Case No: CO/4614/2017

Neutral Citation Number: [2018] EWHC 2202 (Admin)

IN THE HIGH COURT OF JUSTICE

**QUEEN'S BENCH DIVISION**

**PLANNING COURT**

Royal Courts of Justice

Strand, London, WC2A 2LL

Date: 17/08/2018

**Before** :

THE HON. MR JUSTICE LANE

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**Between :**

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|  | **DAVID LANGMEAD** | Claimant |
|  | **- and -** |  |
|  | **SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT** | Respondent |

* **and –**

**CHICHESTER DISTRICT COUNCIL**

**1st Interested Party**

**SOUTH DOWNS NATIONAL PARK AUTHORITY**

**2nd Interested Party**

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**Peter Goatley** (instructed by **Messrs Irwin Mitchell, Solicitors**) for the **Appellant**

**Sasha Blackmore** (instructed by the **Government Legal Department**) for the Respondent

**The interested parties did not appear and were not represented**

Hearing date: 18th July 2018

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Judgment

**MR JUSTICE LANE :**

***A. Introduction***

1. The Appellant appeals against the decision of the Respondent’s Inspector, dated 12 September 2017, in which she dismissed the Appellant’s appeal against the Enforcement Notice issued by the First Interested Party on 15 November 2016 in respect of the Appellant’s land at River Farm, Brookfield Lane, Tillington, West Sussex. Permission to appeal was granted on only the first of the five grounds advanced by the Appellant; namely, that the Inspector erred in failing to take into account certain mitigation measures.
2. On 27 July 2005, the First Interested Party granted the Appellant planning permission for the “formation of an agricultural hard standing, new access track and earth bund” on land to the north of River Farm, Brookfield Lane. The permission was subject to a number of conditions, including the following-

“4. At no time should any mobile homes or caravans be stationed on the permitted hard standing other than those required for occupation by seasonal workers on the farm and all such caravans shall be removed immediately at the end of the season.

5. Notwithstanding condition (4) above and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting or amending that Order) at no time shall any mobile homes or caravans be stationed on the permitted hard standing except between the period 1 March to 31 October every year unless planning permission has been granted by the District Planning Authority.”

1. In May 2009, the First Interested Party granted the Appellant a temporary planning permission (until 31 May 2014), varying conditions 4 and 5 so that caravans on the land could be occupied by seasonal agricultural workers “employed solely mainly or working in the locality in agriculture”, but not necessarily on the farm. The caravans could be occupied by such workers only between 1 March and 31 October in any year but, outside those dates, the caravans did not need to be removed from the land. They had, however, to remain unoccupied and unused, other than for “dead storage”.
2. After the expiry of the temporary planning permission, the Appellant did not comply with conditions 4 and 5 of the July 2005 permission. Instead, the 21 caravans on the land were occupied throughout the year by workers employed in viticulture in various places in Southern England.
3. In May 2016, the Appellant applied for planning permission to retain and use the site for agricultural workers for a period of ten years, for fifty-one weeks of each such year. The First Interested Party refused the Appellant’s application on 11 May 2016. No appeal was lodged against that decision.

***B. The Enforcement Notice***

1. The Enforcement Notice which was the subject of the appeal to the Inspector was issued by the First Interested Party on 15 November 2016. For our purposes, the relevant provisions of the notice were as follows:

**“3. THE BREACH OF PLANNING CONTROL ALLEGED**

On 27th July 2005 planning permission was granted for “Formation of an agricultural hardstanding, new access track and earth bund. Land North of River Farm Barn Brookfield Lane River Tillington Petworth West Sussex” reference TL/05/02121/FUL, subject to conditions.

One of those conditions was that:

4) At no time any mobile homes or caravans be stationed on the permitted hardstanding other than those required for occupation by seasonal workers on the farm and all such caravans shall be removed immediately at the end of the season.

It appears to the Council that the condition is not being complied with because caravans are stationed permanently on the permitted hardstanding and are occupied by persons who are not seasonal workers at River Farm

**4. REASONS FOR ISSUING THIS NOTICE**

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

The Site is situated in the South Downs National Park. The SDNPA [South Downs National Park Authority] has the following statutory purposes and socio-economic responsibilities; as specified in the Environment Act 1995,

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
2. To promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public.

Working in partnership with other Local Authorities and other organisations, it is also the duty of the SDNPA to seek to foster the economic and social well-being of the local communities within the National Park.

The use of this site as a caravan site on a permanent basis unrelated to the agricultural needs of the holding results in an unsustainable and isolated form of residential development in the countryside which is harmful to the character and appearance of the surrounding area and detrimental to conserving the landscape and scenic beauty of the South Downs National Park. The continued, permanent use of the land as a residential caravan site is having an urbanising impact on the rural character of the area by reason of the intensification in residential activity for 12 months of the year. In addition, it is considered that insufficient evidence has been produced to demonstrate there is an essential need for rural workers to live permanently at this site which is sufficient to outweigh the harm identified in this case. Therefore, the development is contrary to paragraphs 7, 14, 17, 28, 55, 58, 64 and 115 of the NPPF [National Planning Policy Framework] In particular; the saved policies RE1 and BE11 of the Chichester District Local Plan First Review 1999; policies 1, 3 & 50 of the South Downs National Park Partnership Management Plan and the first purposes of designation of the South Downs National Park

The Council does not consider that there should be any relaxation of the condition in question.

**5. WHAT YOU ARE REQUIRED TO DO**

(i) Cease the occupation of all caravans (other than those caravans occupied by seasonal agricultural workers working at River Farm) and

(ii) Remove all caravans (other than those occupied by seasonal agricultural workers working at River farm) from the land.”

***C. The legislation***

1. Section 174 of the Town and Country Planning Act 1990 (“the 1990 Act”) makes provision for an appeal against an Enforcement Notice. So far as relevant, section 174 (2) provides as follows:-
2. “An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

…

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

…

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.”

1. Section 177 deals with the grant or modification of planning permission on appeals against enforcement notices. So far as relevant it provides as follows:

**“177 Grant or modification of planning permission on appeals against enforcement notices.**

1. On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

…

1. In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

***D. The Inspector’s decision***

1. The Inspector dismissed the Appellant’s appeal on grounds (c), (d) and (g) of section 174(2). Those parts of her decision were not subject to challenge.
2. For our purposes, the relevant part of the Inspector’s decision reads as follows:-

“**The appeal on ground (a) and the deemed planning application**

16. The deemed planning application contained within the ground (a) appeal is a retrospective one, to carry out the original development, that is ‘formation of an agricultural hardstanding, new access track and earth bund’, without complying with the particular condition enforced against, that is, condition 4.

17. It may well be that there have been breaches of other conditions imposed on the 2005 permission but it is not open to me to review any of the other conditions imposed on the original planning permission because to do so would widen the scope of the notice.

18. Taking the above into account and from the reasons for issuing the notice the main issue is the effect of the breach of condition 4 on the character and appearance of the South Downs National Park. In determining the appeal and deemed application I have to consider the occupation of the caravans by seasonal workers other than those working on the farm and their permanent stationing on the hardstanding.

19. From the Appellant’s evidence it is apparent that the caravans are occupied by people who are employed by Vine Care UK to work predominately in viticulture for numerous vineyards in the area. The letters in support of the Appellant indicate that many vineyards rely on those workers to carry out all the tasks on their vineyards. These vineyards are located in a number of different locations, and some within the National Park and both near to and far from the appeal site.

20. The season for viticulture is a long one as from late December to April the vines are pruned; in April to July the vines are tended; and harvesting takes place between August and November. Vine Care UK estimate that in 2018 they will require accommodation for 200 people through the winter months and 250 in the summer months and the Company expects the number to increase to 350 workers by 2020. All of these workers require accommodation.

21. There is no evidence that any of the people who occupy the caravans work at River Farm and thus what appears to be year round occupation by workers working elsewhere has resulted in what is in effect a permanent residential caravan site for agricultural workers employed in viticulture in various locations throughout East Sussex, Kent, West Sussex and Hampshire.

22. The National Planning Policy Framework (the Framework) advises that great weight should be given to conserving the landscape and scenic beauty of National Parks which have the highest status of protection in relation to landscape and scenic beauty. I appreciate that because of the embankment and planting around the appeal site and its location above Brookfield Lane views of the caravans are limited from the public realm but they are visible when travelling down the Lane towards the A272 and they are said to be visible from a short section of a public footpath to the west. They would also be apparent in views from the surrounding agricultural land.

23. The 21 caravans now on the site are predominately cream in colour and they are located in three regimented rows on the bare, extensive hardstanding with no soft landscaping between them. This results in the appeal site having a hard and unsympathetic visual appearance which is at odds with the rolling agricultural land in which it is located.

24. The caravans introduce a significant urban element into the rural area. I noticed that many of the caravans have tables and chairs for outside sitting and there were washing lines, some of which were in use. This domestic paraphernalia increases the urbanisation of the site which is out of keeping with the isolated and countryside location. The 2005 permission provides by condition 7 that there should not be any external lighting but with permanent residential occupation, and Vinecare says that accommodation is required in summer and winter, there would be lights on in the caravans virtually throughout the year which would have an adverse impact on the character of the rural area.

25. Residential activity throughout the year by the occupiers of up to 21 caravans would necessarily effect the tranquillity and character of the National Park with, among other things, the numbers of people travelling to and from the appeal site both for work and social activities, the volume of traffic and vehicular movements and noise and disturbance emanating from the caravans. With regard to tranquillity and light pollution I note that Policy 3 of the South Downs National Park Partnership Management Plan seeks to protect and enhance tranquillity and dark night skies.

26. I have taken into account the landscape and visual impact assessment provided by the Appellant. I note that the ‘Landscape quality is a quality which is significant in its own right, whether it is visible from the public domain or not whereas visual impacts relate to public views and viewpoints’. The conclusion of the assessment is that the permanent placement of the caravans would cause a minor to slight level of adverse landscape character effect and a very slight level of adverse visual effect. It is considered in the assessment that these slight adverse effects are balanced by the adverse effect resulting from the caravans having to be moved twice a year.

27. Although the adverse effects are considered to be slight, even slight adverse effects have to be given significant weight when considering the great weight to be given to the protection of the National Park. The comparison with the removal of the caravans is not relevant given the terms of condition 5. I cannot take the proposed mitigation measures into account given the terms of this appeal.

28. I accept that there is a need for workers employed in viticulture to live near their place of work; that the Framework supports the expansion of rural enterprises; and that finding accommodation in the area is not easy but none of these matters, either separately or cumulatively, outweigh the harm that is caused to the character and appearance of the National Park by the occupation of the caravans by workers not employed on the farm for what is, in effect, nearly the whole year.

29. The Appellant has suggested a fallback position whereby permitted development rights provide, in effect, for the use of agricultural land as a caravan site for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupations. The Appellant has a significant land holding and it is said that the holding includes land across a range of agricultural sectors and thus ‘a season’ could cover much of the year but there is no evidence of what those agricultural sectors might be, what need the Appellant has for agricultural workers, and, as mentioned above, there is no evidence that the workers currently occupying the caravans work on the farm. Whilst the Appellant’s land holding is extensive I note that River Farm appears as one unit and whether the totality of his land is considered to be one ownership for the purposes of permitted development rights is not a matter for this appeal. Condition 4 does not, in any event, prevent caravans being occupied by seasonal workers on the farm and therefore any need that the farm may have for seasonal workers could be satisfied.

30. The Appellant suggests that he could, and the vineyards on which the workers are employed could also, site caravans on their land using permitted development rights. This may well be the case but I note that although the various vineyards that have written in support of the appeal all state that they rely on the workers provided by Vinecare none suggest that they would be willing to accommodate the workers themselves. The likelihood of such an occurrence therefore seems to me to be remote. In any event, such use of land is permitted whereas the appeal site is currently being used in breach of a planning condition which this appeal seeks to discharge.

31. From what I have read in the documents in this appeal and from what I saw on my site visit I am not persuaded that circumstances pertaining to ‘the farm’ have changed since condition 4 was imposed; its breach has introduced a completely different type of occupation onto the site which I conclude has a harmful effect on the character and appearance of the South Downs National Park and the breach is in conflict with saved Policies RE1 and BE11 of the Chichester District Local Plan First Review 1999 which seek to ensure, among other things, that development in the rural area is restricted and that development must not detract from its surroundings and with Policy 1 of the South Downs National Park Partnership Management Plan which also seeks to conserve and enhance the natural beauty and special qualities of the landscape and its setting.

32. In reaching this conclusion I bear in mind that, even if I had allowed the ground (a) appeal and granted the deemed planning application, condition 5 of the 2005 permission, which states that ‘at no time shall any mobile homes or caravans be stationed on the permitted hardstanding except between the period 1 March to 31 October every year’, remains in force and therefore the caravans would have to be removed from the appeal site over the winter months in any event.

33. The appeal on ground (a) fails and the deemed planning application is refused.

***E. General legal principles***

1. The parties before me are agreed that the approach to be taken to the Inspector’s decision is informed by the judgment of Lindblom J (as he then was) in Bloor Holmes East Midlands Ltd v Secretary of State for Communities and Local Government & another[2014] EWHC 754(Admin). That judgment holds that the decisions of Inspectors are to be construed in a reasonably flexible way. An Inspector does not need to rehearse every argument relating to each and every matter. The reasons for an Inspector’s decision must be intelligible and adequate and they need to refer only to the main issues in the dispute. The weight to be attached to any material consideration and to all matters of planning judgment are within the exclusive jurisdiction of the decision-maker, not the court. A challenge in the High Court does not provide an opportunity to review the planning merits of an Inspector’s decision. In construing such a decision, one must look at what the Inspector considered to be the important planning issues and decide from the way in which she dealt with them whether she must have misunderstood the policy in question.
2. Further, it is common ground that the Court must not subject an Inspector’s decision letter to the sort of scrutiny it would receive if it were a piece of legislation.
3. Mr Goatley’s case for the Appellant is that, insofar as the case law imposes certain requirements upon a person wishing to challenge the decision of an Inspector, the Appellant meets them. In short, the Appellant’s case is that the Inspector failed to have regard to a material consideration; namely, the landscape and visual mitigation measures proposed in the Landscape and Visual Impact Assessment, submitted by the Appellant, involving the erection of a fence and tree and hedge planting, adjacent to parts of the site.

***F. Case law on planning permission in the context of an Enforcement Notice appeal***

1. Both Mr Goatley and Ms Blackmore made submissions about the case law concerning the extent of the Inspector’s power to grant planning permission pursuant to what is now section 177(1), read with section 177(4).
2. In Richmond upon-Thames Borough Council v Secretary of State for the Environment (Estates Gazette, December 2, 1972) the Divisional Court held that the Secretary of State had no power to grant planning permission for the parking of motor vehicles of all kinds, where an enforcement notice had merely required the cessation of use of land for the parking of motor coaches. In Tapecrown Ltd v First Secretary of State [2007] No. 2 P&CR 7, the Court of Appeal (per Carnwath LJ) held that, whilst it was not the Inspector’s duty to make an Appellant’s case for him, where it nevertheless appeared to the Inspector that there was an ‘obvious alternative which would overcome the planning difficulties”, the Inspector should feel free to consider it, in deciding an appeal against an enforcement notice.
3. In Secretary of State for Communities and Local Government v Ioannou [2015] [1P&CR10], the Court of Appeal was concerned with ground (f) of section 174 (2). This concerns the issue of whether the steps required to be taken by the Enforcement Notice exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity caused by any such breach.
4. In Ioannou, the Enforcement Notice related to the unauthorised conversion of a single family dwelling house into five self-contained flats. At the inquiry, the issue arose as to whether the Inspector could vary the steps required to be taken, pursuant to grounds (f) so as to allow the conversion of the house into three flats, which the local planning authority agreed would be preferable to changing the use of the house into one involving multiple occupation (which would be permitted development).
5. The Court of Appeal held that the power to allow an appeal on ground (f) was not a power to grant planning permission. In an appeal of this kind, such permission could be granted only under section 177(1). At paragraph 33 of the judgment, Sullivan LJ rejected the submission that section 173(11), which treats planning permission as having been granted in respect of buildings or works which could have been the subject of an enforcement notice but which were not, provided a mechanism for granting planning permission in an Enforcement Notice appeal for matters other than those specified in the notice as constituting the breach of planning control. In so holding, Sullivan LJ stated, at paragraph 37, that Carnwath LJ’s observations in Tapecrown were not to be taken as “establishing a free-standing obvious alternative” test as a replacement for the express statutory limitations imposed by sections 177(1) and 173(11) upon the nature and extent of the planning permissions that may be, or be treated as having been, granted in response to appeals under section 174.

***G. Discussion***

1. I do not consider that the cases referred to in Part F above are directly relevant to the facts of the present appeal. In fairness to Ms Blackmore, she did not suggest that they are. These cases are, however, relevant to the extent that they emphasise the basic point that an appeal against an Enforcement Notice is not to be equated with an appeal against the refusal of planning permission. The wording of the Enforcement Notice, and the activity which is said by it to constitute a breach of development control, must be the focus for the Inspector, who is entitled to expect precision in a case that is being put forward by a professionally-represented Appellant.
2. With this in mind, it is necessary to remind ourselves of the terms of the Enforcement Notice issued by the First Interested Party to the Appellant. A local planning authority has discretion, conferred by Parliament, as to whether and if so how to enforce adherence to planning control. In the present case, the First Interested Party focused on the breach of condition 4. The scope of the Inspector’s task under sections 174 and 177 was, therefore, confined to the issue of whether condition 4 should be lifted. Because condition 5 was not within the scope of the Enforcement Notice appeal, the Inspector had to bear in mind that condition 5 would, in any event, remain. Her powers in the Enforcement Notice appeal did not enable her to lift or vary condition 5. The caravans would, in any event, not be permitted to be stationed on the land (let alone occupied by those unconnected with the farm) during the months of November to February inclusive.

Although section 177(4) enabled the Inspector to impose another condition, in place of condition 4, the question of whether this was necessary or appropriate fell to be determined against the backdrop that the Inspector was concerned only with condition 4. In other words, the question for the Inspector was whether, in effect, planning permission should be granted for the caravans to be occupied by persons who were not “seasonal workers on the farm”. Despite the fact she was concerned in the appeal only with condition 4, the Inspector could not ignore the existence of condition 5. On the contrary, its existence inevitably circumscribed the scope of the Enforcement Notice appeal.

1. Having identified this important point, we need to examine the Landscape and Visual Impact Assessment. The Assessment could be of relevance to the Inspector’s task, only insofar as it was predicated on a relevant basis.
2. From the beginning of the Assessment, however, we can see that this was not the case. Paragraph 1.1, describing the “Project”, referred to the Enforcement Notice as “requiring the cessation of the occupation of caravans, and their removal, outside of the season”. Although that was reflective of the bare wording of condition 4, it paid no regard to the fact that the caravans would in any event need to be removed at the end of each October and could only be returned at the end of each February.
3. The thrust of the Assessment was “to assess whether the retention of the caravans would cause significant adverse landscape or visual effects on the local landscape” (paragraph 1.1). The issue of mitigation was therefore addressed by reference to the incorrect assumption that the Inspector could allow the Enforcement Notice appeal so as to enable the caravans to remain on the site throughout the year.
4. Under the heading “Assessment of Effects: Nature and Scale of Changes”, we find this statement:-

“The current proposals are for the retention of the caravans throughout the year in accordance with the temporary time limited consent which expired in 2014”.

1. So far as the Enforcement Notice appeal was concerned, that statement was simply wrong.
2. There is then the following passage:-

“The temporary removal of the caravans to an alternative site will undoubtedly cause some disruption and will in effect displace the adverse landscape and visual effects to a location where caravans will potentially cause an equal or potentially greater adverse effect. The farm is part of a wider holding which is predominantly located to the south of the Downs. If the caravans were to be temporarily removed it would be necessary to move wide loads of the size of the 23 caravans (sic), across the escarpment on say the A285 up Duncton Hill twice a year. Although this is not a landscape effect it is an adverse effect which needs to be considered as part of the overall planning balance and in accordance with the NPPF para 14 requirement: ***adverse impacts would significantly and demonstratrably outweigh the benefits*** (original emphasis).

If we consider the scale of the landscape effects of the presence of the caravans at the site this can be balanced against the effects of the biennial transport of the caravans to an alternative site by the decision takers.”

1. As Ms Blackmore pointed out, that balancing effect could not properly form part of the Inspector’s consideration of the Enforcement Notice appeal because condition 5 would still require the caravans to be moved, twice a year.
2. At paragraph 26 of her decision, the Inspector showed she was alive to this very issue (see paragraph 11 above).
3. At paragraph 3.3 of the Assessment, reference was made to the potential for mitigation:-

“There is some potential for mitigating the adverse character effects of the winter presence of the caravans by restoring elements of landscape character which have been damaged, such as the hedgerow along the sunken lane of adjoining of the northern boundary or the hardstanding.”

1. Once again, this mitigation – which was described in detail at paragraph 4.3 – was expressly linked to the “effects of the winter presence of the caravans”. But condition 5 meant there could be no such winter presence.
2. It is therefore plain that the Inspector was fully entitled to say at the end of paragraph 27 that:

“The comparison with the removal of the caravans is not relevant given the terms of condition 5. I cannot take the proposed mitigation measures into account given the terms of this appeal.”

1. In this passage, the Inspector was rightly concluding that the Assessment was based on a misconception concerning the scope of the Enforcement Notice appeal.
2. The appellant’s criticism of the Inspector therefore boils down to the proposition that she ought, nevertheless, to have considered whether the mitigation measures referred to in the Assessment might form the subject of a condition, in place of condition 4, which would permit the caravans to be occupied from 1 March - 31 October each year by persons unconnected with the farm.
3. There is, however, nothing in the materials that have been drawn to my attention to indicate that such a proposition featured in the Appellant’s case to the Inspector.
4. Having regard to the judgments in Tapecrown and Ioannou, I do not consider the proposition can be said to be so evidently of relevance as to have required the Inspector to address it of her own volition. As I have already shown, the misconception at the heart of the Landscape and Visual Impact Assessment meant that the mitigation measures were simply not being put forward on this basis. The closest one gets in the Assessment to any linkage between the mitigation measures and the presence of the caravans between 1 March and 31 October is at Part 4.4:-

“Considering the proposals in relation to the primary landscape criteria listed earlier in section 1.5, which were that the proposals should:

1. Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovations;
2. Be visually attractive as a result of good architecture and appropriate landscaping;
3. Not detract from its surroundings;
4. Conserve and enhance the natural beauty, wildlife and cultural heritage.

Retaining the caravans over the winter cannot be argued as a measure which will positively achieve any of these aims, **however the proposed mitigation measures will help to prevent the existing consented caravans which will be present during the summer season from conflicting with all of these aims and the mitigation measures proposed will therefore help the year round scheme to comply with these policies”** (my emphasis)

1. I do not find that this highlighted passage required the Inspector to embark upon the exercise for which the Appellant now appears to contend. The passage relates to the “year round scheme”. It is not advocating the screening effects of hedges etc and a fence as a discrete benefit that might render the summer presence of the caravans permissible for workers unconnected with the farm. In order for it to do so, the Assessment would have had to assess those effects, not as against the all-year presence of the caravans, but as against the effects on the tranquillity of the National Park of occupants travelling between the site and vineyards across West Sussex and beyond (see paragraph 25 of the Inspector’s report). The Assessment did not do so.
2. In short, the proposition finds no articulation in the Assessment. It is, on analysis, inchoate.
3. This appeal, is accordingly, dismissed.
4. I shall hear Counsel on the issue of costs, if these cannot be agreed.