



Planning Inspectorate

Appeal Decisions

Site visit made on 6 January 2025

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Appeal A Ref: APP/Y9507/W/24/3345162

Land West of The Drove, Ditchling, East Sussex BN6 8TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under S73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Conrad Howard against the decision of South Downs National Park Authority.
- The application Ref SDNP/23/04903/DCOND sought planning permission for 'Sui Generis' - use of land for the keeping of 5 or more horses. The "Sui Generis" change of use started some time prior to 2007 without complying with the conditions and the related reasons attached to planning permission Ref APP/Y9507/W/22/3292828.
- The condition in dispute is No 3 which states that within six months of the date of this permission the following shall be submitted in writing for the approval of the LPA:
 - i) a scheme for numbers, sizes and types of equestrian related moveable structures including jumps and a detailed plan showing the location to which they would be confined when not in use such location to be as near as practicable to the location depicted on Plan Ref 2103-SK10 Rev B.
 - ii) a scheme for managing the storage of manure.
 - iii) a scheme for an appropriate conservation-based land management approach to alleviate potential flooding/water logging of the land.
 - iv) a scheme for tree and hedge planting including the quantity, size, species, and positions and density of all trees and hedges to be planted, how they will be protected and the proposed time of planting.
- Within six months of the LPA giving written approval of each of the above schemes each approved scheme shall be implemented in accordance with the approved details and retained thereafter.
- The reason given for the condition is to alleviate potential flooding/water logging of the land and for managing the storage of manure to improve the useability of the land and in the interests of public health and safety and water quality. To control the numbers and positions of moveable structures and to prevent permanent sub-division of the land, other than temporary fencing that may be required to restrict the movement of horses from time to time, and to ensure that tree and hedge planting preserves the character and appearance of the area.

Appeal B Ref: APP/Y9507/W/24/3348645

Land West of The Drove, Ditchling, East Sussex BN6 8TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under S73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Conrad Howard against the decision of South Downs National Park Authority.
 - The application Ref SDNP/24/01000/DCOND sought planning permission for 'Sui Generis' - use of land for the keeping of 5 or more horses. The "Sui Generis" change of use started some time prior to 2007' without complying with the conditions and the related reasons attached to planning permission Ref APP/Y9507/W/22/3292828.
 - The condition in dispute is No 3 (iv) which states that within six months of the date of this permission the following shall be submitted in writing for the approval of the LPA:
 - iv) a scheme for tree and hedge planting including the quantity, size, species, and positions and density of all trees and hedges to be planted, how they will be protected and the proposed time of planting.
 - Within six months of the LPA giving written approval of each of the above schemes each approved scheme shall be implemented in accordance with the approved details and retained thereafter.
 - The reason given for the condition is to ensure that tree and hedge planting preserves the character and appearance of the area.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The National Planning Policy Framework (the Framework) was revised on 12th December 2024. However, I am satisfied that any changes to the Framework have not prejudiced any party in this case. Consequently, in reaching my decision I have therefore had regard to the new Framework published in December 2024, and any reference to Paragraph numbers are to this version.
4. As set out above there are two schemes for the appeal site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The Council's Decision Notice for Appeal A makes reference to drawing 2103-SK10 Rev A (Rev A) and also to drawing 2103-SK10 Rev B (Rev B). The Council has confirmed in writing that it accepted Rev B in lieu of Rev A ahead of their decision related to Application SDNP/23/04903/DCOND. As such, Rev B was included in the appellant's submitted drawings for consideration in Appeal A. I have proceeded accordingly.

6. Appeal B also includes a revised drawing Ref 2103-SK10 Rev C, that was submitted as part of application SDNP/24/01000/DCOND. The Council accepted the revision and has already discharged elements (i), (ii), and (iii) of Condition 3 attached to that scheme, which is noted.
7. Both appeals seek to fully discharge Condition 3 of planning application SDNP/21/00894/FUL, which was approved following appeal¹. They differ in that application Appeal A seeks to discharge elements (i), (ii), (iii) and (iv) of Condition 3, whereas Appeal B seeks to discharge element (iv) alone.

Main Issue

8. The main issue in both Appeals is whether Condition 3 is reasonable and necessary in the interests of preserving the character and appearance of the area.

Reasons

9. The appeal site is a sloping, tree and hedge lined grazing field with equestrian type stores and moveable structures and equipment that is accessed via a part made track from Keymer Road.
10. At the site inspection I noted the limited extent and potential locations of the moveable structures as well as the permitted position of the muck heap in Appeal B to the more shielded northern boundary.
11. In Appeal A conditioned elements (i) and (iii) would replicate those in Appeal B. The location of the muck heap in Appeal A would also benefit from some shielding from trees and hedges to the north, be constructed in natural materials at some distance from a nearby water course in order to avoid nitrate seep.
12. However, the relatively elevated location of the Appeal A muck heap and its position closer to the north-eastern boundary in comparison to that of Appeal B would draw the eye of those passing along the adjoining lane. This would be particularly the case at certain times of the year when leaf cover is less dense. This would detract from views of the Downs and harm the character and appearance of the area.
13. Nonetheless, in both Appeals, the appellant contends that element (iv) of Condition 3 should be discharged as a scheme for tree and hedge planting on the appeal site was submitted within the Council's required timeframe.
14. There are juvenile trees and plants to the northern boundary and towards the centre of the appeal site. Nevertheless, the extent and location of the planting does not fully accord with the submitted drawings of either Appeal. For example, the absence of additional planting to the eastern boundary and the south-east corner of the field.
15. Indeed, whether a land ownership and access matter has been resolved or not, while the proposed location of the new planting in Appeal B is more precise, the exact positioning of the new trees and hedge planting remains limited. Moreover, its overall density once established remains uncertain.

¹ APP/Y9507/W/22/3292828

16. Accordingly, as the planting is incomplete and the details provided insufficient, I cannot be certain if views to the Downs would be maintained and therefore, if the character and appearance of the area would be preserved.
17. Overall, in the planning judgement, even though some elements in Appeal B have already been discharged by the Council, I conclude that when Condition 3 subject of both Appeals is considered as a whole it has not been fully discharged.

Conclusions

18. Paragraph 57 of the Framework is clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
19. Consequently, given my findings above, it is reasonable and necessary to retain the precise and relevant condition in order to preserve the character and appearance of the area.
20. For the reasons given above, Appeal A is dismissed.
21. For the reasons given above, Appeal B is dismissed.

J E Jolly

INSPECTOR