pattern of growth and seeks to strictly

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<sup>4</sup> eg Council Ref 2014/0250/VRC, planning permission granted 29 May 2014

control development in the countryside. Development may, however, exceptionally be permitted in line with the provisions set out in Core Policy 4: Sustaining Rural Communities. This includes support for proposals which enable the establishment, expansion and diversification of business in a manner and of a scale which is appropriate to the location and constraints upon it. LP Policy DP1 expects development to contribute positively to the maintenance and enhancement of local identity and distinctiveness, though it acknowledges that the wider benefits should feature in the balance. LP Policy DP7 aims for a high quality of design, including ensuring that development is of a scale, mass, form and layout appropriate to the local context. It encourages the use of locally sourced or recycled materials.

22. The Inspector considering the recent appeal<sup>5</sup> against the refusal in July 2021 of planning permission for a change of use of the land from equestrian use to a general industrial use and erection of an office/storage barn found that the site had an uncompromising industrial appearance which resulted in significant harm to the rural character of the site. He found that the development was an intrusion into the countryside of a manner and scale that was not appropriate to the location. However, the evidence available at that time suggested that the development was relatively recent, but in fact much of what he would have seen, the various buildings, structures and hardstanding, are longstanding and are not required to be removed.
23. In view of this the baseline must be quite different from that alluded to in that appeal, where the development was considered to have resulted in the loss of open grassland. There is also considerable scope for landscaping alongside the railway embankment and along the field boundaries which were not a part of the application refused in 2021. A scheme of landscaping can be secured by condition and this would help integrate the development with its surroundings, such that the stark contrast with the adjoining paddock land noted by the Inspector could be substantially mitigated. Having regard to the baseline, securing appropriate landscaping would be a benefit of a grant of planning permission.
24. So far as the effect on the character and appearance of the area is concerned, and considering that the buildings and much of the hardstanding on the current yard area would remain in any case, I consider that any adverse impacts of permitting the builder's yard use on the character and appearance of the area would be outweighed by the benefits to the site itself and to the locality of instituting and maintaining a scheme of planting around the yard boundaries. This would greatly improve the outlook from the residential part of the site and soften any views from passing trains. The trainline aside, there would be little if any visibility of the yard from outside of the site.
25. It is also relevant that the existing traveller site forms part of the local character, and there is national policy support for the provision of traveller sites suitable for mixed residential and business uses in Policy F of Planning Policy for Traveller Sites (PPTS). Such mixed use sites have sustainability benefits, reducing the need for travel to and from places of work notwithstanding that the construction work itself takes place elsewhere, and help to facilitate the traditional and nomadic way of life of travellers, a wider benefit in the LP Policy DP1 balance. The builder's yard use is not, and would

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<sup>5</sup> Appeal Ref: APP/Q3305/W/21/3283229



not, be viewed in isolation in any case, given its close proximity to, and integration both physically and functionally with, the traveller site and equestrian uses.

26. Overall, having regard to the baseline and the existing character of the site regardless of the builder's yard use, to the ability to secure beneficial landscaping, and the PPTS support for such mixed use sites, which is a material consideration, I consider that the business use is of a manner and scale appropriate to its location, attracting support from LP Policy CP4 and according with Policy DP7. As such I am satisfied that it does not conflict with the strategic and development control policies of the LP.
27. I shall therefore grant planning permission on the deemed planning application as set out above, that is for the change of use of the land to a mixed use comprising of use as a builders yard, equestrian use and for the stationing of caravans for the purposes of human habitation, the latter component limited to the caravans that already benefit from planning permission and 3 further pitches, each limited to 2 caravans.
28. In view of the policy considerations justifying the caravan site use I shall restrict occupancy to Gypsies and Travellers. However, since the current definition of Travellers for PPTS purposes have been found by the Courts to be discriminatory I shall revert to the previous definition. I shall also limit the number and types of caravans stationed on the new pitches in the interests of local character and the living conditions of occupants. For the same reasons I shall preclude commercial activities on those pitches and preclude any burning of waste on the land as a whole.
29. In order to secure good design on the site and mitigate visual aspects of the builder's yard use in particular, but also to ensure a satisfactory environment for caravan occupiers, I shall require the provision of a Site Development Scheme (SDS) for approval by the Council. The SDS shall include details of the site layout, identifying clearly the areas within which component activities shall take place in the future, along with details of hard and soft landscaping, boundary treatments, site drainage, external lighting and environmental enhancement. Separately I shall require maintenance of any planting carried out under the SDS. In view of the business and policy considerations underlying my conclusion that the builder's yard component of the mixed use is acceptable, I shall restrict the benefit of the yard to occupiers of the residential caravans. In the interests of highway safety, I shall also require that all vehicular traffic to and from the additional traveller pitches use the existing access at the junction of Marsh Road and Tennis Corner Drove.

*Other matters*

30. Concerns have been raised about the occupation of caravans on the site by non-gypsies. However it has long been the case that the definition of travellers for PPTS purposes is based on a nomadic way of life rather than ethnicity. I should note also that there has been development on the site since the notice was issued, including structures erected or sited on land to the west of the caravan site extension that appear to have a residential purpose, but this is not caught by the notice, and hence does not form part of the deemed planning application. Similarly, a new gateway has been formed directly onto Marsh Road. It is claimed that this was an historic field access, but again this is not part of the matters comprising the breach of planning control enforced against.

I am aware also that a food retail business has operated from the site. However it is not part of the activities enforced against and it is not alleged that it was a primary use of the land when the notice was issued. It does not appear to be operating at present. I understand that issues with the electricity use of the site have now been resolved.

*Conclusion*

31. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. Since the enforcement notice will be quashed, the appeal on grounds (f) and (g) does not need to be considered.

**Appeal B**

*Ground (a)*

32. This appeal concerns the building erected as a dayroom to serve the traveller pitches granted permission in 2018. The building is substantially larger than that approved, both in terms of floorspace and overall bulk. An application to retain the dayroom as built was dismissed at appeal<sup>6</sup> in 2020. In coming to a view that the building caused harm to the character and appearance of the area, the Inspector found that the building was larger than necessary for its purposes, and that the height of the roof caused visual harm. What is now proposed under this ground, which is that planning permission should be granted for the building, is a reduction of the roof height by 2 metres and for the modified dayroom to serve the combined dayroom needs of the 3 pitches rather than a single pitch as approved in 2018. Plans for the building as built but with the lower roof height have been submitted<sup>7</sup>, and the proposal has been assessed by the architectural practice of the appellant's agent as technically feasible. I am satisfied that the building as proposed to be modified falls within the terms of the breach of planning control described in the notice, being part of the matters enforced against, and I shall determine the appeal on this ground, and the deemed planning application, on that basis.
33. The Council now accepts that the floorspace provided is appropriate for its purpose as a dayroom serving 3 traveller pitches, and I see no reason to come to a different view given that the original dayroom was to serve a single pitch only. Large multi-pitch dayrooms are not uncommon and I have been referred to relevant examples that have been found acceptable. Regarding the visual harm due to the excessive roof height, the Council also accepts that the proposed height reduction would satisfactorily mitigate the visual harm. Again, I see no reason to disagree. The lower roof height would result in a less bulky building that would not be visually prominent or intrusive, including from public vantage points.
34. Accordingly the proposal would not conflict with LP Policies DP1 or DP7, or with Policy DP15 which expects, among other things, new traveller sites to avoid significant adverse effects on local character. As such I am satisfied that the proposal accords with the development plan read as a whole, and I shall therefore quash the notice and grant planning permission for the building as proposed. In view of the underlying policy position the permission will be subject to a condition restricting its use to use as a dayroom ancillary to the 3

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<sup>6</sup> Appeal Ref. APP/Q3305/W/20/3254517

<sup>7</sup> Appendix 5 to the proof of evidence of Brian Woods

traveller pitches, and in the interests of local character I shall specify the relevant plans and also preclude the use of the building as a dayroom until the works comprised in the permission have been undertaken. Since the notice will be quashed, I do not need to consider the appeals on grounds (f) and (g).

*Paul Dignan*

INSPECTOR

#### **APPEARANCES**

##### **FOR THE APPELLANT:**

Alan Masters  
of Counsel

He called  
Coryndon Luxmoore  
Robbie Tan  
Michael Holdway  
Brian Woods

##### **FOR THE LOCAL PLANNING AUTHORITY:**

Roy Pinney

He called  
Simon Trafford

#### **DOCUMENTS**

- 1 Representations by Cllr Shannon Brooke on behalf of Berkley Parish Council
- 2 Complete Construction financial statements for years ending 2015 to 2019
- 3 Statement of Common Ground - signed
- 4 List of conditions – for discussion
- 4 Council's closing submissions
- 5 Appellant's closing submissions
- 6 Proposed amended enforcement notice (Appeal A)

**SCHEDULE OF CONDITIONS: Appeal A: APP/Q3305/C/22/3305403**

1. The residential caravans on the site shall not be occupied by any persons other than persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

2. The mixed use hereby permitted shall cease and all residential caravans, structures, equipment and materials brought onto the land and buildings erected for the purposes of such use, and which do not benefit from planning permissions 116987/003, 2014/0250/VRC and 2014/1433/FUL, shall be removed within 3 months 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, hereafter referred to as the Site Development Scheme (SDS), including details of

(a) site layout clearly identifying the extent of the builder's yard; the location of all pitches, including the siting of caravans on pitches; areas for vehicular access and turning and manoeuvring; areas of hardstanding; fencing and other means of enclosure; dayrooms, stables, and the location of services;

b) the means of foul and surface water drainage, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;

c) a scheme of landscaping which includes all hard and soft landscaping and details of existing boundary trees/hedges and measures for their enhancement, protection and retention;

d) details of all existing and proposed external lighting on the boundary of and within the site; and

e) a scheme for the ecological enhancement of the Land;

shall have been submitted for the written approval of the local planning authority, and the said scheme shall include a timetable for its implementation.

ii) within 11 months of the date of this decision the Site Development Scheme shall have been approved by the local planning authority or, if 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 Site Development 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, and works comprised in the scheme shall be thereafter retained for the duration of the development.

3. Any trees or other plants planted in accordance with the approved Site Development Scheme which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
4. In addition to the residential caravans permitted by planning permissions 116987/003, 2014/0250/VRC and 2014/1433/FUL there shall be no more than 3 pitches on the site. No more than 2 caravans (of which no more than one shall be a static caravan) as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on each pitch hereby permitted at any time.
5. The builder's yard hereby approved, and as shown on the Site Development Scheme layout plan, shall be solely for the benefit of the occupiers of the residential caravans on the Land, and shall not be used by any other persons or for any other business.
6. No commercial activities shall take place on the residential caravan pitches hereby approved, including the storage of materials.
7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the residential caravan pitches hereby approved.
8. No burning of materials, including straw and manure, shall take place on the site at any time.
9. All vehicles entering or leaving the site in association with the residential caravan pitches hereby approved shall use the existing access at the junction of Marsh Road and Tennis Corner Drove and no other access.

**SCHEDULE OF CONDITIONS: Appeal B: APP/Q3305/C/22/3305404**

1. The development hereby permitted shall be carried out in accordance with the following plans submitted during the appeal and attached as Appendix 5 to the proof of evidence of Brian Woods: J004239-DD-07 (As Existing Plans), J004239-DD-08 (As Existing Elevations), J004239-DD-09 (As Proposed Plans), J004239-DD-10 (As Proposed Elevations).
2. The building hereby approved shall be used only as a dayroom serving the 3 residential caravan pitches approved by Appeal Ref. APP/Q3305/C/22/3305403, and for no other purpose.
3. The building hereby approved shall not be brought into use as a dayroom until the works detailed in plans J004239-DD-09 (As Proposed Plans), J004239-DD-10 (As Proposed Elevations) have been completed.

**End of Schedule**

Application Reference	2022/0611/LBC
Site Address	The Old Church House, Church Steps, Frome, BA11 1PL
Applicant/Organisation	F Rostand
ApplicationType	Listed Building Consent
Proposal	Conversion of basement to habitable space including replacement front door, insertion of vents, underpinning and installation of concrete floor and installation of shower and toilet
Decision	Refusal (Delegated)
Appeal Decision	Appeal Allowed
Appeal Decision Date	12.12.2023



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## Appeal Decision

Site visit made on 11 December 2023

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 12 December 2023**

**Appeal Ref: APP/Q3305/Y/23/3318111**

**The Old Church House, Church Steps, Frome, Somerset, BA11 1PL.**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Freddie Rostand against the decision of Mendip District Council.
- The application ref. 2022/0611/LBC, dated 23 March 2022, was refused by notice dated 5 October 2022.
- The works proposed are described as: *1. Installation of special need shower and toilet connected to existing services in undercroft (lower ground floor). 2. Replacement of existing Magnet front entrance door and sidelight with purpose made solid oak glazed panel single leaf door reinstated in original stone framed entrance.*

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### Decision

1. The appeal is allowed and listed building consent is granted for the conversion of basement to habitable space including replacement front door, insertion of vents, underpinning and installation of concrete floor and installation of shower and toilet at The Old Church House, Church Steps, Frome, Somerset, BA11 1PL. The consent is granted in accordance with the terms of the application ref. 2022/0611/LBC, dated 23 March 2022, and the amended plans submitted therewith.

### Preliminary Matters

2. In April 2023, Mendip District Council was incorporated into Somerset County Council (the LPA).
3. Prior to the LPA's determination of the application amended plans were submitted. Amongst other things, these show the provision of a new (clear) glazed oak framed door and ventilation grilles above and to the left of the arched stone doorway. The works have already been undertaken as per these amended plans. I have determined the appeal accordingly.
4. The LPA's decision notice and the appellant's Statement describe the works as the conversion of basement to habitable space including replacement front door, insertion of vents, underpinning and installation of concrete floor and installation of shower and toilet. I shall also use this description.
5. The Old Church House is a grade II listed building<sup>1</sup> within the Frome Conservation Area<sup>2</sup>.

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<sup>1</sup> The provisions of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

<sup>2</sup> The provisions of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

### **Main Issue**

6. The main issue is whether the proposal preserves The Old Church House or its setting or its features of special architectural or historic interest and preserves or enhances the character or appearance of the Frome Conservation Area.

### **Reasons**

7. The Old Church House is a three storey building that appears to date from the 17<sup>th</sup> century. This designated heritage asset has been altered and enlarged over time. Some fire damage occurred in about 1961, as a result of an incident at an adjoining property.
8. The heritage interest (significance) of this listed building is primarily derived from its architectural and historic qualities. These include its stone ground floor, chamfered stone doorway and 4-centre arch to the basement, stuccoed jettied upper floors, stone mullioned and transom window, pantile roof, large fireplace and mid-18<sup>th</sup> century panelling.
9. The Frome Conservation Area covers a sizeable part of the historic market town of Frome. Its significance is primarily derived from the contribution made by the very many listed buildings, as well as providing a historic record of the settlement's growth (largely due to the wool industry) reflected in the pattern and layout of streets, buildings and spaces.
10. The replacement front door to the basement comprises a purpose-made, glazed oak framed door with toughened glass. This sits behind/beneath a stone entrance arch that has been sympathetically repaired as part of the overall works. The new door replaces a 'catalogue' style door that was installed following the previous fire damage and sits comfortably within the basement elevation. Whilst I agree with the LPA's conservation officer that a more sympathetically designed door could have been used, the new door that has been fitted does not harm the character of the building or its significance.
11. The cast iron air vents/grilles that have been installed to the side of the new door are very modest in size and are flush fitting with the exterior wall. These very minor alterations to the listed building do not detract from its significance.
12. As I saw during my visit, there is great variety in the styles of doors and vents/grilles on buildings within the Frome Conservation Area. The new entrance doorway and external vents to The Old Church House are very discrete and are sympathetic additions to the conservation area. These works preserve the character and appearance of this designated heritage asset.
13. I note from the appellant's Heritage Statement that the floor of the basement is of relatively recent construction and includes irregular flagstones of fine-grained sandstone (not a local stone) with vacuous rubble beneath. I also note that this floor has previously been disrupted by a utilities trench. I concur with the appellant's assessment that the basement floor is not a key feature of the building and does not contribute to its significance.
14. The works undertaken to this basement floor, including the underpinning of all of the walls and the use of a concrete floor slab, appears to be somewhat excessive. Moreover, concrete is not a material that is to be encouraged in the repair/restoration of such historic buildings. However, these works have not resulted in the harmful loss or disturbance of any important historic fabric and



they are integral in securing the re-use of this part of The Old Church House. Furthermore, the absence of a viable re-use of the basement could have posed a risk of decay to this part of the building. The overall impact works on this listed building amount to a public benefit.

15. The infilling of the internal basement steps and the new stud partitions, which are also integral to the habitable accommodation that has been provided, do not harm the significance of this listed building. These works are also reversible and the access to the internal steps could be reinstated at a later date if deemed necessary.
16. I conclude on the main issue that the proposal preserves The Old Church House and its features of special architectural and historic interest. It also preserves the character and appearance of the Frome Conservation Area. There is no conflict with the objectives of policy DP3 of the Mendip District Local Plan (2006-2029) or policy D1 of the Neighbourhood Plan for Frome (2008-2028).

#### **Other Matters**

17. The appellant has informed me that his wife is living with multiple sclerosis. The accommodation provided could assist her health and well-being. This in turn, could amount to a very minor public benefit. In particular, allowing a citizen, with a serious illness, to remain in their home (with a family member) for a longer period of time could limit any increase in pressure on public health services attributable to that persons illness.
18. In all likelihood, the works undertaken to the building would have improved its thermal efficiency and, in so doing, make a very small contribution towards meeting the Government's objective of tackling climate change and the reliance on fossil fuels. This would also amount to a very minor public benefit.
19. No planning conditions have been suggested to me. As the works have been undertaken, I consider that, in this instance, it would not be necessary to attach any conditions to an approval.

#### **Overall Conclusion**

20. I have not found harm to the significance of The Old Church House or the Frome Conservation Area. Even if the LPA is correct that there would be some less than substantial harm to the significance of the listed building, this would be outweighed by the public benefit of securing the reuse of the basement of The Old Church House and the public benefit identified in the 'other matters'.
21. Given the above, and having regard to all other matters raised, I conclude that this appeal should succeed.

*Neil Pope*

Inspector

Application Reference 2022/0191/VRC  
Site Address Wells Holiday Park, Haybridge Farm, Wells, BA5 1AJ  
Applicant/Organisation Wells Holiday Park Ltd  
Application Type Removal/Variation of Condition  
Removal of condition 5 (Occupation Time Limit) of permission 104293/004 (Touring Caravan Site, including new toilet & shower block. Alterations to existing entrance).  
Decision Refusal (Delegated)  
Appeal Decision Appeal Dismissed  
Appeal Decision Date 18.12.2023

Application Reference 2022/0197/VRC  
Site Address Wells Holiday Park, Haybridge Farm, Wells, BA5 1AJ,  
Applicant/Organisation Wells Holiday Park Ltd  
Application Type Removal/Variation of Condition  
Proposal Removal of condition 5 (Occupation) of permission 2010/3129 (Construction of 12 holiday lodges as phase 1 (amendments to the scale and layout of 12 holiday lodges already granted by outline planning permission 104293/013).  
Decision Refusal (Delegated)  
Appeal Decision Appeal Allowed  
Appeal Decision Date 18.12.2023



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## Appeal Decisions

Site visit made on 11 December 2023

by Neil Pope BA (HONS) MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 18 December 2023**

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**Appeal A Ref: APP/Q3305/W/23/3319443**

**Wells Holiday Park, Haybridge Farm, Haybridge, Wells, Somerset, BA5 1AJ.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Wells Holiday Park Ltd against the decision of Mendip District Council.
- The application ref. 2022/0191/VRC, dated 1 February 2022, was refused by notice dated 6 October 2022.
- The application sought planning permission for a touring caravan site, including new toilet and shower block and alterations to existing entrance without complying with a condition attached to planning permission ref. 104293/004, dated 14 June 1989.
- The condition in dispute is No. 5 which states that: *The occupation of any one caravan on the site shall not exceed 31 days with no return within the following 31 days by the previous occupiers.*
- The reason given for the condition is: *To ensure that the site is not permanently occupied which would be contrary to the policies of the Structure Plan.*

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**Appeal B Ref: APP/Q3305/W/23/3319451**

**Wells Holiday Park, Haybridge Farm, Haybridge, Wells, Somerset, BA5 1AJ.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Wells Holiday Park Ltd against the decision of Mendip District Council.
- The application ref. 2022/0197/VRC, dated 1 February 2022, was refused by notice dated 6 October 2022.
- The application sought planning permission for the construction of 12 holiday lodges as phase 1 (amendments to the scale and layout of 12 holiday lodges already granted by outline planning permission 104293/013) without complying with a condition attached to planning permission ref. 2010/3129, dated 18 February 2011.
- The condition in dispute is No. 5 which states that: *The holiday lodges hereby approved shall not be occupied other than by tourists (see definition in Note 5 below) which is not their sole or main place of residence in accordance with written records of occupiers, addresses of their sole or main place of residence and purpose of occupancy that shall be made available for inspection at all reasonable times to the Local Planning Authority.*
- The reason given for the condition is: *The permanent residential use of the holiday lodges hereby approved would be contrary to Saved Policy S1 of the Mendip District Local Plan (adopted – 2002).*

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### Decisions

1. Appeal A is dismissed and appeal B is allowed. Planning permission is granted for the construction of 12 holiday lodges as phase 1 (amendments to the scale and layout of 12 holiday lodges already granted by outline planning permission 104293/013) at Wells Holiday Park, Haybridge Farm, Haybridge, Wells,

Somerset, BA5 1AJ. The permission is granted in accordance with application ref. 2022/0197/VRC, dated 1 February 2022, without compliance with condition No.5 (occupation by tourists only) attached to permission ref. 2010/3129 and subject to the conditions in the Schedule attached to this decision.

#### **Preliminary Matters**

2. In April 2023, Mendip District Council was incorporated within Somerset County Council (the LPA).
3. The LPA accepts that it is unable to demonstrate a 5 year housing land supply.
4. As part of the appeal, the appellant has submitted a Unilateral Undertaking (UU) under the provisions of section 106 of The Town and Country Planning Act 1990 (as amended). This includes provision for restricting the occupation of any of the caravans/mobile homes/lodges to persons over the age of 50 and no children or dependents under the age of 16. The LPA has informed me that as a consequence, its reason for refusal No.7 (education provision) falls away.

#### **Main Issues (Both Appeals)**

5. The six main issues are: firstly, the effect upon the character and appearance of the area, including the setting of Wells and Haybridge; secondly, whether the proposal would provide adequate living conditions for future occupiers; thirdly, the likely effect upon highway safety along the A371; fourthly, whether the proposal would include adequate mitigation in terms of resource efficiency and low carbon initiatives so as to help tackle climate change; fifthly, whether the proposal would assist in meeting the housing needs of the local community by providing an adequate mix of house types and an element of affordable housing and; sixthly, whether adequate public open space provision exists or could be made available to meet the recreational needs of residents/occupiers.

#### **Reasons**

##### *Planning Policy*

6. The development plan includes the Mendip District Local Plan Part I: Strategy and Policies 2006-2029 (LPI) and the Mendip District Local Plan Part 2: Sites and Policies. My attention has been drawn to numerous policies. The most important policies to the determination of these appeals are: LPI policies CP1 (spatial strategy), CP4 (sustaining rural communities), CP10 (Wells City Strategy), DP1 (local identity and distinctiveness), DP4 (Mendip's landscapes), DP7 (design and amenity), DP9 (transport), DP11 (affordable housing), DP14 (housing mix and type) and DP16 (open space and green infrastructure).
7. The appeal sites lie outside the settlement limits for Wells, as defined within the development plan. For planning policy purposes, they are treated as part of the countryside. Within such areas, LPI policy CP1 provides strict control over development. The proposals would allow the sites to be used on a full-time residential (rather than leisure/recreational) basis. This would be tantamount to the provision of open market housing within the countryside and would be at odds with the provisions of LPI policies CP1 and CP4.
8. I have already noted the housing land supply position. In all likelihood, some areas of countryside would need to be released for housing in order to address

the shortfall in supply. The proposals would assist in this regard. This benefit carries considerable weight in the planning balance.

9. In determining these appeals, I have also had regard to the provisions of the National Planning Policy Framework (the Framework).

#### *Planning History*

10. Wells Holiday Park has a lengthy planning history. This includes a Lawful Development Certificate (LDC) for the replacement of 56 touring caravans with up to and including 40 static caravans for holiday accommodation purposes on appeal site A. This was certified in 2021 (ref. APP/Q3305/X/21/3273377).

#### *First Main Issue - Character and Appearance*

11. The appeal sites lie to the south west of the city of Wells and are adjacent to the edge of the small settlement of Haybridge. Appeal site A is surrounded on three sides by fields<sup>1</sup>. The northern, western and southern<sup>2</sup> sides of appeal site B comprise part of the touring caravan park and the eastern boundary abuts a small ribbon of dwellings along the western side of the A371. The sites form part of a gently undulating landscape to the south west of Wells. Whilst there is some noise from motor vehicles using the A371, there is also a degree of tranquillity within this part of the countryside.
12. A development of about 200 homes has been built on land to the north east and east of the appeal sites and on the opposite side of the A371<sup>3</sup>. I also note from the development plan that much further to the south (and on the southern side of the B3139) 4.5 ha of land is allocated for housing, whilst to the north of the appeal sites land has been allocated for a new rugby club.
13. As I noted during my visit, the appeal sites can be seen from a section of the A371 to the north, as well as from the public rights of way that bisect the fields to the south and to the north, the latter forming part of the planned rugby club site. The holiday park is also visible in distant views from the north.
14. When seen from the public realm, appeal site A is more prominent within the landscape and is readily identifiable as a tourist facility beyond the settlement edge. At this time of the year, the seasonal nature of the holiday park and in particular, the 'touring caravan site' (appeal site A)<sup>4</sup>, comprises a somewhat low key use within this part of the countryside. The situation is likely to be different in the summer months, when more intensive use of the touring site could reasonably be expected. I am also mindful of the above noted LDC.
15. Nevertheless, tourist accommodation and caravan parks are commonplace within the countryside and established planning policies are generally supportive of such development. As in the case of Wells Holiday Park, the benefits to the rural economy, which tourist accommodation brings, are often considered to outweigh adverse environmental and/or other impacts.

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<sup>1</sup> I note that a developer is undertaking a consultation exercise in respect of a proposed scheme of about 50 dwellings on the field to the south (Land at Newhouse Farm). I understand that a previous application for 68 dwellings on this site was refused in 2020 (ref. 2020/2217/OTS).

<sup>2</sup> A narrow strip of the touring caravan site separates the holiday lodges from the buildings at Newhouse Farm.

<sup>3</sup> Outline permission was allowed on appeal in 2016 (ref. APP/Q3305/W/3129620). There is a sizeable area of greenspace between the western edge of this development and the A371.

<sup>4</sup> This is the larger of the two appeal sites. During my visit there were numerous unoccupied pitches.

16. The holiday lodges site (appeal site B) is, in effect, tucked behind the ribbon of houses along the A371 and almost immediately alongside the buildings at Newhouse Farm. In contrast, the 'touring caravan site' (appeal site A) is readily identifiable as a tourist facility beyond the settlement edge.
17. The proposals would enable both appeal sites to be used all year round by the same occupants/residents. Those living on the sites for most, if not all, of the year, would behave differently to tourists staying for short periods of time. In all likelihood, residents would have very different expectations for their homes and living environment. This would bring about a change in the character of the sites, including greater activity throughout the year, especially during the winter months and, in all probability, an increase in domestic trappings as well.
18. The ensuing overtly residential character and appearance of each site would contrast awkwardly with the largely unspoilt rural qualities of the countryside within which these sites sit. In appeal A, the proposal would be akin to a rather ungainly 'extension' of housing into the countryside. To some extent, this would degrade the quality of the local landscape and conflict with LPI policy DP4. This would not be overcome by the appellant's suggestion of attaching a planning condition to an approval that exerted some control over the external appearance of the caravans. In contrast, the smaller size of appeal site B and its relationship with the neighbouring buildings, would result in the proposal for this site being not unlike settlement 'rounding off'.
19. The proposal for appeal site A would be very much more apparent from the public realm. It would have a moderate adverse impact upon the character and appearance of the site and the surrounding countryside. In contrast, the proposal for appeal site B would be likely to have only a very limited adverse impact upon the character and appearance of the site and surroundings. Notwithstanding the appellant's argument that there is currently no control over the appearance of the holiday lodges/caravans, the proposals would not contribute positively to the maintenance and enhancement of local identity and distinctiveness as required by LPI policy DP1.
20. I note the concerns of the Parish Council. Although the proposals may not entail any operational development, if approved, they could result in future pressure being applied on the LPA to permit more permanent structures/'bricks and mortar' dwellings on the appeal sites, which it would have difficulty resisting. In the case of appeal site A, this would, in all likelihood, accentuate the harmful impact upon the character and appearance of the site and surroundings. Whilst my decisions do not turn on this particular matter, it adds some limited weight to the argument for withholding planning permission.
21. From the evidence before me, the proposals would not intrude into any designated 'green gap' around Wells. The location of the appeal sites on the southern side of the A371 and the intervening greenspace would also avoid creating any perception of settlement coalescence. There would be no conflict with LPI policy CP10. However, for the reasons I have identified above, the proposals on their own (to varying degrees) and cumulatively, would erode the countryside qualities of the local area, including the sense of tranquillity.
22. I have not seen any detailed plans for the rugby club/sports provision to the north of the appeal sites. However, it is reasonable to expect that much of these neighbouring fields would remain open. It is also by no means certain that sports activities would occur all day/every day to the extent that it

resulted in a permanent loss of tranquillity from this part of the countryside. On the basis of the information before me, it is also very far from certain that approval would be forthcoming for the proposals at Newhouse Farm.

23. I conclude on the first main issue that the proposals (both appeals) would have adverse effects upon the character and appearance of the area.

*Second Main Issue - Living Conditions*

24. If the lodges/caravans were occupied by residents (as opposed to tourists / those staying on holiday) there would, in all likelihood, be a greater need for external private amenity space. Some residents are likely to want their own gardens to enjoy throughout the year and, on occasion, to relax in and possibly entertain friends or family.
25. From what I saw during my visit, the lodges on appeal site B have some private external amenity spaces, including the use of outside decking areas. Although these spaces are very modest in size, on balance, they are likely to be adequate in meeting the needs of future residents and would not give rise to any harmful overlooking of neighbouring lodges. However, this is less apparent for the caravans on appeal site A. If all of this site was occupied by residents, the scope for providing the necessary garden spaces is likely to be more limited. This could result in an inadequate living environment for some residents and create the impression of a cramped form of development.
26. I also note from the LPA's officer's report that concern was raised regarding potential sound insulation of the lodges/caravans. The materials used in this type of accommodation are different to 'bricks and mortar' type housing. However, the appellant has informed me that mobile homes are constructed to British Standard 3632: Specification for Residential Park Homes, (BS3632) and are tested for acoustic performance. There is nothing before me to demonstrate that future residents would experience harmful noise disturbance.
27. I conclude on the second main issue that the appeal scheme B would provide adequate living conditions for future occupiers, but there would be inadequate external private amenity space for the occupiers of appeal site A. In appeal A, there would be conflict with the provisions of LPI policy DP7(1)(b).

*Third Main Issue - Highway Safety*

28. The Highway Authority (HA) has advised that the proposals would result in a material increase in traffic and an increase in demand for car parking, as well as triggering provision for some secure and covered cycle parking and electric charging facilities. The HA also considers that that if a cumulative total of 50+ residential units were provided there would be a need for a Full Travel Plan.
29. I agree with the HA and LPA that the appeal proposals (taken on their own) would be likely to result in an increase in vehicular traffic to and from the site. In particular, in comparison to tourists staying on the appeal sites, residents could reasonably be expected to make more journeys in accessing healthcare facilities, business/employment sites and more regular shopping trips. More deliveries to residents' homes could also reasonably be expected. In all likelihood, this would comprise a modest increase in traffic movements for appeal A and a very modest increase for appeal B.

30. The appeal sites are accessed from the A371 and where there is a 40 mph speed restriction in force. I recognise that my visit was undertaken during the early afternoon and in winter, when traffic flows are likely to be lower than at some other times of the day and the peak summer season. However, I noted that visibility at the site entrance was adequate for vehicles entering and leaving the site. There is no evidence before me (such as road traffic accident records) to demonstrate that either the operation of the access into the appeal sites or the section of the A371 past the site are unsafe.
31. I note the appellant's argument that there is a separate licensing process<sup>5</sup> which controls the form and layout of caravan sites, including car parking provision. If the lodges/caravans were occupied by residents (as opposed to tourists) there would be a likely increase in demand for car parking. In particular, some residents may own more than one motor vehicle and unlike tourists, residents are more likely to receive visitors. Whilst mindful of the need to avoid duplicating controls, there is an element of doubt in my mind as to whether adequate space could be provided within the appeal sites to accommodate the increase in demand for car parking.
32. The situation would be unlikely to result in any harmful impact for the appeal B scheme (some existing visitor parking could potentially be made available within the adjoining 'blue' land owned/controlled by the appellant), whilst for the appeal A scheme, the likely increase in demand for car parking could result in some congestion within this site. Although the appeal scheme A would not make for a particularly satisfactory form of development, the impact would not be so great as to compromise highway safety interests.
33. I conclude on the third main issue that the proposal would not harm highway safety interests along the A371 and, in so doing, would accord with the provisions of LPI policy DP9.

*Fourth Main Issue - Tackling Climate Change*

34. LPI policy DP7 includes a requirement for new development to incorporate all practical measures to achieve energy efficiency through siting, layout and design. I disagree with the appellant's argument that this is an irrelevant policy consideration. However, the lawful/long-standing-use of appeal sites A and B is, in effect, a fallback position available to the appellant.
35. I also note the appellant's argument that modern mobile homes have high specifications for insulation and energy efficiency which can be equivalent to or better than traditional build methods for dwellings. I have been informed that mobile homes must achieve u-values of 0.35 W/m-K for walls and floors and 0.2 W/m-K for roofs. I also understand that the National Caravan Council operates an energy efficiency rating scheme for mobile homes.
36. It has not been demonstrated that the proposals would be inconsistent with the objectives of established national and local planning policies aimed at tackling climate change, or conflict with the provisions of LPI policy DP7(1)(d).
37. I conclude on the fourth main issue that the proposal would include adequate mitigation in terms of resource efficiency and low carbon initiatives so as to help tackle climate change.

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<sup>5</sup> Provided for under the Caravan Sites and Control of Development Act 1960.



*Fifth Main Issue – Mix of House Types/Affordable Housing*

38. There are differences in the style and size of some of caravans/lodges that are, or which could be, stationed on the appeal sites. However, these comprise a single type of house/home. Given the occupancy restrictions of the UU, the type of residential accommodation that would be provided on the appeal sites and the demographic of the occupants would be somewhat limited. The proposals could not reasonably be described as providing a mix and range of different types of residential accommodation, as required by LPI policy DP14.
39. I note from the development plan that Wells has an older age-profile than other towns within the former Mendip area, with pressure on housing affordability. Whilst appeal scheme A and the cumulative effect of both appeal schemes could result in a rather unbalanced local community, the more modest appeal scheme B would assist in meeting the demand from older people looking to move to Wells and without creating any imbalance in the local community.
40. Amongst other things, the development plan recognises a lack of affordable housing, necessary to meet the needs of the local community. In an attempt to address this, LPI policy DP11 requires housing proposals to make provision for some affordable housing. I note from the consultation response of the LPA's Housing Enabling Officer (HEO) that neither of the appeal schemes were considered to meet the policy requirement for affordable housing provision.
41. I also note from the appellant's evidence that the average house price<sup>6</sup> for properties in Mendip is £394,000 and the average asking price<sup>7</sup> for mobile homes on 33 caravan parks within 32 km of Wells is £150,662. The Inspector who determined appeals<sup>8</sup> on a caravan park in Sussex in 2021, and where a comparison in respect of house/mobile home prices was undertaken found, "based on the specific evidence" before them, that mobile homes could be considered to offer an affordable route to home ownership.
42. I consider that for a few<sup>9</sup> of those aged 50+ who would be looking to purchase one of the lodges or caravans on the appeal sites, this type of accommodation could provide a route to home ownership that would otherwise be unavailable to them. Whilst the overall costs of a lodge or caravan are likely to be much lower than a 'bricks and mortar' property, it is unclear to me whether any of the lodges or caravans would be made available at a price equivalent to at least 20% below market value. Without any such discount, it is difficult to see how the proposals fit within the definition of affordable housing set out in the glossary to the Framework. Moreover, there is no mechanism in place to ensure any such accommodation would remain 'affordable' for future residents.
43. I concur with the HEO that the proposals would not count towards the development plan provisions/requirements for affordable housing. As also recognised by the HEO, the proposals would offer alternative housing provision for people seeking smaller-sized residential accommodation on a permanent basis. In this regard, I am mindful of the findings in the Strategic Housing Market Assessment which, amongst other things, identified a demand for

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<sup>6</sup> November 2022.

<sup>7</sup> December 2022. I also note the comments of the HEO that it is unclear if this price includes the costs of ground rent, upkeep, sales commissions or other service charges.

<sup>8</sup> APP/C3810/C/19/3222033 & APP/C3810/W/18/3214487.

<sup>9</sup> In all probability, the majority of those looking to purchase a lodge or caravan would be seeking to 'down-size' on 'bricks and mortar' homes that they already own.

bungalows. Whilst the proposals conflict with the provisions of LPI policy DP11 they would provide some benefit in the form of smaller-sized residential accommodation that would add to the overall choice of available housing.

44. Nevertheless, I conclude on the fifth main issue that the proposals would not assist in meeting the housing needs of the local community.

*Sixth Main Issue - Public Open Space*

45. Most future residents of the lodges or caravans could reasonably be expected to have a need to access public open space. LPI policy DP16, includes a requirement for residential development to make a contribution towards the provision of new open space. This can either be on-site, where appropriate, or provided elsewhere by way of a financial contribution.
46. At present, there is 0.21 ha of open/amenity space provided within the overall holiday/caravan park. This includes a seating area and two boules pistes. Whilst this space may be adequate for tourists, it is unlikely to be sufficient in meeting the recreational/leisure needs of all of those residents that could occupy appeal site A. However, both appeal sites are in close proximity to greenspace on the opposite side of the A371 with convenient access to public rights of way. On balance, the on-site deficiency in open space would not be so great as to justify withholding permission in appeal B but does weigh against an approval in appeal A. There is no mechanism in place to address this.
47. I conclude on the sixth main issue that adequate public open space provision exists to meet the recreational needs of occupiers in appeal B but not in appeal A. The appeal A scheme conflicts with the provisions of LPI policy DP16.

*Other Matters*

48. The LPA has drawn my attention to appeal decisions on other sites with a Wells postal address and which involved holiday occupancy restrictions (refs. APP/Q3305/W/19/3229927 & APP/Q3305/W/22/3307642). Whilst noting the findings of those Inspectors, both sites were found to be in areas where accessing services and facilities on foot or bicycle would be problematic. In the latter appeal, the site was found to be remote. This is different to the situation before me, where Wells Holiday Park is served by tarmacked footways and is in close proximity to bus stops. It is not remote from services. Each case must be determined on its own merits and these other cases are materially different to what is before me. They do not set a precedent that I am bound to follow.
49. The appeal site lies within the hydrological/fluviol catchment and the Impact Risk Zone of the Somerset Levels and Moors Ramsar Site and Special Protection Area (SPA). Amongst other things, this extensive area of lowland wet grassland supports an assemblage of rare aquatic invertebrates.
50. Natural England has identified poor water quality, due to nutrient enrichment from elevated levels of phosphorus, as a cause in the loss of biodiversity<sup>10</sup> within these protected areas. This has led to these areas being classified in an 'unfavourable condition'. Given the current use of the appeal sites/fallback position, I agree with the LPA that the proposals would be most unlikely to increase phosphate loading into the river catchment, Ramsar Site and SPA.

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<sup>10</sup> I understand that, amongst other things, aquatic invertebrate communities are suffering the effects of hyper-eutrophication, caused by excessive levels of phosphates.

51. I also understand that the appeal sites lie within Band B (risk impact bat consultation zone) of the North Somerset and Mendip Bat Special Area of Conservation<sup>11</sup>, which comprises component Sites of Special Scientific Interest<sup>12</sup>. Whilst I have found above that the proposals would result in an increase in activity in and around the site, this would not be so great as to result in a likely adverse effect upon features important to bats. The LPA appears to have reached a similar finding when it determined the applications.
52. Notwithstanding new and planned housing growth in and around Wells, as well as the restrictions that occurred during the COVID pandemic, there is no cogent evidence before me to demonstrate that the current tourist use of the appeal sites is unviable.

#### **Planning Conditions and the Unilateral Undertaking (UU)**

53. If either of the appeals were to be allowed the effect would be the creation of a new permission(s) and the 'standard' start date condition would be necessary. For the avoidance of doubt, it would be necessary to specify the approved plan and the permitted number of residential units.
54. In appeal B, I have noted the other conditions that were attached to the planning permission dated 18 February 2011. It is unclear to me if the bund/acoustic fence was provided and/or remains. On the assumption that it does, it would be necessary for this (and the other boundary treatment) to be retained in order to safeguard the living conditions of neighbouring residents. Conditions would also be necessary to ensure adequate car parking and turning within the site, as well as ensuring adequate drainage. A condition controlling noise emissions would be unnecessary. To safeguard the character and appearance of the site and the living conditions of neighbouring residents, a condition would be necessary controlling external lighting on the lodges.
55. If planning permission was granted for both of the appeal schemes the cumulative transport/traffic impacts of the proposals would, having regard to highway safety matters and the need to encourage transport by more sustainable modes to the motor car, trigger the need for the submission of a Travel Plan. However, the appeal schemes on their own would not trigger this.
56. If future residents of the lodges sought to have lodges with a different external appearance to those currently on site, this could accentuate the adverse impact of these units upon the local landscape that I have found above. I agree with the appellant's suggestion that a planning condition controlling this matter would therefore be necessary.
57. The evidence before me, including the comments of Somerset County Council Education Authority, indicates that unfettered residential occupancy of either of the appeal sites would be likely to result in a harmful increase in pressure upon educational infrastructure. The provisions of the UU satisfy the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I have therefore taken it into account.

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<sup>11</sup> Designated because of its importance for Greater and Lesser Horseshoe Bats.

<sup>12</sup> These include areas of bat maternity and/or hibernation roosts.

### **Planning Balance/Overall Conclusions**

58. LPI policy DP1(3) includes a requirement for the impacts of a proposal to be balanced with the wider benefits. The housing land supply position requires this to be a 'tilted balance'.
59. When the necessary balancing exercise is undertaken, I find, in respect of appeal A, that the adverse impacts that I have identified (conflict with countryside protection policies, harm to the character and appearance of the area, inadequate external private amenity space, imbalance in the local population, a failure to help address housing need and deficient open space provision) would significantly and demonstrably outweigh the benefits. This proposal would therefore conflict with the provisions of LPI policy DP1(3) and the overall provisions of the development plan and the Framework.
60. When the same balancing exercise is undertaken in respect of appeal B, I find that the adverse impacts (conflict with countryside protection policies, limited harm to the character and appearance of the area, and the failure to help address housing need) would not significantly and demonstrably outweigh the benefits. This proposal would accord with LPI policy DP1(3) and the overall provisions of the development plan and the Framework. I would have reached the same conclusion in respect of this appeal regardless of the 'tilted' balance.
61. Given the above, and having regard to all other matters raised, I conclude that appeal A should be dismissed and appeal B should succeed.

*Neil Pope*

Inspector

### **SCHEDULE OF PLANNING CONDITIONS – APPEAL B**

1. The development hereby permitted shall commence within three years of the date of this decision.
2. The development shall be undertaken in accordance with the approved 1:1,250 scale site plan ref. 1530-00002-01.
3. The development hereby permitted is limited to 12 lodges, which shall be single storey in height.
4. Any new/replacement lodges shall match the external appearance (including materials and colour) of the existing lodges on the site.
5. The existing boundary treatments (including any bunding and acoustic fence) shall be retained, as well as the existing car parking and turning arrangements, and the foul and surface water drainage arrangements.
6. No external lighting shall be erected on any of the lodges or elsewhere within the site unless previously agreed in writing by the Local Planning Authority.