



Appeal Decision

Site visit made on 10 March 2026

by **Thomas Shields DipURP, MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2026

Appeal Ref: APP/B9506/C/24/3342677

Land Adjacent to Rectory Cottage, Kensington Lodge, Manor Road, Dibden, Hampshire, SO45 5TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the Act”)
- The appeal is made by Mr John Parker against an enforcement notice issued by New Forest National Park Authority.
- The notice was issued on 14 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 use for B8 storage purposes, including the storage of trailers, vehicles, boats, caravans, building materials, timber, scrap and waste material and other domestic paraphernalia; (ii) Operational development comprising the laying of a hard surface in the approximate position shown shaded orange on the plan attached to this Notice.
- The requirements of the notice are to:
 - i. Permanently cease the use of the Land for the open storage (B8) of trailers, vehicles, boats, caravans, building materials, timber, scrap and waste material and other domestic paraphernalia.
 - ii. Permanently remove the trailers, vehicles, boats, caravans, building materials, timber, scrap and waste material and other domestic paraphernalia from the Land.
 - iii. Permanently remove the hard surfacing shown in the approximate location shaded orange on the plan attached to this Notice.
 - iv. Restore the Land to its former level and condition prior to the development or use being carried out.
 - v. Remove any debris resulting from compliance with the requirements i – iv from the Land.
- The periods for compliance with the requirements are: 28 days for requirements 5.i and 5.ii, and 3 months for requirements 5.iii, 5.iv and 5.v.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (g) of the Act. 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.

Decision

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

Preliminary Matters

2. Following the appeal procedure being held in abeyance in 2024, the appellant is no longer the occupier of the site. The use alleged in the enforcement notice subject of this appeal ceased and the site has subsequently been redeveloped for a different use by the current occupier.
3. However, the appeal has not been withdrawn. In this regard section 81(1) of the Act provides that compliance with any of the requirements contained in an enforcement notice ‘shall not discharge the notice’. Hence, if at any time after compliance with a

notice a use is resumed or operational development is reinstated in contravention of the requirements, it would be a re-breach of the notice. Thus the requirements of a notice have an enduring effect.

Appeal on ground (c)

4. The appellant's case on ground (c) relates to the alleged laying of a hard surface at Section 3ii of the notice.
5. For an appeal on ground (c) to succeed an appellant needs to show that the matters alleged in the notice do not constitute a breach of planning control.
6. The Courts have established that the onus of proof on this ground falls to an appellant with the evidence tested on the balance of probabilities. Accordingly, an appellant is required to provide sufficient evidence in making their case. Also, an appellant's evidence should not be rejected simply because it is uncorroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. The advice in the national Planning Practice Guidance (PPG) also reflects these Court judgments.
7. The appellant argues that the hard surface is *de minimis* and consisted only of a light dusting of scalplings (small stones) topped off with shredded bark and relies on 2 photographs of the internal area of the site. However, the photographs are ambiguous because they are undated and so do not confirm the condition of the site on a particular date, either before or after the notice was issued. Additionally, there is no convincing qualitative or quantitative evidence before me to show that the laying of scalplings and bark were *de minimis*. Moreover, the hard surfacing subject of the notice is not limited to scalplings and shredded bark. Compacted hardstanding previously laid under permitted development rights was not removed as required and was a breach of planning control in its own right¹. That unauthorised surface was incorporated into the development subject of this appeal by the appellant and facilitated the material change of use of the land.
8. Overall, I find the appellant has failed to provide sufficiently precise and unambiguous evidence, tested on the balance of probabilities, that the matters alleged do not constitute a breach of planning control.
9. The appeal on ground (c) therefore fails.

Appeal on ground (a)/deemed application for planning permission

Main Issue

10. The main issue in the appeal is the effect of the development upon the character and appearance of the area, and with particular regard to its location in the New Forest National Park (NFNP).

Reasons

11. The appeal site is located to the south-east of Manor Road at the western end of Main Road. Woodland obscures longer distance views of the site from the A326 and the adjacent traffic island. A close boarded fence also provides some boundary screening. In the more immediate area of the appeal site the prevailing character of

¹ Council's appendix 9 - photographs

the area is rural countryside with some low density linear residential development interspersed in spacious plots, and with such dwellings generally being set back from the road having front boundaries comprising mostly natural vegetation and mature trees. The managed landscape of the Dibden golf course forms the backdrop to the appeal site. Also, since this appeal was lodged, the adjoining plot of land has been granted planning permission² for a single pitch residential caravan site.

12. Along with other open land in the area the spacious residential plots referred to above also contribute to the low density and generally open character and appearance of the area. Although the adjacent caravan pitch has infilled part of the open area that would otherwise exist, the development of this appeal site would in combination with it have a much greater infilling effect, harmful to the character and appearance of the area.
13. Additionally, contrary to the appellant's view, the use of the site for storage of trailers, vehicles, boats, caravans, building materials, timber, scrap and waste material on a site of this size would be an overtly commercial activity and incongruous with the rural and residential character and appearance of the area I have described, resulting in further harm. I accept that the boundary fencing provides a limited degree of mitigation in respect of *appearance*, but it does not mitigate the effect on the area's *character*.
14. Framework³ paragraph 189 requires the scale and extent of development within national parks to be limited and development within their setting to be sensitively located. Moreover, it advises that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The harm I have described to the character and appearance of the area also results in conflict with these provisions of the Framework. As such, allowing the appeal would fail to further the statutory purpose of conserving and enhancing the natural beauty of the NFNP.
15. I have considered whether landscaping or other planning conditions would adequately mitigate the harm I have identified, but there are none that would do so.
16. I acknowledge the appeal site would be a convenient location for providing a community-based ground-work business to Marchwood, Eling, Ashurst, Totton, Netley Marsh and Calshot. However, there is no convincing evidence before me to show that other sites within the locality, with less harm than is the case here, are unavailable. For the reasons I have stated, the development at this location is harmful to the character and appearance of the area and to the NFNP, and would not constitute sustainable development overall.
17. To conclude, there would be conflict with the requirements of Policies DP2 and SP17 of the New Forest National Park Local Plan (2019) (LP) which, taken together, seek to ensure new development is appropriate and sympathetic in terms of scale, appearance, form, siting and layout; respects the natural and built environment and landscape character of the NFNP; and does not result individually or cumulatively in erosion of the NFNP's character. Given the harm and conflict with these policies I have described, together with the location of the appeal site outside of defined villages, the development also conflicts with the requirements of

² Planning permission Ref: APP/B9506/C/23/3325725 granted on a personal/temporary basis

³ National Planning Policy Framework (December 2024)

LP Policy SP42 which supports business and employment development provided they do not have an adverse impact on the special qualities of the NFNP.

18. The appeal on ground (a) fails.

Appeal on ground (f)

19. The two purposes which the requirements of an enforcement notice can seek to achieve are: to remedy the breach of planning control which has occurred (section 173(4)(a) of the Act), or to remedy any injury to amenity which has been caused by the breach (section 173(4)(b) of the Act). Hence, an appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.
20. The notice requires the use to cease, the removal of all related items in connection with the use, and removal of the hard surface. As such, this would restore the land to the condition that existed prior to the breach occurring. It is clear therefore that the purpose of the notice is to remedy the breach of planning control (section 174(3)(a) of the Act).
21. The appellant's arguments in support of the merits of retaining at least some of the development carried out are not relevant to this ground (f) appeal. As set out above ground (f) is strictly limited to the question of whether the notice requirements *exceed what is necessary in order to remedy the breach*.
22. With regard to comments concerning former levels and condition of the site, the appellant is best placed to know what they were prior to the breach occurring. However, this is somewhat moot since the site has since been subsequently re-developed.
23. Given the purpose of the notice is to remedy the breach, the requirements to cease the use of the site and restore it to its former condition cannot be excessive since they go no further than remedying the breach. Any lesser requirements would not fully remedy the breach.
24. The appeal on ground (f) therefore fails.

Appeal on ground (g)

25. An appeal on ground (g) is that the period of time for compliance with the notice requirements fall short of what should reasonably be allowed. The notice requires the use to cease and removal of all stored items within 28 days, and removal of hard surfacing, reinstatement of land levels and removal of debris within 3 months. The appellant seeks 12 months in respect of notice requirements 5(i) and 5(ii).
26. Since the use has ceased and all stored items removed in compliance with requirements 5(i) and 5(ii) I see no reason to extend the 28 day compliance period.
27. The appeal on ground (g) fails.

Thomas Shields

INSPECTOR