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## Appeal Decision

Hearing Held on 19 November 2019

Site visit made on 19 November 2019

**by Sarah Dyer BA BTP MRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2019**

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**Appeal Ref: APP/Y9507/W/18/3213402**

**Bignor Park Nursery, Bignor Park Road, Bignor RH20 IHG**

- 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 Samantha Crosdil and Henry Williams against the decision of South Downs National Park Authority.
  - The application Ref SDNP/18/00113/FUL, dated 2 January 2018, was refused by notice dated 20 April 2018.
  - The development proposed is described as 'Construction of a bespoke joinery building for furniture making. Conversion and extension of an existing barn to equestrian use. Development of a horse walker and sand school plus temporary stationing of a log cabin to support the development of the equestrian business. Ancillary parking, drainage (foul and surface), PV solar panels and landscape planting'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the determination of the planning application, the South Downs Local Plan 2019 (the Local Plan) has been adopted. The Statement of Common Ground (SoCG), which has been agreed by the main parties, sets out the relevant policies from the Local Plan and these attract full weight in my determination of the appeal.
3. It was agreed at the hearing that Policies SD3 and SD32 of the Local Plan are of relevance to the appeal. Policy SD32 is included in the SoCG and a copy of Policy SD3 was provided to me at the Hearing. The appellants are aware of both policies and I have had regard to them in my determination of the appeal.
4. The Bury Neighbourhood Plan (BNDP) has been made since the determination of the planning application and the relevant policies are referred to in the SoCG. The BNDP forms part of the Development Plan for the area and the policies within it attract full weight.
5. The appellants' agricultural consultant was unable to attend the Hearing. In his absence the appellants asked me to rely on the written submissions which had been made by him and did not consider that they were prejudiced by his lack of attendance.

6. I was provided with a copy of comments from Bury Parish Council and Barlavington Estate during the hearing. These documents were also provided to the appellants. As the comments made do not raise issues that have not already been raised by other interested parties I do not consider that the appellants would be prejudiced by my consideration of these documents.
7. Both the planning application form and the Council's decision notice refer to the 'temporary stationing of a log cabin to support the development of the equestrian business'. The appellants explained during the Hearing that the log cabin was intended to be permanent accommodation, but that a five-year temporary consent would be acceptable to them. Given that the description of development refers to the temporary status of the log cabin and that this is what was before the Council when it carried out consultations and made its decision, I have determined the appeal on that basis.

### **Main Issues**

8. The main issues are:

- The effect of the development, including the conversion and extension of an existing barn to equestrian use, on the character and appearance of the site and the surrounding area
- Whether the locational needs of the equestrian business and the bespoke joinery business outweigh any harm arising from the effects on character and appearance.
- Whether the proposed dwelling would be an isolated new home in the countryside and, if so, whether there is an essential need for a dwelling to accommodate a rural worker
- Whether the works to the barn amount to re-use of an existing building and whether any harm arising from the works to provide the stable building is justified by the re-use of an existing building.

### **Reasons**

#### *Character and appearance*

9. Policy SD1 of the Local Plan refers to the purposes of National Parks, the first of which is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area and requires that planning permission be refused where development proposals fail to conserve these assets. This approach is fully in accordance with paragraph 172 of the National Planning Policy Framework (the Framework) which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
10. The appeal site lies at the junction of Bignor Park Road and Tripp Hill and is triangular in shape with its narrowest point closest to Tripp Hill. Whilst there are some smaller plots of land fronting the surrounding roads which accommodate dwellings and other development which is enclosed by fences, the appearance of the wider area is of dispersed settlements, isolated buildings and a predominately pastoral landscape. The rows of mature oak trees which define field boundaries are a particularly prominent feature.

11. One of the interested parties explained that the area originally formed part of the Bignor Park Estate but that it had been sold for use as a single farmstead. However, the land was subsequently sold as smaller plots, and these have been used in different ways by individual owners. I have limited evidence to suggest that this course of events did not occur as described and the main parties did not dispute the comments made. Whilst the changes in land ownership have the potential to impact on the appearance of the landscape, notwithstanding the mixed building types close to the Bignor Park Road frontage, the subdivisions are not immediately apparent, and the open nature of the fields remains as the predominant feature of the landscape.
12. There is disagreement between the main parties as to the extent that the area has a tranquil character. The sporadic nature of development results in the site not being likely to be subjected to noise arising from nearby uses. Consequently, the main source of noise affecting the site is traffic on Tripp Hill. The submissions by the appellants include a diagram of relative tranquillity which indicates that the site is neither within an area of particularly high or low tranquillity which is born out by the presence of the road. On this basis I do not find that the high degree of tranquillity of the site is a particular feature of its character.
13. The appellants describe the site as being formed of three distinct parts and this was evident on my site visit. Two of those parts are open fields and their appearance is consistent with the surrounding area, however the central element of the site is of a very different character and appearance. It accommodates a barn, extensive areas of hardstanding and a variety of buildings and structures.
14. The row of trees which separates the western field from the central part of the site would be likely to screen the existing buildings and structures from view when in leaf but during the winter months views from the west are more open albeit limited from public vantage points. There is no such tree planting separating the eastern paddock from the central area. Consequently, whilst there is some screening by road side planting and the row of oaks on the northern boundary, there are clear views of the site from Tripp Hill parts of which are at a significantly higher level than the site. There are no footpaths on Tripp Hill which would reduce the likelihood of pedestrians viewing the site from this direction and I saw that some additional planting has been carried out within the fields to the north close to the road. However, even taking those matters into consideration the site and particularly the barn and white mobile home structures are highly visible in the view from vehicles on Tripp Hill.
15. The SoCG makes it clear that the parties are not agreed on the lawful planning use of the land or the classification of the site as previously developed land (PDL). I appreciate the difficulties which the appellants, as comparatively recent owners of the land, may have in providing evidence to support an application for a Lawful Development Certificate (LDC) to establish the lawful use of the land. However, in the absence of a LDC and on the basis of the evidence before me, I am persuaded by the Council's view that the use of the site should be regarded as agricultural with perhaps a degree of equestrian use.
16. In reaching this view I am aware of the comments made in the report to the Area Development Control Committee (North) in 2012 which state that there

was no evidence of a horticultural or agricultural use of the land at that time. However, that report related to compliance with an enforcement notice and it does not establish the lawful planning use of the land.

17. The definition of PDL in the Framework excludes land that is or was last occupied by agricultural or forestry buildings. In light of my findings above in relation to agricultural use, the site is excluded from the definition of PDL.
18. Notwithstanding the use and lawfulness in planning terms of the operational development which has been carried out on the land to date, the character and appearance of the central part of the appeal site is clearly at odds with the surrounding area and it does not conserve and enhance the landscape and scenic beauty of the National Park.
19. Whilst the appellants are committed to removing caravans, mobile homes, storage containers and sheds from the site as part of the development, which would significantly improve its appearance, they also propose to carry out development which would itself have a visual impact. The existing barn on the site, is fairly prominent in the landscape. Cladding and expanding this building would result in it having a more solid appearance, which would make it more obvious in views from Tripp Hill. However any visual harm would be outweighed by the removal of the caravans which are attached and close to it. Nevertheless, this justification would not address the consolidation of built form which would arise from the construction of the joinery workshop and log cabin.
20. The position of the joinery workshop close to the road frontage and its substantial footprint and the siting of the log cabin between the workshop and the stables would significantly increase the site coverage by buildings to an extent which would be at odds with the sporadic and low-key development in the area. Whilst the materials of construction of the two buildings would be typical of those associated with agricultural buildings, they would not successfully ameliorate the adverse visual impact of the change to the character of the site.
21. I do not reach the same conclusion in respect of the sand school and horse walker as these features would not be out of keeping in a rural landscape where horses are a common feature as is the case in the SDNP. The colour of the surface treatment of the sand school, which covers a large area, could be controlled by planning condition to ensure that it would not be clearly perceptible in the landscape.
22. I conclude that the joinery workshop and the log cabin, which are integral parts of the appeal scheme, would have a harmful effect on the character and appearance of the site and the surrounding area. The development is therefore contrary to Policies SD1, SD4, SD5 and SD6 of the Local Plan, BNDP Policy 13 and the first purpose of the designation of the South Downs National Park. These policies amongst other things require that development proposals would not have an adverse impact on the landscape generally, that they conserve the landscape and preserve the visual integrity, identity and scenic quality of the National Park and use an architectural design which is appropriate to its setting in terms of massing. Furthermore, these elements of the appeal scheme would be contrary to paragraph 172 of the Framework.
23. With regard to the impact of the development on the quality of dark night skies which is covered by Policy SD8 of the Local Plan and BNDP Policy 15, I am

confident that the level of impact could be satisfactorily controlled through suitably worded planning conditions. Therefore, the appeal scheme would not be contrary to those policies.

24. I am also of the view that the use of the site as proposed would not significantly affect the tranquil character of the area, given the prevailing level of tranquillity, the likely level of traffic generation and the level of control over noise and light pollution, the latter being something which could be satisfactorily controlled by planning conditions. Thus, the development would not be contrary to Policies SD7 and SD19 of the Local Plan or BNDP Policy 14, which protect areas of relative tranquillity.
25. The SoCG sets out that the main parties agree that there is no conflict in principle with Policies SD9 and SD17 of the Local Plan which relate to Biodiversity and Geodiversity and Protection of the Water Environment.

*Locational needs of the equestrian business and the bespoke joinery business*

26. It will be seen from my reasoning regarding the effect of the development on the character and appearance of the area, that I do not find the conversion and extension of the barn, sand school and horse walker to be harmful. These are the key elements of the equestrian business.
27. The Council argues that the use of the site as a commercial livery would be of such a scale and intensity as to result in a change to the character of the area. As such the development would be contrary to Policy SD24 of the Local Plan. However, there is limited substantive evidence to support this assessment. Given the way in which the business would operate and the self-contained nature of the care which the appellants would give to the horses, I am not persuaded that the impacts of the business in terms of increased noise and disturbance or an increase in traffic would have significant effects on the character of the area. Furthermore, there is limited evidence to suggest that support for the equestrian business would set a precedent for substantial developments for equestrian use in the wider area.
28. On the basis that I do not find the equestrian business to be harmful to the character and appearance of the site and the surrounding area, it is not necessary to establish a locational need for this element of the appeal scheme so as to outweigh that harm. However, I have found such harm in respect of the workshop which is required for the bespoke joinery business, therefore the locational necessity for this part of the development falls to be considered.
29. The evidence provided as part of the appeal submissions and during the hearing, in combination with my observations during the site visit, demonstrate that the bespoke joinery business currently has a symbiotic relationship with the area to some degree. The trees which Mr Williams uses come from the local area and in some cases at least are returned to the same place in the form of furniture, for both internal and external use. However, whilst this could be regarded as a unique feature of the business, the evidence before me does not fully justify why it has to be at Bignor Park Nursery to fulfil this requirement.
30. Mr Williams explained that he needs outside space to stack the timber which undergoes various processes, some of which take a significant amount of time. Again, there is limited justification for why this process could not be carried out on a less sensitive site in landscape character terms.

31. Mr Williams is a skilled craftsman and his business is more akin to a creative industry closely linked to the landscape than an overtly commercial activity. He has also employed apprentices, thereby providing local employment. Both of these points weigh in favour of the location of the business in the SDNP. The Framework supports a prosperous rural economy, and this is reflected in Policy SD34 of the Local Plan which supports small business in sustaining the local economy. However, the purpose of this policy as set out in the SoCG is to promote and protect local businesses without compromising the purposes of the National Park.
32. In this case, I do not find the evidence relating to the locational requirements of the bespoke joinery business to be so compelling as to outweigh the harm to the character and appearance of the SDNP.
33. I conclude that the joinery workshop which is an intrinsic part of the bespoke joinery business would have a harmful impact on the character and appearance of the site and the surrounding area and that this harm has not been shown to be outweighed by the locational needs of the business. It follows that the development would compromise the first purpose of the National Park contrary to Policy SD1 of the Local Plan. Furthermore, as the site is in agricultural use, the location of the joinery workshop would be contrary to BNDP Policy 12 which restricts small business use on agricultural land.

*Isolated home in the countryside/essential need for dwelling*

34. The parties are agreed that the site falls outside the settlement boundary established by the BNDP and that the siting of a log cabin for residential purposes in this location would amount to an isolated home in the countryside. The Framework places restrictions on development of this type and the test in this case is whether there is an essential need for a rural worker to live at or near their place of work in the countryside. It was acknowledged at the hearing that although Policy SD32 of the Local Plan refers to agricultural and forestry workers, the broader description as a 'rural worker' which is set in the Framework, could properly be applied.
35. The appellants explained that it was essential for them to be present on the site at all times for a number of reasons. In relation to the bespoke joinery business the principle reason was to provide security. In the light of the experience which the appellants have had in terms of fly-tipping, burglary and fire, it is entirely understandable that they are highly sensitive to the need to protect their business. The appellants are reticent regarding whether other means by which site security would be practical, which again is logical given that CCTV cameras were stolen from the site. However, I have limited evidence before me to suggest that all alternatives have been fully considered such as locating CCTV cameras in such a way as to preclude theft. Therefore, I am not convinced that the location of a dwelling on the site is the only means of providing security for the joinery business or that accommodation in a nearby settlement would not achieve the same aim, were it to be available.
36. Turning to the equestrian business, Ms Crosdil clearly has significant experience of dealing with horses. She explained that it was essential for her to be able to access the horses which she intends to keep on the site rapidly in circumstances where they injured themselves, had colic or were giving birth. These requirements were increased by virtue of the type of horses which would be stabled because young horses and competition horses would be more prone

to accidents. Ms Crosdil also said that she would like to be on site to regularly check the horses, to turn them out and to prepare to take horses to events. Whilst I can appreciate the convenience of having living accommodation on site, the test in this case is for the need for the accommodation to be essential. It appears to me that only attending horses in emergency situations and during foaling would fall into that category.

37. The Council are concerned that there is a lack of clarity regarding the equestrian business. The Planning Justification for a Dwelling for a Rural Worker document (PJDRW), both in its original form and with additional justification, does not provide the clarity required by the Council. Whilst the author, Mr Schiller was not in attendance at the hearing, the contents of his report reflect the proposed operation of the equestrian business as described by Ms Crosdil at the hearing.
38. There does not appear to be a clear business plan for the enterprise and whilst Ms Crosdil works with horses already off site there is limited demonstration, in terms of independent evidence, that her current employers or other horse owners would become customers of the new business. I accept that Ms Crosdil is a skilled horsewoman and that on the basis of the type of horses which would be under her care and the necessity to provide customer confidence, a need for 24-hour supervision may be justified. However, on the basis of the evidence I am unable to conclude that the business would be on a sound footing or that it could be sustained. For these reasons I do not find that the essential need for the dwelling has been demonstrated.
39. The appellants referred to an appraisal in respect of a permanent rural enterprise dwelling at Rose Farm, Penhow, Newport (the Rose Farm case) which was produced by the consultants acting for the Council and which concluded that the planning policy requirements for a dwelling were met. In that case there was an equestrian business operating from the site and a temporary dwelling had been permitted. Thus, I do not find the Rose Farm case and the current appeal scheme to be directly comparable. However, I do note that in the Rose Farm case there was more extensive information in terms of the business and it included an assessment of the availability of suitable accommodation in the area.
40. I conclude that it has not been demonstrated that the proposed dwelling, which would be an isolated new home in the countryside, would meet an essential need for a dwelling to accommodate a rural worker. The development is, therefore, contrary to the Framework, to the aims of Policy SD42 of the Local Plan if the wider description of 'rural worker' is applied and to BNDP Policy 4 which restricts residential development outside the settlement boundary.

#### *Re-use of existing barn*

41. Policy SD41 of the Local Plan requires, amongst other things, that an agricultural building is worthy of conversion without the need for substantial reconstruction. The SoCG states that this is the particular issue between the parties with regard to Policy SD41. The Structural Report provided by the appellants concludes that the steel frame of the barn is capable of being re-clad and re-roofed and there is very limited substantive evidence before me to suggest otherwise.

42. The existing barn is fully roofed and its substantial side walls are enclosed by metal cladding, therefore the changes to its appearance would not be significant. Based on my consideration of the impact of the works to the barn on the character and appearance of the area I find the alterations that are proposed would be acceptable. Also, I have already concluded that the scale and intensity of the commercial livery use, which would be reliant on the works to the barn, would not be inappropriate in the site context.
43. In summary, notwithstanding the extensive works to the existing barn, I do not find that the development amounts to a new building for equestrian use. Nor would there be any harm arising from the works to the barn, in terms of its design. The SoCG confirms that there is no conflict with Policy SD9 of the Local Plan and I find that there would be no conflict with Policies SD1, SD5 or SD41 of the Local Plan.

### **Other Matters**

44. It was clear from the discussion during the hearing that the appellants have acquired the site with a view to meeting their ambitions to operate two local businesses from it. Mr Williams said that sites like this do not come up very often and he and Ms Crosdil had no intention of selling the site on and leaving the area. They consider that people like themselves are leaving the area because there are no jobs and that consequently villages are dying. Both appellants are clearly passionate about their respective careers. However, whilst I acknowledge these sentiments, they are insufficient, given the limitations of the evidence before me, to outweigh the harm which I have found in terms of the impact on the character and appearance of the site and the surrounding area, placing great weight on its status as a National Park, and the introduction of a new dwelling in the countryside.

### **Conclusion**

45. Although I find the re-use of the existing barn to be acceptable, this finding does not outweigh the harm that I have found in relation to the other main issues. Therefore, for the reasons set out above, the appeal is dismissed.

*Sarah Dyer*

Inspector

THE APPELLANTS

Samantha Crosdil

Henry Williams

FOR THE APPELLANTS:

Nikolas Antoniou

NJA Ltd

Joshua Peacock

Lizard Landscape Design

FOR THE LOCAL PLANNING AUTHORITY:

Piotr Kulik

Chichester District Council

Naomi Langford

Chichester District Council

Charlotte Smith

Hampshire County Council (Landscape Team)

Julia Allen

Bruton Knowles

INTERESTED PERSONS

Ned Mersey

Bignor Park Estate

Sean Friedman

Resident

Lucy Heywood

Resident

Rosemary Trent

Resident

Documents submitted at the hearing:

1. Council's Notification Letter – venue/date/time of the hearing.
2. Comments from Bury Parish Council.
3. Comments from Barlavington Estate