

Site: HOLBAINES MEADOW, WHITEBALL ROAD, SAMPFORD ARUNDEL,
WELLINGTON, TA21 0LS

Proposal: Creation of a hardstanding at Holbaines Meadow, Sampford Arundel

Application number: E/0087/32/17

Reasons for Enforcement: It appears to the Council that the above breach of planning control has occurred within the last ten years.

The Land is in open countryside located to the south of the hamlet of Holywell Lake. The storage of piles of hardcore and building waste and the provision of a hard surface on the Land is detrimental to the visual amenities and landscape character of the rural area within which the Land is located. In addition, the storage of piles of hardcore and building waste and the provision of a hard surface is not reasonable or necessary for the purposes of agriculture use.

This is contrary to Taunton Deane Core Strategy Policies DM1 (General Requirements) , DM2 (Development in the Countryside) and CP8 (Environment) .

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections .

Appeal Decision: Dismissed

Site: NORTH STREET, WIVELISCOMBE, TAUNTON, TA4 2LB

Proposal: Outline Planning Application with all matters reserved, except for means of access, for the erection of up to 130 dwellings with public open space, landscaping and sustainable drainage system with vehicular access point on land at North Street, Wiveliscombe

Application No: 49/17/0007

Appeal Decision: Withdrawn



Appeal Decision

Inquiry Held on 10 April 2018

Site visit made on 10 April 2018

by **P N Jarratt BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2018

Appeal Ref: APP/D3315/C/17/3189132

<https://www.gov.uk/planning-inspectorate>

Land at Holbaines Meadow, Sampford Arundel, Wellington, TA21 OLS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Paul Sparks against an enforcement notice issued by Taunton Deane Borough Council.
 - The enforcement notice was issued on 3 October 2017.
 - The breach of planning control as alleged in the notice is:
 - (i) The change of use of the land from agricultural use to B8 storage use by way of unauthorised storage of piles of hardcore, waste from building materials including bricks, paving slabs and general rubble; and,
 - (ii) The laying of hardcore on the ground resulting in the provision of a hard surface on the land; as shown on the 5 photographs attached to the notice.
 - The requirements of the notice are:
 - (i) Remove the hardcore and building waste being stored on the land; and,
 - (ii) Cease using the land for the storage of hardcore and building waste; and,
 - (iii) Remove the area of hard surfacing from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), and (d) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: Notice varied, appeal dismissed and notice upheld.**
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Procedural Matters

1. The appellant conducted his own case and gave evidence on his own behalf. All evidence was given on oath.

The appeal site and relevant planning history

2. The site is a triangular area of land in open countryside bounded by the A38 on its south side and by a narrow lane on its north-west boundary. Vehicular access into the site is from the lane with an agricultural building sited nearby. A track leads up to an area of hardstanding where building waste materials are stored which are piled in mounds up to about 3m in height. Some of the waste has been crushed. There is also a concrete hardstanding, a caravan, a small area of container plants, a number of palettes, waste ceramic sanitary goods and bricks.
3. An area of hardcore/hard surfacing nearest the north corner of the site appears to have been laid some time ago and part of it has had additional crushed building waste spread more recently on top. This area has been extended with

the spreading of hardcore and the storage of building waste on top of existing drainage beds up to about 5m from the line of trees running in a north-easterly direction across the site. To the south of the trees is a field laid to pasture.

4. In March 1988 planning permission was granted for the excavation of OS 2131 and the erection of an agricultural building (32/88/001). The continued siting of a mobile home was conditionally approved in March 1989 (32/88/0010). Permission was granted in March 2014 for security fencing and gates (32/13/007).
5. There have been various refusals including applications for change of use to a retail garden centre; the change of use of the agricultural building to the manufacture and sale of concrete garden products, and subsequently to light industrial use, commercial and horticultural use; the continued siting of a mobile home; the retention of a mobile home for an agricultural worker and part use of the agricultural building for the production of garden architecture. An application for the formation of a new access onto the A38 was dismissed on appeal in September 2017.

The appeal on ground (b)

6. An appeal on this ground is that the breach has not occurred as a matter of fact.
7. It was evident from my site inspection and the photographs submitted by the Council that the alleged breach has taken place as a matter of fact.
8. The appeal on this ground therefore fails.

The appeal on ground (c)

9. An appeal on this ground is that there has not been a breach of planning control.
10. The appellant contends that the site has permission as a wholesale nursery for the production of container grown trees and shrubs. He states that the nursery project was started in the late 1980s when planning permission was not required for this type of development. It was developed in the full knowledge of the planning officer at the time. Drainage paths were completed over 30 years ago, together with a substantial portion of the hardstanding area and a polytunnel. Having started the project, the appellant is seeking to complete what was started and asserts that there are no breaches of planning control as all the stored hardcore on site is for completion of the project. The container plants are required to be drained on a solid base and for the manoeuvring of vehicles.
11. The appellant refers to the planning permission 32/88/001, which he implemented within the 5 years required by condition, and also to permitted development rights, as indicators that the activities currently on site are lawful. However, the permission was for excavation and construction of an agricultural building. The ADAS letter of 19 February 1988¹ provides an agricultural appraisal of the application and comments that if the business develops further, additional requirements such as hardcore, sand or fabric stabilised beds will be needed on which to stand the container grown plants. However,

¹ Appendix A3 of the Stacey Salter's evidence

whilst reference is made to possible future business development, the application drawings² do not show any hardcore beds but provide details of the agricultural building, excavation and fill areas, and a tree screen. In view of this I do not consider that the laying of hardcore and/or storage of waste materials fall within the scope of that permission.

12. Although the appellant refers to the hardcore areas being permitted development, he provides no evidence or reference to the relevant Order in support of this claim.
13. Class B, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)sets out permitted development rights of agricultural development on units of less than 5 hectares. This includes at (e), the provision of a hard surface, and at (f), the deposit of waste, where the development is reasonably necessary for the purposes of agriculture within the unit. For planning purposes agriculture includes horticulture.
14. The appellant states that between 1990 and 2016 there was no work on the site other than general maintenance, largely due to the cost of establishing the horticultural enterprise which required an investment of £25,000 to £30,000. In 1988/89 it was projected that 25-30,000 plants would be required to provide a living. As the containers would be stored on palettes, with each palette holding 20 plants, space for over 1000 palettes would be required. However, in the absence of finance, the appellant sought to diversify his business, such as concrete garden architecture. The appellant stated that the last sale of plants from the site was in 1990/91.
15. Although the appellant states that he is seeking to complete the project started many years ago, it is not his intention to run the business now. He has a prospective tenant who would like to run a horticultural business on the site. However, he does not know whether he would work part or full time and no agreement is in place. If this arrangement falls through the appellant would advertise the availability of the site.
16. The evidence shows that the site has been hardly used as a nursery for about 25 years and there is considerable uncertainty over the future business use of the site which indicates that increasing the hardstanding to the extent so far or as intended by the appellant is not reasonably necessary for the purposes of agriculture. Even had the appellant been able to demonstrate that the works were reasonably necessary for agriculture, further considerations need to be taken into account.
17. The GPDO at B.5 (3) permits development in Class B(f) subject to the following conditions-
 - (a) *that waste materials are not brought on to the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated forthwith into the building or works in question; and*
 - (b) *that the height of the surface of the land will not be materially increased by the deposit.*
18. There is a clear delay in the bringing of the waste material onto the site and for it to be crushed and spread on the land. The Council's witness advised that

² Appendix A4 of the Stacey Salter's evidence

there were substantial piles of uncrushed material on the site when she visited it in June 2016 and these remained for over a year. I do not regard such a delay in incorporating the materials into a hardstanding as being 'incorporated forthwith'.

19. The appellant has said that the depth of the hardcore spread on the site is between 23–30 cm (9-12 inches). However, this represents a significant amount which has materially increased the height of the surface of the land over a wide area.
20. On the basis of the current GPDO, I conclude therefore that the storage of waste material on the site and the laying of hardcore to create a hard surface do not benefit from permitted development rights. Additionally no planning permission exists and the use of the site and the works carried out are therefore unauthorised.
21. In an appeal on a legal ground the onus of proof rests with the appellant and the standard of proof is the balance of probability. The appellant has not demonstrated that the alleged breach of planning control is lawful and therefore the appeal on ground (c) fails.

The appeal on ground (d)

22. An appeal on this ground is that at the time the enforcement notice was issued, it was too late to take enforcement action.
23. At the site inspection and from the Council's submitted photographs it was evident that part of the site had benefitted from a hard surface for some time and this is distinguishable from the more extensive area of more recently laid hard surface. The appellant states that the original hardstanding was laid in the late 1980s and that this represented about 40% of the extent of the current area of the hard surface/waste storage area. The Council accepts that the notice should have distinguished between the original and extended area of hard surface.
24. The appellant acknowledges that the creation of an extended area of hard surfacing and waste material storage has taken place from 2016 onwards. The appeal on ground (d) fails in respect of the extended area but succeeds in respect of the original hard surfaced area which is identified by the cross-hatched area in the plan attached to this decision. I will vary the notice by amending the requirement in part 5 (iii) of the notice accordingly. I am satisfied that no injustice to the parties would occur as a result.
25. It should be noted that the requirements of the notice at part 5(i) and 5(ii) are retained without amendment.

Conclusions

26. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations.

Formal Decision

27. It is directed that the enforcement notice be varied by the replacement of the words in 5 (iii) of the notice with the words " Remove the area of hard surfacing from the land that is outside the area shown cross-hatched on the

plan attached to this notice. Subject to these variations the appeal is dismissed and the enforcement notice is upheld.

P N Jarratt

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Nick Hill, Solicitor

He called
Stacey Salter BSc Planning Enforcement Officer

FOR THE APPELLANT:

Paul Sparks, appellant

He called
Mrs T J Sparks

INTERESTED PERSONS:

None



Plan

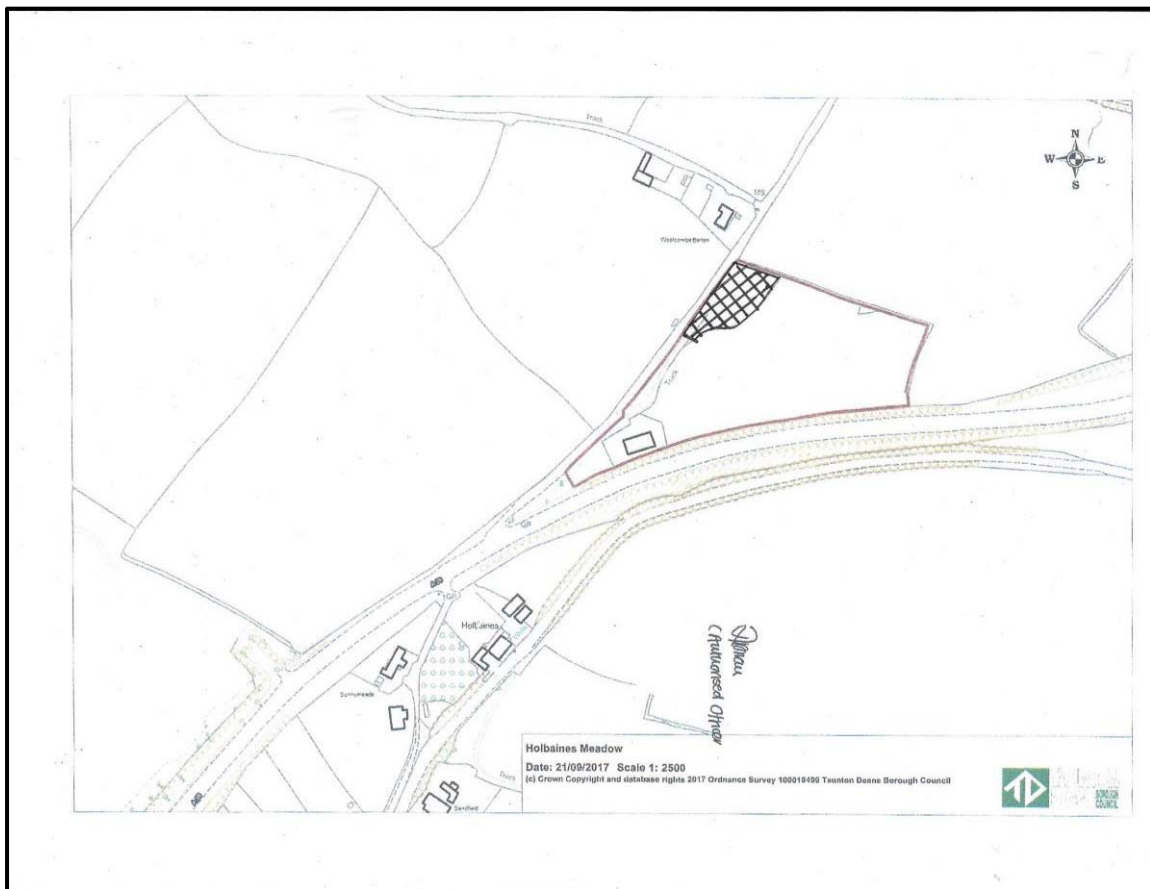
This is the plan referred to in my decision dated:

by **P N Jarratt BA DipTP MRTPI**

Land at Holbaines Meadow, Sampford Arundel, Wellington, TA21 0LS

Reference: APP/D3315/C/17/3189132

Scale: Do not scale



P N Jarratt

Inspector



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Julie Harcombe
Taunton Deane Borough Council
Review Support Manager
The Deane House
Belvedere Rd
Taunton
TA1 1HE

04 May 2018

Dear Ms Harcombe,

Your Ref: 49/17/0007

Our Ref: APP/D3315/W/17/3189981

Town and Country Planning Act

1990 Appeal by Gladman

Developments Ltd

**Site Address: Land off North Street, Wiveliscombe, Somerset, TA4 2UE
(nearest)**

I enclose for your information a copy of a letter received withdrawing the above appeal. I confirm no further action will be taken on 3189981.

We will continue to process appeal 200773.

Yours
sincerely,

*Holly
Dutton*

Holly
Dutton

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is -
www.planningportal.gov.uk/planning/appeals/online/search

APPEALS RECEIVED – 23 May 2018

Site: LAND OFF NORTH STREET, WIVELISCOMBE TA4 2UE`

Proposal: Outline Planning Application with all matters reserved, except for means of access, for the erection of up to 95 dwellings with public open space, landscaping and sustainable drainage system with vehicular access point on land at North Street, Wiveliscombe (amended scheme to 49/17/0007)

Planning Application Number: 49/18/0001

Appeal reference: APP/D3315/W/3200773

Start Date: 03 May 2018

Site: 128 GALMINGTON ROAD, TAUNTON, TA1 5DW

Proposal: Formation of vehicular access at 128 Galmington Road, Taunton

Planning Application Number: 52/18/0003

Appeal reference: APP/D3315/D/18/3200772

Start Date: 09 May 2018

Site: CHERRY ORCHARD LODGE, CHERRY ORCHARD, TRULL, TAUNTON, TA3 7LF

Proposal: Erection of 1 No. detached dwelling with detached double garage and associated works on land to the south east of Cherry Orchard Lodge, Cherry Orchard, Trull as amended by email dated 31 October 2017 and plans 2930/01C, 2A, 3A, 05A and 3D Visuals.

Planning Application Number: 42/17/0012

Appeal reference: APP/D3315/W/18/3196961

Start Date: 14 May 2018