

PLANNING REF : 261338
PROPERTY ADDRESS : Barkham
:
: RG41
SUBMITTED BY : Mr . King
DATE SUBMITTED : 13/07/2026

COMMENTS:

I object to this retrospective application.

It is contended in paragraphs 4.3-4.6 of the Planning Statement (and repeated elsewhere) that the use of the decking area is ancillary to the lawful use of the mobile home and would not constitute intensification of use. I challenge these assertions for the reasons set out below.

May I also point out that 'incidental use' is referred to (once) in the Planning Statement (at paragraph 4.6), but 'a use incidental to the enjoyment of a dwelling-house as such' is only pertinent when classes E and/or F of Schedule 2 Part 1 of GPDO 2015 are engaged; whereas this is a full planning application and, consequently, is not. The applicants' limited reference to this term is therefore misplaced.

1. Ancillary use

I do not agree that the commercial element of the decking structure's use can be considered a legitimate use ancillary to that of the mobile home, when permission was granted via PA 253039 solely for the residential use of the latter. The Planning Statement itself is explicit that the decking is intended to serve functions beyond those associated with residential use:

- a) "a welfare and meeting area and client reception and waiting area associated with the equestrian operations on site" (paragraph 4.3);
- b) "conducting business meetings, competition schedule planning and tour plans" (paragraph 4.4); and
- c) "informal staff discussions and occasional meetings with horse owners on site" (paragraph 4.5).

There is no functional relationship whatsoever between these commercial activities and the residential use permitted for the mobile home. For a use to be truly ancillary, it must be subordinate and inseparable from the primary use. A decking structure ancillary to a dwelling would normally just provide opportunity for the relaxation and recreation of its occupiers. Holding staff meetings, entertaining clients, and organising participation in equestrian competitions is materially different from this in a planning context.

Furthermore, given the indicated frequency of use - clients may be on site for 3-4 hours at any given time (paragraph 4.4 further refers) - it is questionable whether that use would even be

subordinate to the residential use of the mobile home, or instead equal to or greater than it, given the number of clients who might use it. Given this, I submit that the proposal would alter the permitted use of the mobile home; it is difficult to contemplate how it could not.

Finally, while the Planning Statement asserts at paragraph 4.15 that "the decking does not represent a separate planning unit," it offers no substantive evidence to support this. The very fact that the applicants are applying for planning permission supports the argument that its use cannot be considered routinely ancillary to the mobile home and so a separate planning unit may well arise as a consequence.

2. Intensification

The principles surrounding intensification are similarly well-established. The Court of Appeal judgement in *Herts CC v SSCLG* [2012] EWCA Civ 1473 usefully set out some of the legal authorities associated with the matter (at paragraph 9), reminding that a proposal which would result in 'mere intensification': that is, just more of the same use may not necessarily amount to a material change of use: in order to do so, it must alter the character of the use of the building or land in question to the extent that it constitutes a material change of use (*but see the qualification in *Barton Park Estates* below).

For example, in *Lilo Blum v SoS for the Environment* [1986] JPL 278, at page 280:

"It was well recognised law that the issue whether or not there had been a material change in use fell to be considered by reference to the character of the use of the land. It was equally well recognised that intensification was capable of being of such a nature and degree as itself to affect the definable character of the land and its use and thus give rise to a material change of use. Mere intensification, if it fell short of changing the character of the use, would not constitute material change of use."

This is endorsed in the judgement in *Thanet District Council* (cited at paragraph 54 of the *Herts CC* judgement above), which also went further in expressing that instance of 'mere intensification' alone are uncommon in reality:

"There are very few cases of 'mere intensification'. Usually the increase in activity will have led to some other change: from hobby to business, from part to full-time employment, or an increase in one use at the expense of other uses in a previously mixed use."

The same authorities and principle are also recited in the more recent Court of Appeal judgement: *Barton Park Estates Ltd. v SSCLG & Anor*

[2022] EWCA Civ 833 (in particular, its paragraphs 15, 44, 45 and 62 are pertinent). In that particular case, however, 'more of the same' use was indeed found to be capable of causing a material change of use in the planning appeal being challenged, the Court of

Appeal confirming in its ruling that such a finding is always fact-sensitive (endorsing the principle that all applications must be determined on their individual merits) and thus the inspector was entitled to arrive at that conclusion, and had set out the rationale for doing so (paragraph 62 of the judgement refers).

Applying those principles to this situation, the question is whether the proposal would affect the character of the use of the mobile home to the extent that it would constitute a material change of use. I submit that it would. As mentioned, currently the unit is used solely for the applicants and/or their staff to live in. The proposal would not therefore constitute simply 'more of the same' but instead facilitate an entirely different use of the mobile home and decking combined. In effect, they would become an increased (in size) business facility and the intrinsic character of the mobile home's exclusive use as a dwelling would be altered tangibly. Given the nature and extent of this different use, the consequent alteration in the character of its use would be greater than de minimis and thereby constitute a material change of use.

Furthermore, the applicants use the wrong comparator when suggesting the answer to the question of intensification is 'No', citing the commercial use of the wider Newlands site; whereas comparison should be made against the residential use of the mobile home. This is because that is what the decking is fundamentally associated with in the application/statement: it is not a stand-alone structure built elsewhere within the site, which could (in theory at least) engage the comparison on which they seek to rely.

Consequently, I suggest that the test of intensification is met.

3. Conclusion

This application invites the LPA to approve a proposal which would, de facto, endorse the use of the mobile home for purposes for which planning permission has not been granted, without regularising the breach of planning control that that would cause. Such an expectation is, equally, unreasonable and untenable. The Planning Statement's own description of the purpose of the decking reveals a mixed residential/commercial use that cannot properly be regarded as ancillary to that of the mobile home and, in so doing, constitutes intensification to the degree that changes materially the character of its use. For these reasons, I urge that the application be refused.