

EMAIL ONLY

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Dear Anna,

**RE: Burleigh Oaks Stables, East Street, Turners Hill, West Sussex
Local Planning Authority Reference: DM/24/1931**

Further to my letter of, 27 March 2025, regarding DM/24/2042, I now write with regards to the above planning reference, which relates to an application that has been withdrawn by the Local Planning Authority (LPA). Prior to withdrawal, I understand that the application was for the retrospective retention of a mobile home, for the continued care of livestock on site and management of land, by Mr Hill-Upperton, at Burleigh Oaks Stables.

I have been instructed by Mr Hill-Upperton to review the above planning reference and extent of works undertaken on site. Whilst, I do not have access to all the application documents, as the LPA have withdrawn these online, Will Langer, of Stephen Langer Associates (SLA), has provided me with key papers and a summary of the recent history.

From this summary, I can see that there was an enforcement investigation commenced by the LPA in the summer of 2024. I have been furnished with copies of emails from Enforcement Officer, Tanya Leete-Groves, which advised Mr Hill-Upperton that there was a need to submit a retrospective planning application for the stationing of the caravan. In her email of, 14 June 2024, Ms Leete-Groves, informs the owner that, the siting of the mobile home (as she referred to it), required planning permission.

I can confirm that I visited the site and inspected the caravan on, 5 March 2025. For the reasons outlined below, it is my view that no planning permission is required for the stationing of a caravan at the site, given the intended use of this structure by the owner and the lawful use of the land upon which is it stationed.

However, in compliance with the LPA's advice, and prior to my involvement, SLA prepared and lodged a full planning application, which was validated as complete on, 13 August 2024, reference, DM/24/1931. Thereafter, and despite the application not seeking the permanent residential occupation of the caravan, as Case Officer, you decided to assess the proposal on the basis that it was for permanent residential use, and therefore needed to be justified in terms of agricultural need. In later correspondence with you, on 31 January 2025, I note that SLA confirmed the caravan was not to be used for permanent residential occupation, as the LPA were suggesting, and they could not understand why the scheme was being assessed in this way.

It is my view that the LPA's approach to the application demonstrates a mishandling of the relevant planning matters, and that no planning application is required for the use of the caravan as outlined by SLA to the LPA. It is also my view that the LPA have not considered relevant case law, appeal decisions or the GDPO, in coming to their views about the this matter.

Below, I will outline why, in my view, the stationing and use of the caravan, as described by SLA to the LPA, does not require any planning permission.

Caravan Act (Amended)

To being with, I thought it would be helpful to outline the definition of a 'caravan', as detailed in the 1968 Caravan Act (Amended).

Section 29(1) of The Act, states:

"A "caravan" means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

- any railway rolling stock which is for the time being on rails forming part of a railway system, or*
- any tent."*

Section 13(2) (as amended in October 2006) outlines the following maximum dimensions for caravans:

- "length (exclusive of any drawbar); 20m;*
- width; 6.8m; and*
- overall height of living accommodation (as measured internally from the floor at the lowest level to the ceiling at the highest level); 3.05m."*

If a structure complies with the above Act, then it is not classed as development, as outlined in the Town & Country Planning Act (TCPA) 1990. As Officers will know, the TCPA confirms the following:

Section 55 - Meaning of "development" and "new development", states:

"(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used.

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class."

Mobile structures, such as caravans, are also known as chattels. These are moveable structures, which can be easily removed from their location without causing significant damage to the land or the structures itself. A mobile structure, such as a caravan, can be used for any intended purpose and it should not be inferred that the use of this will be residential. Please see, *Wealden District Council v Secretary of State for the Environment and Colin Day* [1988] J.P.L. 268 (discussed below).

When looking at the case law, it is clear that mobile structures/chattels do not meet the definition of development as outlined in the TCPA. They are not defined as a building due to their mobility, and therefore, their stationing is not operational development, contrary to the view asserted by the LPA last year.

The only reason why such structures might require planning permission is if its stationing results in a change of use of the land, upon which it sits. However, from the outset, Mr Hill-Upperton, has been clear with the LPA that caravan is to be used for agricultural purposes. As you will know, it is not connected to any services at present and therefore could not be lived in. Given this, I am unclear why the LPA have decided to assess the building as a permanent residential caravan, when there has been no application made on this basis and the applicant has specifically told the LPA that is not the case.

However, your assistance here would be welcomed.

Burleigh Oaks Caravan

Having regards to the caravan at Burleigh Oak Stables, it is mounted on wheels, has a tow bar, and was delivered to the site, being towed. It is accordingly a chattel. It also falls within the size limitations outlined above. Given this, it is clearly a structure that complies with the definition of the Caravan Act (amended).

In terms of the use of the caravan, SLA and the applicant have informed the LPA that it would be used for welfare and staff use, as part of the husbandry associated with caring for livestock. The submitted DAS stated, the caravan would *“provide appropriate welfare facilities to be used on site for employees of the business. This includes hygienic hand washing facilities, toilets, overnight accommodation when is necessary for aiding the agricultural operations and seating for meals outside of the rain.”*

To assist the LPA, below, I assess these uses against appeal decisions and case law to demonstrate that no planning permission is required.

Agricultural Use of a Mobile Structure Stationed on Agricultural Land

As mentioned above, the landmark case which establishes whether the use of a caravan is agricultural and compliant with purposes outlined in the TCPA, is the 'Wealden Day' case.

The Wealden Day case were concerned with a caravan sited on agricultural land, where the applicant was using the structure for various agricultural uses. Wealden had contended that the caravan amounted to a new primary use of the land, and was not incidental to the existing use. They asserted that its design and appearance was for human habitation. They further alleged that the use of the land was now mixed, and that the change was material because the caravan was visually objectionable.

Every argument advanced by Wealden District Council was quashed. At Paragraph 279 of the judgement, the Court of Appeal stated that, *“...unless the placing of the caravan can be seen as*

having a separate purpose which is not agricultural, it is hard to see how it comes within the scope of development control."

Wealden's case failed as the Court concluded that there was a need to consider not just the placing of the caravan, but also the purpose of its being so placed. As the caravan was to be used for agricultural purposes, so it was incidental to the main use of the land and was not development. Furthermore, there had been no material change of use, as this was a mobile structure (a chattel) used for agriculture and set on agricultural land.

In dismissing the design and intended use claims levied by Wealden, the judgement concluded that, *"there was nothing in the nature of the typical residential caravan...which rendered the use of such a caravan incapable of being properly regarded as ordinarily incidental to the agricultural use of land, that was to say as an ordinary piece of equipment for stationing upon land and for use when so stationed for the purpose of agriculture."*

We submit that the judgement handed down here, is relevant to Burleigh Oak Stables and matters relating to the caravan on site.

Whether Welfare and Workers Uses of the Caravan are Agricultural

To illuminate the above matters, I thought it would be helpful to make reference to some relevant appeal cases where mobile homes and caravans have been stationed on agricultural land, where they are occupied for human habitation, but only on a casual or spasmodic basis.

Here, the LPA have already been informed that the caravan was sited to be used by agricultural workers at Burleigh Oak Stables, mainly as welfare and mess space. Limited facilities would be made available and these do not currently exist. Likewise, there is no connection, presently, to water or electricity, so at this stage that is only an intention, not a pre-existing situation. This should also be factored into the LPA's thinking.

The applicant accepts that it is well established in case law, that permanent residential use of a building or caravan at a farm is not ancillary to agricultural use. However, there are a number of lesser situations where a building, or particularly a caravan, is occupied for human habitation but only on a casual basis. An even lower level of *"residential"* use occurs if a caravan is only used as a day shelter or mess-room for agricultural workers. There are also instances where Inspectors have accepted some limited and short-term overnight accommodation on a seasonal basis, to support agricultural function, such animal welfare in the lambing/calving season. However, there are also Permitted Development (PD) rights for these, which are discussed further below.

The following are helpful appeal decisions that raise matters relevant to Burleigh Oak Stables.

A relevant appeal was determined in the Malvern Hills in 2022. It covered similar matters to Burleigh Oak Stables. An Inspector was tasked with deciding whether a mobile home used by an agricultural worker for shelter, storage of medicines, tools and small equipment (connected to the keeping and breeding of the llamas) was ancillary to agriculture. The Inspector opined that the question was not whether the use of the mobile home was reasonably necessary, but rather whether it was, in fact, used for purposes ancillary or incidental to agricultural use. The appellant's argument was that no material change of use had occurred and cited Wealden Day to support their case. The council's submission was that the purposes for which the mobile home was used should not be considered ancillary or incidental to the agricultural use and that the mobile home was not reasonably required for a holding the size of the appeal site, on a year-round basis, bearing in mind the presence of an existing stables building on site. The Inspector concluded, as a matter of fact and degree on the evidence before them, that such a use was

directly and ordinarily functionally related to the agricultural use of keeping livestock, and so represented an ancillary or incidental use. The appeal was allowed.

The size of an agricultural holding in North Lanarkshire (2019) was held to be irrelevant in determining whether a caravan providing permanent welfare facilities for agricultural workers was ancillary to farming and therefore not an unlawful change of use of the land. The appellant maintained the caravan was being used for purposes ancillary to the agricultural use of the appeal site and justified this stance by referring to the judgment in the Wealden Day case. They pointed out that the case took the view that a caravan could be used as an ordinary piece of equipment on an agricultural unit and that there was no reason why uses such as storing and mixing of feed, some office work and the taking of shelter could not be carried out in such a caravan, which was ultimately ancillary to the agricultural use of the land. The Inspector held that Wealden Day supported the appellant's argument and concluded that a breach of planning control had not occurred, and therefore the enforcement notice should be quashed.

An interesting case from Stafford (2005), covered a mobile home which at times had been lived in. An enforcement notice required the removal of a caravan from a farm. The appellant stated that the caravan had been placed on the holding in 1992 and initially was occupied by his daughter as her main residence. After 1998, the residential use ceased and the caravan was used for shelter and rest during farm activities. It was moved twice in following years and remained associated with farm activities. An Inspector noted the council's argument that in 2003 and 2004 the caravan did not appear to be being used in connection with the farm. Photographs suggested that it was unoccupied and no equipment was being stored within it. This information conflicted with the appellant's claim that it had been continuously used in association with the farm. However, it was noted that he had a herd of cattle, which at times had totalled 120 animals, and they needed close supervision at times, with the caravan providing shelter at night or in bad weather. In accordance with Wealden Day case, the caravan was deemed to be genuinely used in connection with the holding and accordingly, this did not constitute a breach of planning control. The notice was quashed.

A similar appeal was allowed in Tandridge in 1996. An Lawful Development Certificate was sought for the use of a caravan for the preparation and taking of meals and refreshments, and for resting. The site was a farm where the farm worker lived some distance away. It was found that there was an insignificant amount of overnight use and the use that had been made of the caravan was an integral part of any farming process. The use was deemed to be ancillary to agriculture and the appeal succeeded.

All of the above cases confirm that the use of the caravan, as outlined to the LPA, falls within the agricultural use of the land and would not require planning permission - even instances where there is limited overnight accommodation.

Part 5 of Schedule 2 of the GPDO

A certain level of residential occupation of a caravan may be permissible, using Part 5 GDPO rights. This is a PD right derived from the wording of the Caravan Sites & Control of Development Act 1960, for, *"use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons engaged in farming (or forestry) operations of the same land."*

A general condition requires that when the seasonal accommodation need ceases, the use shall cease. However, this does not always change or impact its continued use in association with other agricultural activities such as storage, mess-space and welfare.

An appeal in Dyfed (1994), related to enforcement action taken against a caravan and a claim against its seasonal use for potato harvesting workers. The occupation occurred for up to three weeks in the year. It was accepted by the Inspector that this was in accordance with Part 5 rights. After the seasonal use expired, the Inspector felt that if the caravan remained on site but was used for agricultural purposes, as per the Wealden Day case, there was no breach of control in this respect either. Accordingly, they quashed the notice.

The courts have held that seasonal use, is not a year round right, but should be considered against a simple dictionary definition. This confirms the limited/occasional residential occupation of the caravan, on a seasonal basis, would be PD. This exactly tallies with what SLA outlined to the LPA as part of the submission.

Regarding Burleigh Oak Stables, it is also incredibly important to note, that there is no residential use taking place at the moment, and so this is not an existing situation. Notwithstanding the PD rights, even against the LPA's own concerns about the caravan, there has been no breach in terms of a permanent residential use. It is not physically possible to live in the caravan on a permanent basis.

If, in the future, the caravan were used on a sporadic residential basis, Mr Hill-Upperton, is aware this can only be seasonal. As stated repeatedly, the main use would be entirely associated with the agricultural use of the land and entirely in accordance with the Wealden Day case.

Conclusion

I understand that as the LPA have elected to withdraw the application (something for which they have no right to do), so here is no live application. I understand you are awaiting details of a surface water drainage strategy. However, it is my view, that no planning permission is required for the stationing or use of the caravan. It is my view, that the LPA have erred in their request for an application.

As there is no live permission, it is likely to be my advice to Mr Hill-Upperton, that he withdraw the current submission. However, prior to doing this, I would welcome the LPA's view on the above matters, and their position as to why they have requested retrospective permission be sought. Within any response, I would be grateful for your commentary on the relevant case law and appeal decisions that have informed your view.

On other matters, Mr Hill-Upperton has received no response to the letter he lodged with the LPA on 27 March 2025, regarding repair works to an existing means of access at Burleigh Oak Stables. When you are looking at this letter, I would be grateful for an update on the other letter.

I trust the above is clear and I look forwards to hearing from you at your earliest opportunity.

Yours sincerely



Peter Young BSc (Hons) MA MRTPI
Associate Director