



Appeal Decision

Site visit made on 5 May 2026

by **Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 11th May 2026

Appeal Ref: APP/B9506/C/24/3342251

Duck Hill Farm, Newbridge, Cadnam, New Forest, SO40 2NW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs. Sylwia Bereza against an enforcement notice issued by New Forest National Park Authority.
 - The notice was issued on 4 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission: i) the material change of use of the Land to a mixed use comprising the recreational keeping of horses and agricultural grazing; and ii) the creation of a track in the approximate position shown coloured orange on the plan attached to this notice.
 - The requirements of the notice are (i) permanently cease the use of the Land for recreational horse keeping. (ii) Permanently remove the field shelters from the Land. (iii) Permanently remove the fences from the approximate area shaded purple on the plan attached to this Notice. (iv) Permanently remove from the Land all structures, chattels or items associated with or facilitating the use of the Land for recreational horse keeping (for the avoidance of doubt this includes recreational equipment, furniture, vehicles, and any other items unrelated to the agricultural use of the Land). (v) Permanently remove the hardcore, aggregates and any other materials used in the construction of the track shown in the approximate position coloured orange on the plan attached to this Notice. (vi) Remove all material and debris resulting from compliance with steps (i) to (v) above from the Land. (vii) Restore the Land to its former level and condition as it existed prior to the occurrence of the breaches identified at 3.i and 3.ii.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background to the Appeal

2. The site lies on the edge of the New Forest National Park beside the Cadnam River. The Authority have measured it as encompassing about about 4.5ha, but it is an unusual shape as it follows the river for over 1km. Thus the southern boundary is more or less straight but the river boundary is wiggly to such an extent that in several places the site is only a few metres wide. This very much dictates what the land is suitable to be used for and hence the decision below.

The Appeal on Ground (b)

3. This ground is that the matters alleged have not taken place. The appellant argues the track has always been there, all they have done is repair it and that the

land has long been used for grazing horses. Thus there has been no material change of use and no creation of a track.

4. In fact the aerial photographs provided by both parties are far from clear. I think that the best that can be said is that there may well have been a track from the gate part of the way into the site at some time in the past. Photographs from enforcement action in 2016 show the land being overgrown and no sign of a track at all. NP Authority officers noted that at the time of an application in 2022¹ for the track it was then an informal access worn into the grass. Since then considerable excavation works have been undertaken and a proper roadway established that runs deep into the site. Even if some form of track had existed in the past the current one is essentially a new roadway which has gone far beyond alteration or repair.
5. The lawful use of the land is for agriculture, which includes the grazing of horses, a typical use of land in the New Forest. However, this is different from the keeping of horses, which, unless they are being kept for agricultural purposes (such as ploughing or pulling carts, a very niche use today), would not be agricultural and so would be a material change of use. The appellant is clearly keeping horses on the land, that is they live there permanently with stable type field shelters, and as there is no evidence their use is for agricultural purposes then there has been a material change of use. Consequently, both parts of the allegation are correct and the appeal on ground (b) fails.

The Appeal on Ground (c)

6. This ground relates to the matters alleged, that is the material change of use and the track, and it is that those matters do not need planning permission. Given my finding on the track in ground (b), that it is a new creation then as the site is less than 5ha such a track would require the prior approval² of the NP Authority. This was applied for and refused in 2022 so planning permission is required for the track.
7. A change of use from agriculture to a mixed use of keeping of horses for recreational purposes and grazing could well be material depending on the different impacts such uses would have. In this case that is bound up with the size and shape of the land, the restrictions on the use of the land and the lack of an access track. The Cadnam River is an SSSI and its banks are protected. This essentially renders parts of the site unusable for anything but the most low-key grazing, as in parts the site is so narrow. The river also floods regularly and I have seen photographs of extensive recent flooding. That means past uses have been nothing more than overflow grazing of horses and donkeys when it is possible to do so. To keep quality horses permanently on the land would require considerable investment in structures, such as field shelters and stabling, storage for food and a more reliable and weatherproof access, as has taken place. These changes are material and so the new use requires planning permission. The appeal on Ground (c) fails.

¹ 22/00157/PAAG

² Part 6, Class B.5 (2), (a)

The Appeal on Ground (a)

8. I have described the Cadnam River above but it is worth noting the valley is a particularly peaceful and beautiful place. As it lies within the National Park development is strictly controlled. In particular the NP Authority has a duty³ to further the purposes of the National Park and the relevant purpose for this appeal is to conserve and enhance its natural beauty and wildlife. This is reflected in the relevant policies of the local plan, particularly SP6 which prevents development that might harm an SSSI, SP7 which protects the character and appearance of the landscape and especially DP51 which supports recreational horse keeping where it does not harm landscape character or result in the loss of back-up grazing land.
9. The use of the land and provision of the track are intimately connected. The appellant asks why can't they have an access track? Everyone else does and they need one to enable the use of the land. Ordinarily that would not be unreasonable, but in this case the site has a particular set of constraints that make a more intensive use difficult. The regular flooding means that any agricultural use other than grazing would be difficult to maintain, and the protected nature of the river means that preventing or controlling flooding would not be possible. Because of this, access to much of the land is difficult, especially in the winter, as evidenced by the appellant's photographs, showing how churned up and muddy the grass track became. Thus to enable a more intensive use, even one such as keeping of horses a proper track needs to be provided, and this is what I saw on site.
10. Even from the gateway it is obvious the track is a significant development, that runs right next to the river where it meanders close to the southern boundary. Made up of crushed concrete, tarmac and rubble, it involved considerable excavation and importation of materials. It is not of a scale or materials that conserve or enhance the character of this part of the NP. Also it enables the more intensive use of the land, more field shelters and storage structures, as well as chicken runs and apparently vegetable plots. All of these cumulatively erode the special quality of this site. While the agricultural uses would normally not be controlled in this case they are only really possible because of the track. In my view the simple fact is that this parcel of land is not suitable for anything more than back-up grazing and attempts to 'improve' it have harmed the character of the NP and potentially also the SSSI.
11. The authority is also concerned the track would exacerbate flooding. While it may be constructed of permeable materials, it is likely, especially over time and through compaction, they would become much less permeable than the surrounding land. As the track takes up a disproportionate amount of the site, especially where it is narrow, it is likely to exacerbate flooding across to neighbouring fields. I have no evidence to suggest otherwise. Local residents have provided photographs of a digger that was constructing the track marooned in mud. The appellant argues this was taken some time ago before they realised how difficult access to the land was. I think this rather demonstrates the point that the land is simply not suitable for the proposed uses. The material change of use and the track fail to conserve or enhance the special character of the NP and are contrary to policies SP6, SP7 and DP51 and the appeal on ground (a) fails.

³ S245 of the Levelling-up and Regeneration Act 2023

The Appeal on Ground (f)

12. A number of issues scattered about the other grounds are actually better dealt with under (f) – that the requirements are excessive. One of the requirements is that once the track is removed the land levels are reinstated, so there will not be a muddy hole left as suggested.
13. Some of the field shelters may well be movable and so not development, although there is very little evidence for this. Even if they can be moved, if they are not, then they can be considered to be structures that require planning permission. Whatever, they definitely facilitate the use alleged and so can be removed from the land as required by the notice. It is the same argument for the fences.
14. The appellant argues that a different, smaller, track would be acceptable, but apart from a photographic example I have no further evidence of what this would comprise or how it would impact on the site. As noted above I do not think a more intensive use is appropriate and so even a much smaller and less intrusive track may well not be acceptable.

Conclusion

15. I shall uphold the notice and dismiss the appeal.

Simon Hand

INSPECTOR