

Appeals by Mr Doug King-Smith
The Hillyfield, Land Lying South of
Harbourneford, South Brent, Devon,
TQ10 9DT

*Appeal 3140928 - Prior Notification Decision
(PND)*

Appeal 3146596 - Enforcement Notice 1 (EN1)

Appeal 3146597 - Enforcement Notice 2 (EN2)

Statement of Case for the Appellant

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1 Introduction

1.1 Overview

- 1.1.1 All three appeals are being heard together at a Public Inquiry. The first appeal (3140928) concerns the failure to determine a Prior Notification application for two forestry buildings on the basis that the LPA did not consider the buildings reasonably necessary for the purposes of forestry.
- 1.1.2 Shortly after this appeal was lodged, two Enforcement Notices (3146596 & 3146597) were served on the site concerning alleged changes of use and buildings erected without consent. The serving of these notices was something of a surprise to the appellant as there was longstanding dialogue concerning the site with the LPA, and enforcement was only presented as a *fait accompli* no Planning Contravention Notice (PCN) having been served or further discussions taking place despite clear requests for this to take place.
- 1.1.3 The consequent shortcoming in the Notices and the conduct of the LPA were immediately pointed out to them, but with no change in approach forthcoming. This left the appellant with no choice but to appeal the Notices. These events were some of the most recent in a long pattern of behaviour from the LPA towards the appellant and the site where the LPA has been inconsistent, inaccurate, uncommunicative and perverse.
- 1.1.4 The Enforcement Notices were incorrectly addressed. Despite a Freedom of Information (FOI) request information likely to be useful to the appellant in these appeals has been withheld. The basis for the calculation of the ground (a) fees for EN2 is unreasonable, and despite this being pointed out to the LPA an inflated fee was nonetheless imposed. There is, therefore, likely to be a costs application in relation to these appeals.
- 1.1.5 The use of the land at Hillyfield has been and remains in forestry and agriculture and all other uses referred to by the LPA have been ancillary and incidental to these primary uses, or covered by the 28 day permitted development provisions for the temporary use of land. Even if the uses alleged had been sufficient to warrant a change of use, the structures identified on the land are still used and needed for the purposes of carrying out the operations of forestry and agriculture on the holding and the barns, the subject of the Prior Notification, are also reasonably necessary to properly carry out this work.
- 1.1.6 The Appellant will endeavour to agree a Statement of Common Ground with DNPA, to cover a range of factual matters relating to the site location and description, planning history, site designations and status of elements within the site wherever possible.

1.2 Site Location & Description

- 1.2.1 Evidence will include a full description of the characteristics of the site, including
 - the location of the site
 - the site's relationship to local features
 - accessibility to the site
 - description of the site's nature and character
 - the role of the site in the Dartmoor and local landscape
 - ecological value of the site
 - history of the site
 - designations applied to the site.

1.3 Site Management

1.3.1 Evidence will include full description of the management of the site, including:

- how the site is managed today
- the challenges faced in returning neglected woodland to productive management
- Plant Health Notices and their impact on the management of the site
- opportunities for people to be involved in the woodland management
- the importance of volunteering
- opportunities for the wider community to experience, enjoy and learn
- management related events held at the Hillyfield
- recognition received for the Hillyfield's management approach, including grants, awards, support from the forestry sector, research publications, media, the local community, the public and from Dartmoor National Park.

1.4 Policy Context

1.4.1 Policy is relevant to the ground a) of appeals EN1 and EN2. There is no policy relevant to appeal PND as whether or not the buildings are reasonably necessary for the purposes of forestry is a matter of fact.

1.4.2 Relevant policy includes the *National Planning Policy Framework (NPPF)*, *National Planning Practice Guidance (NPPG)*, and the English National Parks and the Broads: UK Government Vision and Circular 2010. Relevant local policy includes the Core Strategy Development Plan Document 2006 – 2026, and Development Management and Delivery Development Plan Document July 2013, and relevant specific policies include COR2, DMD34 and DMD31.

1.4.3 Other documents of relevance include the Dartmoor National Park Management Plan 2007-2012, A Woodland Strategy For Dartmoor National Park 2005 – 2010, Valuing England's National Parks 2013, Woodlands and Forestry in UK National Parks 2012, Independent Panel on Forestry 2012, Government Forestry and Woodlands Policy Statement 2013, UK Forestry Standard for Planners 2013, .

1.4.4 Overall it is surprising that, with such a wealth of policy and guidance support for sustainable forestry and the development it requires, the LPA have taken the action they have, necessitating these appeals.

1.5 Planning History of the Site

1.5.1 A detailed review of the site's planning history will be given. This will include:

- Applications made and decisions received
- Enforcement visits
- Relevant email and letter correspondence
- Meetings held and outcomes
- Other advice received from DNPA
- FOI requests and responses.

1.6 Grounds of Appeal – EN1 & EN2

1.6.1 The appellant has taken legal advice since lodging the appeals. For clarity, the grounds of appeal now covered by this statement are the definitive list. In summary these are as follows:

1.6.2 EN1 – grounds a), c), d), f), g).

1.6.3 EN2 – grounds a), d), g).

2 PND - Appeal 3140928

- 2.1.1 The two barns, the subject of the Prior Notification, are reasonably necessary for the purposes of forestry. Evidence will be presented to explain and justify this.
- 2.1.2 There is a forestry enterprise based on the site, engaging in forestry activities. This will continue irrespective of the outcome of appeal EN1, thus so will the reasonable necessity for the buildings.

2.2 The Decision Being Appealed

- 2.2.1 A Prior Notification was submitted for determination on 22 May 2015 for the erection of two forestry barns at Hillyfield, Harbournford.
- 2.2.2 The proposal was for the erection of two barns reasonably necessary for the purposes of forestry in accordance with the GDPO 2015 Schedule 2 Part 6 Class E forestry. In these circumstances the LPA are required to consider if Prior Approval is required as to the siting, design and external appearance of the building.
- 2.2.3 In its determination the LPA remained silent on the matters of siting, design and external appearance of the two buildings, turning instead to the question of whether the buildings were reasonably necessary for the purposes of forestry, and deciding that the buildings were not reasonably necessary for the purposes of forestry.
- 2.2.4 It seems reasonable to assume therefore that the siting, design and external appearance of the building are acceptable to the LPA; especially as previous discussions with the LPA had guided that the barns be located in the disused quarry, which was followed in the Prior Notification application. In addition the barns were to be constructed from and clad in timber taken from the woodlands on site, making them sit comfortably in the local landscape and, being within the quarry, hidden from view from any public viewpoint or the dwellings within the hamlet of Harbournford.
- 2.2.5 In refusing the Prior Notification application the LPA also cited in their officer report, but not in their Determination letter, the lack of a suitable access as one of the reasons for their decision.
- 2.2.6 Our case is a simple one:
- that the buildings are reasonably necessary for the purposes of forestry
 - therefore deemed consent for the buildings as permitted development is now in place
 - and that the barns can be erected and the LPA have no further role in this process.
- 2.2.7 We are also clear that access arrangements are irrelevant to these matters.

2.3 Reasonably Necessary for the Purposes of Forestry

- 2.3.1 Evidence from qualified and experienced foresters will deal with the needs of forestry in the context of:
- commercially and ecologically sound management of the woodland – returning them from neglect to productive ongoing management
 - machinery storage in connection with the above activities
 - the storage and drying of extracted timber in connection with the above activities
 - complying with the Plant Health Notices concerning with the woodland.

2.3.2 Documents relevant to the above matters previously supplied to DNPA as part of the application will be presented along with further evidence which explains and amplifies on these matters. This will include:

- the advice of Guy Watt (a chartered forester of considerable experience and Managing Director at John Clegg Consulting Ltd.) that the storage barns were necessary for forestry
- the advice from Mark Prior (Forestry Commission) which also supported the need for the barns
- In addressing the 'reasonably necessary' test evidence will be provided by Forestry experts in terms of the proposals necessity for forestry operations in the specific case of this site.

Barn One - Storage of Machinery

2.3.3 Evidence will address the need for under cover storage of machinery and equipment used for forestry on site due to:

- the size and quantity of machinery and equipment required
- protection from the extremes of weather experienced on Dartmoor
- the need to ensure machinery is maintained in good working order
- the need to prevent rapid deterioration or unreliability, both of which have impacts on the viability of the holding
- the need for security of valuable equipment
- the health and safety issues of unsecured machinery.

Barn Two – Timber Drying

2.3.4 The second barn is for the storage of timber felled on the holding. Evidence will be provided to show the necessity for wood to be stored in dry conditions:

- to prevent its deterioration
- allow it to be marketable
- allow it to be sold at a reasonable profit.

2.3.5 The timber products to be stored in the barn are those resulting from the primary processing of timber grown on site into firewood and rough sawn planks using machinery already held on site.

2.3.6 In relation to the PND it is expected that the following matters will form part of the Statement of Common Ground:

- that the machinery barn is reasonably necessary for the purposes of forestry (as stated in DNPA letter 11/12/15)
- that access is not relevant to the determination of the Prior Notification (not referred to in DNPA PN decision letter).

2.3.7 Should any of these matters not be agreed within the SoCG further evidence will be provided on these matters.

2.4 Economics of Small Woodlands

- 2.4.1 Evidence will also be presented that there is a *bona fide* forestry business on the site, engaged in genuine forestry activities, which mean that both buildings are reasonably necessary for the purposes of forestry on the holding.
- 2.4.2 Although the LPA have argued that much forestry work these days is undertaken on a peripatetic basis, this is not the case at Hillyfield, where a permanent, full time forestry business is based in the woods. The LPA should have based its judgement on these facts, and not a hypothetical or generalised view of forestry then applied to this specific case.
- 2.4.3 Economic viability for forestry in small woodlands is a key element for any change and success. Evidence will be given covering:
- History of economic activity
 - Current situation
 - Importance of the sector
 - Government Strategy
 - Applying national strategy at local level

Situation at Hillyfield

- SPHN
- Volunteers
- Market value of timber
- Primary processing
- Replanting
- Short term management
- Long term management
- Market demand for primary products.

2.5 Similar Cases

- 2.5.1 Reference will be made to other appeal decisions of relevance to this case including:
- The Old Rectory, Doynton: a Barn for forestry purposes in a 1.1ha woodland in the AONB. App Ref APP/P0119/W/15/3003480 Upheld in 2015
 - Lambley Wood, Rutland, a machinery storage barn for forestry purposes. Appeal Ref: APP/A2470/A/10/2126707 upheld.
- 2.5.2 In addition, many LPAs, including National Parks would routinely approve similar Prior Notification proposals. Examples of these are:
- Higher Druid Farm, Ashburton: 3 barns for machinery storage, wood products storage and potting shed/hurdle making, on a woodland approx half the size of Hillyfield. Forestry Prior Notification approved by DNP in 2010
 - Park Grounds Cottage, Clay Hill, Lyndhurst. Storage barn. Forestry Prior Notification approved in New Forest NP in 2012
 - Land At Tanners Close, Lyndhurst Road, Near Bransgore. Extension of existing building to store cut timber and woodchips. Forestry Prior Notification approved in New Forest NP in 2014.

3 EN1 - Appeal 3146596

3.1 Overview

- 3.1.1 The enforcement notice has a broad span, alleging a change of use from agriculture to a mixed-use of agriculture, residential, recreational, and the running of courses and activities available to the public, with or without payment. The Notice fails to refer to forestry both as an existing and proposed use. This is one of the main uses of land within the site edged red. The woodland on site is not ancillary to the farming of the land: it is a use in its own right. S336 TCPA1990 does not include forestry in the definition of agriculture. Forestry is recognised as a separate use of land for which there are separate permitted development rights. The Notice is, at best, confusing.
- 3.1.2 The breach alleged in section 3 refers to (b) residential purposes, (c) recreational purposes, and (d) the running of courses and activities. This is vague and unhelpful. It is far from clear what is referred to and how they can be considered separate, discrete uses of land in their own right as opposed to uses of land in association with the main lawful uses.
- 3.1.3 The Enforcement Notice red line area covers the entire site, and therefore it is assumed that the allegation is that the entire site has been used for a mixed-use.
- 3.1.4 The Notice also specifically alleges the siting of caravans for residential purposes, the siting of a yurt for residential purposes, the use of two lorry bodies for storage purposes, the siting of a tent used as a field kitchen, and the siting of a tent used as a workshop. However, (aside from the identification of the alleged use of the caravans and yurt for residential purposes) the storage units, field kitchen and workshop uses are not assigned to one, nor any, of the alleged mixed uses. This is unhelpful and unreasonably vague.
- 3.1.5 This makes setting out our grounds of appeal challenging as we have to respond to all eventualities we might see as being in the LPA's mind as the Enforcement Notice is so broad and vague.
- 3.1.6 The LPA considers the alleged development constitutes an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned.
- 3.1.7 At Section 5 the notice requires that all non-agricultural uses of the site should cease, yet the majority of the site is used for forestry. Thus the Notice appears to require the removal of all forestry activities, yet the base use of the site is a mixed use of agriculture and *forestry*. This is perverse and unreasonable.
- 3.1.8 The requirement to remove all structures ignores that they may be permitted to remain as they are used in association with other lawful uses of the site, principally forestry. In this respect the Notice is again unreasonably onerous and excessive.

3.2 Grounds of Appeal

a) that planning permission should be granted for what is alleged in the notice

Recreation and the Running of Courses and Activities

- 3.2.1 It will be argued that planning permission should be granted for a mixed-use of agriculture, forestry, recreation, and the running of courses and activities.

- 3.2.2 This is notwithstanding our contentions elsewhere that a mixed-use is not in fact occurring or is lawful permitted development, as all other activities on site are either ancillary or incidental to forestry and agricultural uses, the nature of the alleged mixed-use is one where recreation and the running of courses and activities are very much a subsidiary to the base uses of the site which are agriculture and forestry. Recreational uses and the running of courses happen on relatively few days of the year, are mostly clearly connected with the agriculture and forestry use of the site, and the overall character of the site remains one of an agriculture and forestry holding where recreation activities and courses sometimes occur.
- 3.2.3 The use of the site for a mixed-use of agriculture, forestry, recreation, and the running of courses is supported by National planning policy and guidance¹, local planning policy and guidance², and other policy documents and advice and research³, and other information from the consideration and determination of other planning decisions and appeals.
- 3.2.4 We will specifically refer to Policies COR2, DMD34 and DMD31 from the LPA's Core Strategy and Development Management Document.
- 3.2.5 It will be argued that the mixed-use of agriculture, forestry, recreation and the running of courses does not constitute an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned. Further, it will be argued that such a mixed use constitutes sustainable rural development.
- 3.2.6 In addition we will argue that the mixed-use of agriculture, forestry, recreation and the running of courses at The Hillyfield is well aligned with and supports the National Park purposes and and makes a positive contribution to the fulfilment of the National Park duty. It also is in line with Government forestry and woodland policy guidance.
- 3.2.7 We will argue that the mixed-use of agriculture, forestry, recreation and the running of courses does not impact adversely on the amenity of the neighbouring land owners and land uses.
- 3.2.8 Evidence will be presented from the neighbouring community on the positive effects and the lack of adverse impacts of the Hillyfield.

Residential Use

- 3.2.9 We do not seek any grant of planning permission for independent residential use. We only seek the temporary residential use of the yurt and caravans for seasonal workers ancillary and incidental to the lawful use of the site, be that forestry or agriculture, or a mixed use including recreation and the running of courses, controlled via a suitable condition.
- 3.2.10 Concerning seasonal use for forestry and agricultural workers we will draw attention to the fall back position offered by permitted development rights for the use of caravans for these purposes.

¹including the National Planning Policy Framework, National Planning Practice Guidance, English National Parks and the Broads, UK Government Vision and Circular 2010

²including the Core Strategy Development Plan Document 2006 – 2026, Development Management and Delivery Development Plan Document July 2013

³including the Dartmoor National Park Management Plan 2014-2019, A Woodland Strategy For Dartmoor National Park 2005 – 2010, Valuing England's National Parks 2013, Woodlands and Forestry in UK National Parks 2012, Independent Panel on Forestry 2012, Government Forestry and Woodlands Policy Statement 2013, UK Forestry Standard for Planners 2013

Structures

3.2.11 Addressing each type of named structures in turn:

- caravans – see 'Residential' above
- yurt - see 'Residential' above
- lorry bodies – all storage in the lorry bodies is ancillary or incidental to the mixed use being sought under ground a) and they should therefore be retained on that basis
- tent – field kitchen – the use of is structure is entirely ancillary or incidental to the mixed use being sought under ground a) and they should therefore be retained on that basis. Attention will also be drawn to the fall back position of using a caravan for these purposes
- tent – workshop – the use of is structure is entirely ancillary or incidental to the mixed use being sought under ground a) and they should therefore be retained on that basis.

c) that there has not been a breach of planning control

Mixed use

3.2.12 The base use of the site is a mixed-use of agriculture and forestry (whereas the Notice alleges this to be only agriculture which is plainly not correct). The other alleged uses in the mixed use, recreation and the running of courses, are both incidental to the base use of agriculture and forestry in that their nature, scale and frequency are not sufficient to bring about an overall material change of use of the site.

3.2.13 We will set out in detailed evidence that the land is used in this way along with evidence of the ancillary and incidental nature of other activities which have occurred on the land, together with information on the scale of those activities.

3.2.14 These points will be demonstrated by the provision of a full schedule of all activities that have taken place on site, which could be construed as recreation or the running of courses.

3.2.15 Detailed evidence will also be produced to show that recreational use and the running of courses has also been for less than 28 days in each calendar year, and therefore these activities may also be regarded as permitted development.

3.2.16 The Notice is extremely general in its definition of the alleged mixed-use across the whole site, which is neither helpful nor reasonable.

Structures

3.2.17 Addressing each type of named structures in turn:

- lorry bodies – all storage in the lorry bodies is ancillary or incidental to forestry use of the site and they should therefore be retained on that basis
- tent – field kitchen – the use of this structure is entirely ancillary or incidental to the forestry use of the site and it should therefore be retained on that basis.
- tent – workshop – the use of this structure is entirely ancillary or incidental to the forestry use of the site and it should therefore be retained on that basis.

d) that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice

3.2.18 The Enforcement Notice was issued on 27th January 2016 and was consequently too late to take enforcement action against the following elements:

- lorry bodies - evidence will be provided that one of the lorry bodies has been on site since before 2006 and therefore at the time the enforcement notice was issued it was too late to take enforcement action
- field kitchen - evidence will be provided that the field kitchen has been on site since 2011 and that if it is regarded as operational development, at the time the Enforcement Notice was issued it was too late to take enforcement action.

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or, to remedy any injury to amenity caused by any such breach.

Mixed Use

3.2.19 Should it be found that a change of use to a mixed use of agriculture, forestry, recreation and the running of courses and activities has occurred then we will argue that a low-key mixed use of this type is entirely acceptable in that they do not cause harm by way of unacceptable visual intrusion or adversely affect the character and appearance of the part of the National Park concerned.

3.2.20 We will demonstrate that recreational use and the running of courses has only taken place relatively few days each year over the last six years. These points will be demonstrated by the provision of a full schedule of all activities which have taken place on site which could be construed as recreation or the running of courses.

3.2.21 We will suggest that, subject to a suitable condition limiting the frequency, duration and scale of recreation and the running of courses and activities, it could be ensured that unacceptable visual intrusion and adverse affects on the character and appearance of the part of the National Park concerned would not occur.

Structures

3.2.22 We will suggest that it would be acceptable that the yurt, tent - field kitchen, and tent – workshop could be stored on site when not in use, rather than removed which is excessive for this type of structure.

(g) that the time given to comply with the notice is too short

3.2.23 The holding is subject to Statutory Plant Health Notices (SPHN) covering more than 1,500 cubic metres of Japanese Larch. Clearing this timber remains the most important priority on the holding.

3.2.24 It is critical to the well being of woodland within the National Park to remove all infected larch as quickly as possible. The caravans, yurt, lorry bodies, field kitchen and workshop are all in daily use as part of this work. Having to remove all of these within six months would have a strong negative impact on the ability to manage the woodlands at this time, and specifically to clear the larch in accordance with the statutory requirements.

3.2.25 We believe a timescale of 18 months is necessary in order to allow all the infected larch at the Hillyfield to be felled, as per SPHN orders, extracted from the hillside, and to re-plant the areas affected by disease.

4 EN2 - Appeal 3146597

4.1 Overview

- 4.1.1 The Enforcement Notice alleges the erection of three items, comprising of 5 structures, in breach of planning control:
- two small open fronted timber barns
 - two compost toilets
 - a timber platform used for the siting of a yurt.
- 4.1.2 The LPA considers the alleged development constitutes an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned.

4.2 Grounds of Appeal

a) that planning permission should be granted for what is alleged in the notice

- 4.2.1 It will be argued that planning permission should be granted for the barns, compost toilets and timber platform as all of these structures are used for either ancillary or incidental purposes to the mixed agricultural and forestry use of the site and do not cause unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned.

Barns

- 4.2.2 The barns are used for the storage of logs and sawn timber, both derived from the site. These are ancillary forestry uses and thus these are forestry buildings, reasonably necessary to the forestry use of the holding.
- 4.2.3 They are only intended as temporary structures until permission is granted for purpose built barns, as set out in PND appeal.
- 4.2.4 The erection of forestry structures of this type for such purposes is supported by national planning policy and guidance⁴, and local planning policy and guidance⁵, other policy documents and advice and research⁶, and other information from the consideration and determination of other planning decisions and appeals.
- 4.2.5 We will specifically refer to Policies COR2, and DMD34 from the LPA's Core Strategy and Development Management Document.
- 4.2.6 They do not constitute an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned in that their siting, design and appearance are unobtrusive and in keeping with the character and appearance of the part of the National Park concerned. They are small scale, not visible from any public viewpoint, not visible from any private property, and temporary in nature. The alternative is to store timber / machinery in the open which is not conducive to good forestry practice, would be impractical and more unsightly as need to be covered with tin sheeting, tarpaulin etc..

⁴including the National Planning Policy Framework, National Planning Practice Guidance, English National Parks and the Broads, UK Government Vision and Circular 2010

⁵including the Core Strategy Development Plan Document 2006 – 2026, Development Management and Delivery Development Plan Document July 2013

⁶including the Dartmoor National Park Management Plan 20014-2019, A Woodland Strategy For Dartmoor National Park 2005 – 2010, Valuing England's National Parks 2013, Woodlands and Forestry in UK National Parks 2012, Independent Panel on Forestry 2012, Government Forestry and Woodlands Policy Statement 2013, UK Forestry Standard for Planners 2013

Compost Toilets

- 4.2.7 The compost toilets are in daily use in connection with both the agricultural and forestry uses of the site. These are incidental uses and thus the compost toilets may reasonably be regarded as forestry and / or agricultural buildings, reasonably necessary to the mixed agricultural and forestry use of the holding.
- 4.2.8 They are modest in size and inoffensive in appearance.
- 4.2.9 The erection of structures of this type for such purposes is supported by national planning policy and guidance⁷, and local planning policy and guidance⁸, other policy documents and advice and research⁹, and other information from the consideration and determination of other planning decisions and appeals.
- 4.2.10 We will specifically refer to Policies COR2, and DMD34 from the LPA's Core Strategy and Development Management Document.
- 4.2.11 Nor do they constitute an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned in that their siting, design and appearance are unobtrusive and in keeping with the character and appearance of the part of the National Park concerned.
- 4.2.12 We will draw attention to the fall back position of siting portaloos on the land which would be more visually intrusive and less environmentally sustainable.

Timber Platform

- 4.2.13 The timber platform is a small structure, from time to time used for the siting of a yurt to provide ancillary and incidental accommodation on site for forestry workers. The yurt is dealt with under EN1. The timber platform is not used exclusively for the siting of the yurt. It is also used for other purposes ancillary and incidental to the base use of the site – forestry and agriculture – and also to the mixed use, should that be found to have taken place.
- 4.2.14 The erection of structures of this type for such purposes is supported by national planning policy and guidance¹⁰, and local planning policy and guidance¹¹, other policy documents and advice and research¹², and other information from the consideration and determination of other planning decisions and appeals.
- 4.2.15 We will specifically refer to Policies COR2, and DMD34 from the LPA's Core Strategy and Development Management Document.
- 4.2.16 Nor does it constitute an unjustified visual intrusion that adversely affects the character and appearance of the part of the National Park concerned in that its siting, design and appearance is unobtrusive and in keeping with the character and appearance of the part of the National Park concerned.

⁷Including the National Planning Policy Framework, National Planning Practice Guidance, English National Parks and the Broads, UK Government Vision and Circular 2010

⁸Including the Core Strategy Development Plan Document 2006 – 2026, Development Management and Delivery Development Plan Document July 2013

⁹Including the Dartmoor National Park Management Plan 2014-2019, A Woodland Strategy For Dartmoor National Park 2005 – 2010, Valuing England's National Parks 2013, Woodlands and Forestry in UK National Parks 2012, Independent Panel on Forestry 2012, Government Forestry and Woodlands Policy Statement 2013, UK Forestry Standard for Planners 2013

¹⁰Including the National Planning Policy Framework, National Planning Practice Guidance, English National Parks and the Broads, UK Government Vision and Circular 2010

¹¹Including the Core Strategy Development Plan Document 2006 – 2026, Development Management and Delivery Development Plan Document July 2013

¹²Including the Dartmoor National Park Management Plan 2014-2019, A Woodland Strategy For Dartmoor National Park 2005 – 2010, Valuing England's National Parks 2013, Woodlands and Forestry in UK National Parks 2012, Independent Panel on Forestry 2012, Government Forestry and Woodlands Policy Statement 2013, UK Forestry Standard for Planners 2013

(d) that the matters alleged are immune from enforcement

Compost Toilets

- 4.2.17 It will be argued that the compost toilets were erected more than 4 years ago and therefore at the time the enforcement notice was issued it was too late to take enforcement action. We will provide evidence including written and photographic material.

Timber Platform

- 4.2.18 It will be argued that the timber platform was erected more than four years ago and therefore at the time the Enforcement Notice was issued it was too late to take enforcement action. We will provide evidence including written and photographic material showing that the timber platform has been on site since 2011.

(g) that the time given to comply with the Notice is too short

- 4.2.19 The holding is subject to Statutory Plant Health Notices (SPHN) covering more than 1,500 cubic metres of Japanese Larch. Clearing this timber remains the most important priority on the holding.
- 4.2.20 It is critical to the well being of woodland within the National Park to remove all infected larch as quickly as possible. The compost toilets, timber platform for the yurt and the open fronted wood drying barns are all in daily use as part of this work. Having to remove all of these within six months would have a strong negative impact on the ability to manage the woodlands at this time, and specifically to clear the larch in accordance with the statutory requirements.
- 4.2.21 We believe a timescale of 18 months is necessary in order to allow all the infected larch at the Hillyfield to be felled, as per SPHN orders, extracted from the hillside, and to re-plant the areas affected by disease.

5 Summary

- 5.1.1 All three appeals could have readily been avoided had the LPA taken into account all available information and acted reasonably. Hillyfield has been anxious to maintain good communication with the LPA and provide all information requested.

PND

- 5.1.2 The two barns are reasonably necessary for the purposes of forestry on the holding, based on the forestry enterprise actually sited there, and confirmed by information provided by experts in the field. We ask that the Inspector agrees with this conclusion and confirms that the barns therefore have deemed consent and can be erected.

EN1

- 5.1.3 The change of use alleged has not occurred. The use of the land for recreation and courses is ancillary and incidental to the base use of the site – forestry and agriculture, and / or takes place for less than 28 days a year and is therefore permitted development. This includes the use of the structures listed in the notice.
- 5.1.4 Should, however, it be found that a change of use has occurred, then the small scale and infrequent use of the site for recreation and courses is acceptable in policy terms, and can be suitably controlled by condition. We invite the Inspector to agree with us and to impose a suitable condition.
- 5.1.5 The use of the yurt and caravans for the accommodation of seasonal workers is acceptable in terms of the enterprise based on the holding and the nature of the accommodation provided. We invite the Inspector to agree with us and to impose a suitable condition.
- 5.1.6 The use of the field kitchen and workshop is entirely ancillary and incidental to the base use of the site – forestry and agriculture – and also to the mixed use, should that be found to have taken place. We invite the Inspector to agree with us.
- 5.1.7 The use of the lorry body is entirely ancillary and incidental to the base use of the site – forestry and agriculture. We invite the Inspector to agree with us.
- 5.1.8 The lorry body and field kitchen are immune from enforcement action, having been on site for more than 10 years and four years respectively. We invite the Inspector to agree with us.
- 5.1.9 Given that the site is subject to a SPHN the time given to comply is too short and should be extended to 18 months.
- 5.1.10 Based on all of the above we ask the Inspector to allow the appeal on all grounds.

EN2

- 5.1.11 The barns are reasonably necessary for the purposes of forestry on the holding and we accordingly ask the Inspector to grant planning permission for them.
- 5.1.12 The compost toilets are used incidental to the base use of the site – forestry and agriculture – and also to the mixed use, should that be found to have taken place, and is acceptable in policy terms and so we ask the Inspector grant planning permission for them.
- 5.1.13 The timber platform is used for the siting of the yurt and other purposes ancillary or incidental purposes to the base use of the site – forestry and agriculture – and also to the mixed use, should that be found to have taken place, and is acceptable in policy terms and so we ask the Inspector grant planning permission for them.
- 5.1.14 The compost toilets and timber platform are immune from enforcement action, having been on site for more than four years. We invite the Inspector to agree with us.
- 5.1.15 Given that the site is subject to a SPHN the time given to comply is too short and should be extended to 18 months.

5.1.16 Based on all of the above we ask the Inspector to allow the appeal on all grounds.

5.1.17 The grounds of the appeal will be further clarified, amplified and explained in the Proofs of Evidence and at the Inquiry.

6 List of Documents to be Referred To

National Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- English National Parks and the Broads: UK Government Vision and Circular 2010
- Valuing England's National Parks Final Report 2013
- Woodlands and Forestry in UK National Parks - Case studies April 2012
- Independent Panel on Forestry Final Report 2012
- Government Forestry and Woodlands Policy Statement 2013
- Grown in Britain Report 2013
- UK Forestry Standards for Planners – Forestry Commission England 2013
- A Wood Fuel Strategy for England – Forestry Commission England 2007
- Wildlife & Countryside LINK - Position Statement on the Forestry Commission's Woodfuel Strategy for England 2009
- HETAS Wood Fuel Standards
- European Commission Guidance – Protecting health and safety of workers in agriculture, livestock farming, horticulture and forestry 2012
- HSE Workplace (Health, Safety and Welfare) Regulations 1992 – Approved Code of Practice and guidance
- Map of National Cycle Route no 2
- Less Favoured Area Map of England

Local Policy and Guidance

- DNP Core Strategy Development Plan Document 2006 – 2026
- DNP Development Management and Delivery Development Plan Document July 2013
- Dartmoor National Park Management Plan 2014 – 2019 (Adopted 2013)
- A Woodland Strategy for Dartmoor National Park 2005-2010 (DNPA)
- The Dartmoor Biodiversity Action Plan 2007 - Dartmoor Habitat Action Plan for Woodland
- Dartmoor Forest Plan 2016-2026 (Consultation Copy) Forestry Commission
- Exmoor Woodland Officer Email

Site Specific Documents

- Statutory Plant Health Notices 11/00404/01 & 13/00732/01
- Forestry Commission Approved Woodland Management Plan for Hillyfield 2014
- The Royal Forestry Society 'Evaluating approaches for woodland working groups' report
- Prior Notification Application 2015
- Prior Notification Application 2015 – Officer Report
- Prior Notification Application 2015 – Highway Report
- Prior Notification Application 2015 - Decision Letter
- Prior Notification Application 2012 – Officer report
- Guy Watt (John Clegg Consulting) Reports 2015
- Mark Prior (Forestry Commission) Letter 2015
- Jez Ralph (Timber Strategies) Report 2015
- Woodsure Accreditation Letter
- Pryor and Rickett email
- Vision Statement for Hillyfield submitted to DNPA November 2015
- Hillyfield Business Plan
- Hillyfield Economic Analysis Paper
- Timber Storage Requirements at the Hillyfield
- Events at the Hillyfield
- Accommodation Usage at the Hillyfield
- Planning Applications and Notices History for Hillyfield 2009 - 2016
- Relevant DNPA Documents and Correspondence with DNPA
- Proof of Transfer of land for new access 2016
- Devon County Show 2014 Woodlands Competition - 2nd prize
- Grant Funding received by Hillyfield 2009 – 2016
- England Woodland Grant Scheme Grants
 - DEFRA RDPE Farming and Forestry Improvement Scheme Grant
 - DEFRA Farm Productivity Grant
 - Dartmoor Sustainable Development Fund Grants
- Greater Dartmoor Local Enterprise Action Funding Letter
- Photographs taken of the site by DNPA
- Business Support Letters

Relevant Appeal Decisions

- The Old Rectory, Doynton: a Barn for forestry purposes, including woodfuel and equipment storage, in a 1.1ha woodland in the AONB. App Ref APP/P0119/W/15/3003480 Upheld in 2015
- Lambley Wood, Rutland, a machinery storage barn for forestry purposes. Appeal Ref: APP/A2470/A/10/2126707 upheld
- Farleyer Estate v Secretary of State for Scotland
- Millington Case

Examples of Prior Notification Decisions in National Parks

- Higher Druid Farm, Ashburton: 3 barns for machinery storage, wood products storage and potting shed/hurdle making, on a woodland approx half the size of Hillyfield. Forestry Prior Notification approved by DNP in 2010
- Park Grounds Cottage, Clay Hill, Lyndhurst. Storage barn. Forestry Prior Notification approved in New Forest NP in 2012
- Land At Tanners Close, Lyndhurst Road, Near Bransgore. Extension of existing building to store cut timber and woodchips. Forestry Prior Notification approved in New Forest NP in 2014