
Appeal Decisions

Hearing Held on 6 November 2019

Site visits made on 5 & 6 November 2019

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal A Ref: APP/Y9507/Q/19/3228682

The Croft, Bignor Road, Sutton, Pulborough, West Sussex, RH20 1PL

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
 - The appeal is made by Philippe Paul Chappatte against the South Downs National Park Authority (SDNPA).
 - The development to which the planning obligation relates is the alterations to and retention of a domestic outbuilding used for stabling, associated storage and ancillary accommodation in connection with the occupation of The Croft.
 - The planning obligation (unilateral undertaking), dated 11 November 2011, was made between the SDNPA, the appellant and Coutts and Co.
 - The application Ref. SDNP/19/00893/MPO is dated 21 February 2019.
 - The application sought to have the planning obligation discharged.
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Appeal B Ref: APP/Y9507/W/19/3219992

The Croft, Bignor Road, Sutton, Pulborough, West Sussex, RH20 1PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Chappatte against the decision of the SDNPA.
 - The application Ref. SDNP/18/01575/FUL, dated 20 March 2018, was refused by notice dated 9 July 2019.
 - The development proposed is described as the change of use from ancillary residential accommodation, domestic storage and stabling to ancillary residential accommodation, guest accommodation, staff accommodation, holiday let, domestic garaging, hobby room.
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Decisions

1. Both appeals are allowed.
2. In appeal A, the planning obligation, dated 11 November 2011, made between the SDNPA, the appellant and Coutts and Co. no longer serves a useful purpose and is discharged.
3. In appeal B, a split decision is issued. Planning permission is granted for a change of use to ancillary residential accommodation, guest accommodation, holiday let, domestic garaging, stables and/or hobby room but is withheld in respect of the proposed staff accommodation. The permission is granted in accordance with the terms of the application Ref. SDNP/18/01575/FUL, dated 20 March 2018, insofar as it relates to that part of the development hereby approved, and subject to the conditions in the attached Schedule.

Preliminary Matters

4. Chichester District Council (the Council) acts on behalf of the SDNPA. The appeal building lies within the curtilage and to the north west of the appellants dwelling (The Croft). It is identified on the submitted plans as The Stables.
5. The Council has informed me that its members have resolved to agree to their officer's recommendation to discharge the planning obligation and not to defend appeal A. This unilateral undertaking contains a similar restriction to a planning condition attached to permission ref. SN/11/02662/DOMNP relating to The Stables. Amongst other things, the Government's Planning Practice Guidance advises that a condition should be used rather than a planning obligation. No evidence has been presented to demonstrate that this obligation serves a useful purpose. I therefore agree with the Council and the appellant that it should be discharged. Appeal A therefore succeeds.
6. I note the planning history in respect of The Stables and the previous concerns raised by the Parish Council and some local residents. I also note the comments made by some local residents that this building has been occupied in breach of the restrictions on the above noted permission. The appellants have refuted these comments and have informed me that The Stables have not been used for any unlawful purposes. At the Hearing, the Council informed me that there was no active enforcement investigation regarding the appeal building.
7. During my visit, I noted that the internal layout of The Stables reflected what is proposed on the submitted plans rather what is shown on the "Approved/Existing Internal Layout" plan (drawing ref. 001C). The proposal would not entail any external alterations to the building.
8. Prior to the determination of the application that is the subject of appeal B, the appellants wrote to the Council to request that the description of the proposed development be amended to include stabling (non-commercial use). Whilst the Council's case officer agreed to the request, it appears that due to an administrative error the description was not formally changed. As the name of the appeal building suggests, stables form part of its approved use and those present at the Hearing informed me that no party would be prejudiced if I was to amend the description accordingly. Having regard to the Wheatcroft principles¹, I agree that the description should be amended to reflect this.
9. As it is unnecessary to specify the existing use within a description, a more concise description of the proposal (appeal B) is: *a change of use to ancillary residential accommodation, guest accommodation, staff accommodation, holiday let, domestic garaging, stables and/or hobby room*. For the purposes of this appeal, I have treated the proposed guest accommodation, garaging, stables and hobby room as purposes ancillary to the residential use of The Croft. The Council informed me that the SDNPA's objections were limited to the proposed use of The Stables as guest accommodation, staff accommodation and the holiday let. On behalf of the SDNPA, I was also informed that the proposal would not harm the significance of the adjacent Sutton Conservation Area.
10. In appeal B, the appellants' agent has informed me that the intention is to use The Stables for a *"variety of ancillary domestic purposes to meet the needs of*

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

the Appellants at any given time". I have also been informed that these uses would not all be undertaken at the same time and the western part of the building would only be used for storage, equestrian uses, garage and a hobby/recreation area. At the Hearing, both main parties agreed that if I was to find that any of the proposed uses would be likely to result in unacceptable harm then it would be open to me to issue a split decision, withholding permission for any harmful use(s) but otherwise granting permission. As the proposed uses are not dependent upon one another I agree with this approach.

11. At the Hearing, I was presented with a Statement of Common Ground (SoCG) that had been agreed by the SDNPA and the appellants. I have taken this into account in determining these appeals.

Main Issues (Appeal B only)

12. The two main issues are: firstly, whether the proposal would be tantamount to the creation of a new dwelling and accord with the provisions of the development plan² and the National Planning Policy Framework (the Framework) that are aimed at conserving and enhancing the landscape of the South Downs National Park and; secondly, the effect upon the amenity of neighbouring residents, having particular regard to any noise disturbance.

Reasons

13. Amongst other things, LP policy LP1 reflects the statutory duties³ regarding national parks. Under LP policy SD25 development is restricted outside specified settlement boundaries. New visitor accommodation (LP policy SD23), annexes⁴ and outbuildings (LP policy SD31) are permitted within such locations where they accord with specified criteria.
14. My attention has also been drawn to extracts from the South Downs National Park Partnership Management Plan 2014-2019 (MP). Whilst not planning policy, amongst other things, the MP identifies the special qualities of the National Park and sets out general policies. These include policy 1, which reflects the statutory duties and policy 29, which supports the use of the National Park by residents and visitors. The MP has been subject to a process of stakeholder consultation and can be given moderate weight.

Whether the proposal would be tantamount to the creation of a new dwelling

15. The appeal site lies within the countryside and outside the confines of any defined settlement boundary. A new dwelling within this part of the National Park would be at odds with the character of this sensitive landscape. Unless it met a proven or essential need, any such dwelling would conflict with the provisions of the development plan and the Framework⁵. It could also set a precedent for other similar development elsewhere⁶ within the National Park

² This includes the South Downs Local Plan 2014-2033 (LP), which was adopted in 2019. The most relevant LP policies to the determination of appeal B are: LP1 (sustainable development); SD23 (new visitor accommodation); SD25 (development strategy) and; SD31 (annexes and outbuildings).

³ Section 5 of the National Parks and Access to the Countryside Act 1949. In determining these appeals I have had regard to the duty under section 11A(2) of the Act.

⁴ On behalf of the appellants, it was argued that the proposal was for an annex.

⁵ This includes a requirement for great weight to be given to the conservation of landscape and scenic beauty.

⁶ Many other outbuildings to other properties within the SDNP could be adapted or replaced for use as dwellings. In this regard, the Parish Council has drawn attention to a previous proposal for ancillary accommodation on another site in Sutton which was deemed to be tantamount to the creation of a new dwelling within the rural area.

- which would be difficult to resist and likely to result in cumulative adverse harm to the character of a landscape which is of national importance.
16. The Stables is a sizeable building⁷ that is located in the north western corner of the extensive curtilage to The Croft. The Council has calculated that it is about 95m from The Croft, which is considerably further away than the nearest neighbouring dwelling (The Orchard). The Croft and The Stables share the same access onto the public highway and the same residential curtilage. However, there are separate parking areas alongside both buildings and it would take little effort to sever the lawn area in front of The Stables from the remainder of the garden. With all the facilities necessary for independent living (two bedrooms, a bathroom, sizeable kitchen/living space and garage/storage space) the appeal building, without adequate restriction on its use, could be capable of operating as a separate dwelling to The Croft.
17. Those acting for the appellants have informed me that they are not seeking permission for a new dwelling and that approval is not being sought to create any separate curtilage, private amenity space or physical separation of The Stables from The Croft. However, circumstances can change, as has already been the case with the appeal building, which was originally permitted as a replacement stable in 2003. The property could also be sold in the future. My attention has been drawn to case law⁸ relating to the relevant planning unit and the relationship between main and ancillary land buildings/uses. The law is the law and it is unnecessary to rehearse it here.
18. I concur with the Council that the proposed use of The Stables for garaging, stables and/or a hobby room in association with the residential use of The Croft would not result in any harmful impact or conflict with any local and national planning policies. Permission should not therefore be withheld for these uses.
19. Notwithstanding that The Croft is a large dwelling⁹, I can appreciate the appellants desire to accommodate some of their guests and members of their family within The Stables when visiting. During larger gatherings, such as family events, parties, anniversaries etc., the living accommodation within The Stables is likely to be a welcome addition to that which is available within the main house. Whilst The Stables would be capable of operating as a separate unit, members of the appellants family and their guests would be likely to use some of the facilities within The Croft for relaxing and main meals, as well as making use of the separate swimming pool building that is ancillary to the main house. To prevent/deter the appeal building from being used as a separate dwelling, a condition restricting the duration of any visitor/family members staying within The Stables to 90 days would be necessary and reasonable.
20. I note that the appellants wish to have flexibility over the uses proposed for The Stables. A condition to the above effect would be likely to prevent use of the building by a dependent relative. However, I have not been informed of the existence of any such relative and/or the circumstances under which they would require use of The Stables. For annexes, LP policy SD31 requires applicants to demonstrate the functional and physical dependency on the host

⁷ On behalf of the appellants, it has been calculated to have a gross floor area of 157m².

⁸ These include, Burdle and Williams v SSE and New Forest DC [1972].

⁹ Although the appellants were unable to attend the site visit, those acting on their behalf informed me that the dwelling had about six bedrooms.

- dwelling. The supporting text to this policy also states that an annexe should usually be incorporated within or physically attached to the host dwelling.
21. Whilst the use of The Stables as a 'granny annexe' could remain in the same ownership as The Croft, share utility services, access onto the public highway and private amenity space, it would comprise a sizeable annexe that is a considerable distance from the main dwelling. I think it very unlikely that LP policy SD31 was ever intended to deal with applications for speculative annexes such as this. In the absence of details regarding any dependent relative and a failure to adequately demonstrate the functional and physical dependency on The Croft, I share the concerns of the SDNPA that this use of The Stables would be at odds with the provisions of the development plan.
 22. I note that the appellants employ a number of people such as gardeners and a housekeeper to assist in the maintenance and upkeep of their property. I also understand that some of these people have to travel long distances to access the property and that it can be difficult to attract such workers to The Croft. Use of The Stables for staff accommodation, including possible use by a nanny, could assist in attracting and retaining some of those working at The Croft. I also recognise that in such an attractive area there is likely to be a high demand for residential accommodation and a shortage of affordable housing.
 23. However, there is no evidence to demonstrate that there is an essential or proven need for any staff to reside on site or be employed at The Croft. There is also nothing to demonstrate that The Stables would help address the likely shortfall in the supply of affordable housing within the National Park or assist in meeting local housing needs. In the absence of such details there is considerable risk that The Stables would be tantamount to a new dwelling and erode/unacceptably harm the character of this part of the National Park.
 24. Even if planning conditions were attached to a permission restricting the occupancy to staff employed at The Croft and/or tying the buildings into the same ownership, it would be very difficult for the SDNPA to refuse permission for any future application to discharge such conditions. Whilst the appellants have argued that there would be a reduction in the journey to work trips, this would more than likely be offset by the increase in trips made by those living in The Stables to access main services and facilities necessary for modern living.
 25. Tourism, including visitor accommodation, is important to the National Park. LP policy SD23 is permissive of new visitor accommodation subject to specified criteria. These include proposals, which are outside defined settlement policy boundaries, being closely associated with other attractions / established tourism uses, including the public rights of way network. The Framework also supports the growth of rural business through the conversion of buildings and sustainable tourism that respects the character of the countryside.
 26. The Stables is in close proximity to a network of popular public rights of way that bisect this part of the National Park and is near to a number of other visitor attractions. The use of the appeal building for holiday lets / accommodation would make a very small but positive contribution towards strengthening the local rural economy.
 27. Unlike the proposed use of The Stables as staff accommodation, those staying within this building on holiday would be very unlikely to undertake journeys to main centres for accessing educational, healthcare and other essential services

that would be required by more 'permanent' residents. Deliveries and visitors would also be unlikely for those staying on holiday for a limited period. Furthermore, in comparison to staff accommodation, holiday makers are far less likely in the future to want to enlarge the appeal building or alter the curtilage of the site to cater for their changing needs.

28. Subject to the use of a planning condition restricting the duration of occupancy of The Stables to a maximum duration of 30 days by individual holiday makers, this building would function in a different way and take on a different character to that of a new dwelling. A holiday use would not harm the special landscape qualities of the National Park. Whilst it would be very unlikely to positively contribute to the natural beauty, wildlife and cultural heritage of the National Park, it is difficult to envisage how any such change of use could achieve this. At the Hearing, those acting for the SDNPA conceded that there would be no conflict with the spirit of LP policy SD23.
29. I conclude on the first main issue that the proposed use of The Stables as staff accommodation or as an annexe would be tantamount to the creation of a new dwelling. It would be at odds with the provisions of LP policies LP1, SD25, as well as the thrust of MP policy 1, and the provisions of the Framework that are aimed at conserving and enhancing the National Park. These proposed uses would result in unacceptable harm to a nationally important landscape and would significantly and demonstrably outweigh the very limited benefits.
30. I also agree with the Council that including these uses as part of the 'flexible permission' that is sought by the appellants would be likely to create enforcement difficulties for the SDNPA in monitoring these different uses in the future. In contrast, the other proposed uses would accord with LP policies LP1, SD23, SD25, the provisions of the Framework and MP policies 1 and 29.

Amenity of neighbouring residents

31. I note the concerns of the SDNPA and some interested parties that the proposed uses would result in an increase in activity within this part of the appellants' property and result in noise and other disturbance. Whilst the proposals would undoubtedly generate noise and activity, including the coming and goings of guests and visitors, the lawful use of the building (which includes three loose boxes and ancillary residential use) also has the potential to generate noise and activity.
32. The Stables is not so close to any neighbouring dwelling house that the limited increase in noise and activity that could reasonably be expected with the proposed uses would result in any harmful noise or other serious disturbance to neighbouring residents. As I saw during my visits, The Orchard is set back a considerable distance from the flank wall of The Stables. There are no windows on this flank wall of the appeal building and the parking and turning area to The Stables is adjacent to the public highway. There is also some intervening vegetation with neighbouring properties.
33. I conclude on the second main issue that there is no cogent evidence to demonstrate that the proposals would result in any harmful effect upon the amenity or living conditions of neighbouring residents.

Planning Conditions

34. I have considered those conditions that have been suggested to me. At the Hearing, the main parties agreed that it would be open to me to amend these and without causing any prejudice, provided no condition was more onerous than any of those which had been suggested.
35. In the interests of certainty a condition would be necessary specifying the approved block/site plan. For same reason and for the avoidance of doubt, a condition would be necessary specifying the approved uses and limiting the accommodation to one unit only, as applied for. I have found above that a condition would also be necessary limiting the duration of stay by those occupying the building in order to safeguard the character of the National Park.
36. To assist in the effective monitoring of the occupancy of the building it would be necessary for the owners to maintain and make available to the SDNPA a register of occupants, including details of their stay and main residence.
37. To also safeguard the character, as well as the appearance of this part of the National Park, including maintaining the attractiveness of the dark night sky, a condition would be necessary controlling any new external lighting.
38. Conditions to the above effect would accord with the provisions of paragraph 55 of the Framework.

Overall Conclusion

39. Given all of the above, I conclude that appeal A should succeed and appeal B should succeed in part but is otherwise dismissed. A split decision can be issued in respect of appeal B.

Neil Pope

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mrs E Lawrence	E Lawrence Planning
Mr S Charles	Aardvark Planning Law
Mrs S Chappatte	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Price BSc (Hons), BTP, MRTPI	Principal Planning Officer, Chichester District Council
Mrs N Langford BA (Hons), MA, MRTPI	Senior Planning Officer, Chichester District Council

INTERESTED PERSONS:

Cllr J Cross	Chairman, The Common Parish of Sutton and Barlavington
Cllr D Snowdon	The Common Parish of Sutton and Barlavington
Mr and Mrs Shepherd	Local residents

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	Agreed SoCG
Document 2	Extracts from the MP

SCHEDULE OF PLANNING CONDITIONS (Appeal B)

1. The development hereby permitted shall commence within three years of the date of this Decision.
2. The development hereby permitted relates to the 1:500 scale block/site plan (drawing ref. 004A).
3. The building known as The Stables shall not be used at any time other than for purposes ancillary to the residential use of the dwelling known as The Croft, or for holiday letting purposes. With respect to guest use and holiday lets, this shall relate to a single unit of accommodation only.
4. A register of all occupiers of The Stables, detailing dates, names and main residences, shall be maintained by the owner(s) and kept up-to-date and available for inspection at all reasonable hours by the Local Planning Authority. No person occupying The Stables as a holiday let shall stay for a period exceeding 30 days in any calendar year. No guest or family members of persons living at The Croft shall occupy The Stables for a period exceeding 90 days in any calendar year.
5. There shall be no new external lighting to The Stables.