



Appeal Decision

Site visit made on 29 October 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/Y9507/W/24/3339743

Plot 5, Land at Westbury Park, West Meon, Petersfield GU32 1NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Paulette Tuson against South Downs National Park Authority.
 - The application Ref is SDNP/23/02645/FUL.
 - The development proposed is described on the application form as: "Erection of storage building to provide secure facilities on site to give provision for storing tools/equipment. Enclosure of an existing compost unit. With permission for over night stays on site throughout the year and the right to erect, alter and maintain boundary treatments reinstated."
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Decision

1. The appeal is dismissed in so far as it relates to permission for overnight stays on site throughout the year. The appeal is allowed in so far as it relates to the erection of a storage building to provide secure facilities on site to give provision for storing tools/equipment and the enclosure of an existing compost unit at Plot 5, Land at Westbury Park, West Meon, Petersfield GU32 1NB, in accordance with the terms of application SDNP/23/02645/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Paulette Tuson against South Downs National Park Authority (NPA). This application is the subject of a separate decision.

Background and Main Issues

3. The appeal relates to a planning application that was not determined by the NPA within the prescribed period. The NPA would have refused planning permission for three reasons (related to: an alleged failure to justify need for the proposed development; an alleged failure to conserve and enhance the scenic beauty of the landscape; and impact on ecology, trees and biodiversity) should it have decided on the proposal. I have had regard to the parties' submissions in establishing the main issues below.
4. The proposal is part-retrospective, as the application form advises that works started on 12 June 2022. During my site visit, I saw the compost unit enclosure and adjacent pre-existing water tank in the locations as indicated in the submitted plans.
5. The appeal site is also enclosed by fencing and an access gate. The NPA issued an Article 4 Direction which restricts development within the appeal site that

includes, of most relevance to the appeal, fences, gates and other means of enclosure. Part of the original proposal sought to reinstate the right to erect, alter and maintain boundary treatments. However, whilst a Section 78 appeal cannot in any event legally provide a blanket reinstatement of a permitted development right restricted by an Article 4 direction, this particular element of the scheme is not being pursued - as confirmed via a Design Statement Addendum submitted during the determination of the planning application and reflected through the description of development given on the title page of the Council's Statement of Case. I shall determine the appeal accordingly and am content that no party is unfairly prejudiced by me proceeding on this basis.

6. For the avoidance of doubt, the existing enclosures to the site are not for consideration in this appeal. This is not least because they are not included on the submitted plans. Further, as my attention is necessarily focussed upon the planning merits of the specific scheme before me, this appeal procedure cannot consider the lawfulness of existing enclosures, or the legal effect, validity, or reasonableness of the Article 4 Direction, or any related legal action or alleged land access issues.
7. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. Guidance for Relevant Authorities on Seeking to Further the Purposes of Protected Landscapes was also published by the Government on 16 December 2024. In the specific circumstances of this appeal, there is no need to invite further comments on the revisions/guidance from the Council or the appellant, as they have no material implications for the outcome of this appeal.
8. Considering all the above, the main issues are:
 - whether there is an essential need for the proposed development outside of a settlement boundary, including consideration of the need for overnight stays on the site;
 - whether the proposal would conserve and enhance the landscape and scenic beauty of the South Downs National Park (SDNP), including consideration of effects upon tranquillity;
 - the effect on the South Downs International Sky Reserve;
 - the effect on ecology and biodiversity; and,
 - the effect on existing trees.

Reasons

Essential need

9. Whilst there is reference in the evidence before me to overnight stays being infrequent, overnight stays throughout the year have been applied for and there is no indication within the evidence to consider that such stays would be limited to any particular number. Indeed, any such occupational restriction would be challenging to enforce and seemingly at odds with the appellant's intentions for managing the site. Moreover, to consent overnight stays would, in planning terms, be akin to consenting occupation of the site on a permanent basis. My considerations are made accordingly.

10. The appeal site comprises an open agricultural field and an area of woodland within a wider area known as Westbury Park, with access via a gated right of way off Coombe Lane. It is known as "Plot 5" and is alongside a number of other land parcels that have been subdivided into smallholdings.
11. The woodland within the site contains a clearing area under tree canopy which, at the time of my visit, contained an enclosed composting unit (eco toilet), a storage tank for water, a fire pit for burning felled wood and some items covered under tarpaulin.
12. The submitted evidence indicates that Westbury Park has been used for agriculture for many years and was formerly used as a golf course and parkland for Westbury House. The appellant contends that before their purchase of the appeal site, it had become over farmed and filled with non-native species and then left to become a worsened state.
13. The proposal seeks to utilise the land sustainably and enhance its agricultural potential, including use of some of the land for overnight stays to allow for ongoing working on the site and secure storage of equipment and tools. The appellant has the right to grow various crops and use the land for agricultural purposes, which is established as a smallholding rather than a solely commercial enterprise. It is at some distance from where the appellant lives, and it is put to me that this makes it difficult to manage the land on a frequent and sustainable basis without proper facilities for welfare.
14. The site lies in the countryside outside of a settlement boundary. Policy SD25 of the South Downs Local Plan (2019) (SDLP) states that exceptionally, development will be permitted outside of settlement boundaries, where, amongst other things, it complies with relevant policies in this Local Plan and there is an essential need for a countryside location.
15. SDLP Policy SD39 states that development proposals for new buildings or structures (which would include any structure(s) (tented or otherwise) inevitably necessitated by overnight stays – even though full details of such have not been provided in the case of this proposal) for the purposes of agriculture or forestry will be permitted where there is an agricultural or forestry need for the development within the National Park and its scale is commensurate with that need. Development should be related physically and functionally to existing buildings associated with the enterprise, unless there are exceptional circumstances relating to agricultural or forestry necessity for a more isolated location. The main parties, whilst in disagreement that there is a need for the development, accept that the site is isolated, which the appellant puts forward as an exceptional circumstance to allow the proposal.
16. The submitted evidence ultimately does not establish a necessity for a rural worker to live at or stay at the appeal site overnight and all year round for the effective operation of the enterprise. It has not been demonstrated that the intended agricultural processes require permanent on-site occupation, for instance to avoid risk to human or animal health, or to deal quickly with emergencies that could cause serious loss of crops or products. Overnight stays would likely assist in improving the farmland, increasing planting and the general efficiency and productivity of the site, but this has not been proven to be the only option available to meet these aims.

17. It is clear that the appellant has made investments in the existing rural enterprise. The proposal would support a local business providing organic produce, and the NPA has not commissioned a professional agricultural consultant report as part of its assessment. However, it remains the case that no detailed evidence (for example income/expenditure and profit/loss details, or a business plan) has been provided to establish whether the operation of the smallholding can remain viable in the foreseeable future, to justify a permanent presence in this isolated location.
18. The appellant refers to a number of recent incidents of theft, vandalism and trespass, as well as extreme weather. From a crime perspective, there would be security benefits to be had from a permanent presence on site. However, I am unconvinced that alternative potential security measures that do not require such a presence have been either adequately considered or discounted with adequate justification to do so. Further, issues related to extreme weather are unfortunately experienced periodically across many areas, and do not clearly justify overnight stays at this site.
19. The proposed use of part of the appeal site for overnight stays is therefore contrary to Policies SD25 and SD39 of the SDLP, the relevant criteria of which I have identified above.
20. Turning to the proposed storage building specifically, this would be used for storing, amongst other things, various hand tools, seeds, plants, top soil and compost, irrigation equipment, and wood ash from the fire pit for compost enhancement. Whilst the overall size and composition of the site does not allow for a substantial level of farming, I nonetheless find it reasonable for the smallholding to contain a modest storage building as proposed, as well as the existing compost unit. These elements of the proposal therefore do not conflict with SDLP Policies SD25 and SD39.

Landscape and scenic beauty of the South Downs National Park

21. The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for the understanding and enjoyment of those areas by the public. Section 245 of the Levelling-up and Regeneration Act 2023 amends the duty on relevant authorities in respect of their functions which affect land in National Parks, who now must “seek to further” their statutory purposes.
22. Criterion b) to SDLP Policy SD39 requires development to occupy the site best suited to conserving and enhancing the natural beauty of the National Park, amongst other things. The SD39 supporting text advises at paragraph 7.186 that the Authority may require a thorough analysis of reasonable alternative sites, in particular on larger projects, to ensure the optimal location is selected with regard to impact on the National Park’s special qualities. As the land ownership of the appellant is limited to the appeal site only and is of relatively small area, I do not consider such a sequential test to be reasonable.
23. The proposal would be sited under tree canopy within the area of woodland, which provides extensive screening of views. Given that the rest of the appeal site comprises an open field, I am satisfied that the development would be in the best location within the appeal site to meet the above SD39 criterion b) requirement in terms of conserving and enhancing the SDNP’s natural beauty.

24. The scale of the proposed storage building is limited in terms of height and massing, and the structure would be of wooden material with green roof shingles, which is common for rural areas. The design is functional and I am satisfied that the footprint is the smallest possible to meet the appellant's land management requirements. The compost unit enclosure is of slightly smaller height and notably smaller footprint than the proposed storage building, and the buildings would be sited adjacent to each other.
25. Given the siting and limited scale of both proposed buildings, they would conserve the landscape and scenic beauty of the SDNP. Whilst these buildings cannot be said to form an enhancement of the landscape, their siting within the existing woodland area avoids visual harm to the SDNP.
26. The buildings therefore comply with the requirements of Policies SD4 and SD5 of the SDNP when read as a whole and which require, amongst other things, development proposals to adopt a landscape led approach and be of sensitive and high quality design that contributes to the distinctive character, pattern and evolution of the landscape. Whilst I do not have specific details of any structures inevitably necessitated by overnight stays at the site, there is no clear reason for me to come to different findings with respect to this particular element of the scheme.
27. Notwithstanding my above findings, SDLP Policy SD7 sets out that development proposals will only be permitted where they conserve and enhance relative tranquillity and should consider direct impacts from changes in the visual and aural environment. Proposals in highly tranquil and intermediate tranquillity areas should conserve and enhance, and not cause harm to, relative tranquillity.
28. The Policy SD7 supporting text at paragraph 5.43 advises that tranquillity is considered to be a state of calm and quietude and is associated with a feeling of peace. It is a perceptual quality of the landscape, and is influenced by things that people can both see and hear in the landscape around them. Supporting Paragraph 5.44 refers to the SDNP Tranquillity Study (2017). The Tranquillity Study score for the site suggests that it is within an intermediate tranquillity area and following a site visit, I have no reason to disagree.
29. Although the surrounding Westbury Park land has been subdivided, there are no permanent residential uses in the immediate vicinity. The proposed development, including use of the land for overnight stays, would be under tree canopy. I also accept that the appeal site is not publicly accessible or visible from local settlements.
30. The intention is for lighting and late-night activities to be avoided. Movement would be facilitated by torch light which is argued to be no more intrusive than hikers or headlights of a passing car. However, the anticipated noise, movement and light generation generated from overnight stays on the site across the course of any given night throughout the year would inevitably fail to preserve and enhance relative tranquillity. Enhancing the planting on the site may enhance another positive tranquillity factor, but would not mitigate the adverse impacts arising from overnight stays.
31. I therefore find that the proposed use of the appeal site for overnight stays would fail to conserve and enhance the relative tranquillity of the SDNP contrary to the abovementioned relevant criteria of SDLP Policy SD7.

South Downs International Dark Sky Reserve

32. SDLP Policy SD8 states that proposals will be permitted where they conserve and enhance the intrinsic quality of dark night skies and the integrity of the Dark Sky Core. The proposal site is within the Dark Sky Core zone of the South Downs International Dark Sky Reserve, as shown on the SDLP Policies Map.
33. Despite the best intentions to avoid any light generation, I consider it likely that overnight stays would inevitably lead to a significant level of light output beyond the existing situation, especially during winter months. I therefore envisage that the proposal would fail to conserve and enhance the integrity of the Dark Sky Core within the South Downs International Dark Sky Reserve, contrary to SDLP Policy SD8.

Ecology and biodiversity

34. SDLP Policy SD2 sets out that proposals will be permitted where they have an overall positive impact on the ability of the natural environment to contribute goods and services, achieved through the use of high quality design, and by delivering all opportunities to, amongst other things, protect and provide more, better and joined up natural habitats.
35. SDLP Policy SD9 states, amongst other things, that proposals will be permitted where they conserve and enhance biodiversity, giving particular regard to ecological networks and areas with high potential for priority habitat restoration or creation. Up-to-date ecological information should be provided prior to determination which demonstrates that development proposals, amongst other things, retain, protect and enhance features of biodiversity interest, and identify and incorporate opportunities for net gains in biodiversity. Criterion b) to Policy SD39 requires, amongst other things, development to occupy the site best suited to conserving and enhancing the wildlife of the National Park.
36. The site is not within a Locally Protected Site as defined in the Policies Map, but is near to Hen Wood Site of Importance for Nature Conservation (SINC) to the south, Chappetts Copse SINC to the west and Westbury Park SINC to the north. These wooded areas could be capable of supporting protected species locally. Policy SD9 sets out that proposals that will result in any adverse effect on the integrity of any local site (including SINC) which cannot be either avoided or adequately mitigated will be refused, unless exceptional circumstances outweighing the adverse effects are clearly demonstrated.
37. Hampshire County Council's Ecology Team has however raised concerns regarding lighting impacts to bats and dormice arising from the proposed overnight stays. Hampshire & Isle of Wight Wildlife Trust (HIWWT) has raised an objection due to potential damage to species that the Trust's Chappetts Copse site supports, including bats, dormice, rare plants and fungi.
38. The Natural Environment and Rural Communities Act 2006 (as amended) includes a duty under section 40(1) that every public body must, in exercising its functions, have regard to the purpose of conserving biodiversity. To assist in meeting this duty, an ecological survey undertaken by an appropriately qualified person could accurately establish a baseline against which the effects of a development proposal are to be judged. No such surveys are before me.
39. It is put to me that the required ecological surveys could be secured via planning condition. The appellant has also articulated a keen desire to enhance

the biodiversity of the site, following advice from the Forestry Commission and the HIWWT. During my site visit, I noted new trees and hedges grown within the site and installation of some bird boxes on mature trees.

40. However, without the information provided by an ecological survey, I am unable to determine the full effect of an appeal proposal that would cater for overnight stays at the site on ecology and biodiversity, including protected species. As such, I must take a precautionary approach and conclude that the proposal would conflict with the above relevant criteria of Policies SD2, SD9 and SD39 of the SDLP. That said, the modest storage building and compost unit enclosure elements of the proposal, considered in isolation, could not be fairly anticipated to result in any adverse ecological/biodiversity effects nor conflict with the aforementioned policies of the SDLP.

Trees

41. SDLP Policy SD11 states that proposals will be permitted where they conserve and enhance trees, hedgerows and woodlands. Development proposals that affect trees, hedgerows and woodland must demonstrate that they have been informed by a full site survey, including an Ecological Survey, Arboricultural Method Statement and associated Tree Protection Plan, and include a management plan.
42. The existing compost enclosure and proposed storage building and area for overnight stays would use an existing woodland clearing. There is no requirement to remove any of the existing mature trees. No tree survey has been provided. However, given the nature, scale and siting of the proposed development, I am satisfied that appropriate tree protection measures could have been secured by means of a suitably worded planning condition, had I been minded to allow the appeal in full.

Other Matters

43. For the avoidance of doubt, whilst concerns have been raised via the Council's Statement of Case that opportunities to sustainably manage water environments and conserve water resources may not be delivered, I am satisfied that a rainwater harvesting system could be satisfactorily secured via condition in the event the appeal be successful
44. I appreciate that the appellant has invested a considerable amount of time, effort and money and has raised concerns about the way in which the NPA dealt with the planning application at the site. These matters are subject of a separate application for costs against the NPA and have no bearing on my determination of the appeal, which I must determine on its own planning merits having regard to case and site-specific circumstances.
45. The appeal submission refers to planning applications looking to redevelop the Westbury Park estate. The appellant has also sought to work with the NPA and follow their pre-application advice with a scaled back proposal and relocated structures, and argues that an alternative provision of communal facilities would require a larger structure and create an increased burden in terms of management and maintenance. The specific details of the original proposal or any potential communal scheme are not before me and thus have not had a bearing on the determination of this appeal. In any event, it is my

responsibility to consider the scheme that is before me upon its own individual merits.

46. My attention has been drawn to prior approval recently granted by the NPA¹ for camping under permitted development rights² within the land parcel immediately south of the appeal site. It is contended that the same camping facilities could be provided on the appeal site through submission of notification in writing to the NPA before commencement of development in each calendar year, along with the required information. However, a temporary recreational campsite use is not before me for determination in this appeal. The prior approval procedure is also not as comprehensive as the full planning assessment that must be undertaken for the current proposal, which includes unrestricted overnight stays. Temporary campsite uses within or adjacent to the appeal site are therefore of limited relevance to my considerations.

Planning balance

47. When considering the scheme as a whole so as to include the proposed use of land for overnight stays, I have found significant conflict with Policies SD2, SD7, SD8, SD9, SD25 and SD39 of the SDLP. I therefore conclude that the proposal is contrary to the development plan taken as a whole.
48. Paragraph 88 of the Framework states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural enterprises. The appellant sets out that the proposal represents an exemplary case of small-scale agroforestry, sustaining the local economy and providing farm and forestry diversification. Increased diverse planting could assist in mitigating climate change, and support the local economy with sustainable production of food harvested and processed for local sale. The proposal could also promote farming and the local rural ecosystem, and would form part of a rural supply chain. Lessons learned could be shared with the wider landowners and the local community, promoting opportunities of understanding and enjoyment of this area of the SDNP. Having regard to the size of the enterprise, moderate weight is afforded to the above economic, social and environmental benefits.
49. I acknowledge that Hampshire County Council raised no objection from a highways perspective, commenting that the proposal would result in less need to travel and from the site. However, whilst providing the opportunity for overnight stays within an isolated location could lead to a reduction in private car trips, such a reduction would necessarily be small and attract limited weight as a scheme benefit.
50. The appellant has provided a doctor's letter which states that spending time on the appeal site has aided physical health recovery, mental health and stress reduction. Dismissing the appeal would not however stop the current agricultural use of the site and the associated health benefits from time being spent there. I do not therefore attribute material positive weight in the planning balance in this context.

¹ NPA Ref: SDNP/24/01785/24BC

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as Amended): Schedule 2, Part 4, Class BC - temporary recreational campsites

51. I note here that the Government's published guidance for relevant authorities on seeking to further the purposes of Protected Landscapes advises that if there is a conflict between the two statutory purposes of National Parks, as the relevant authority I must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.
52. The scheme's benefits, when considered cumulatively, would not outweigh the significant harms I have identified on the basis of: no essential need for overnight stays in a countryside location having been demonstrated; a failure to conserve and enhance the relative tranquillity of the SDNP; and a failure to demonstrate an acceptable effect upon ecology and biodiversity, which should be given great weight in accordance with the terms of the Framework.
53. Notwithstanding the above findings, the proposed storage building and compost unit would comply with relevant requirements of the SDLP and not cause any material harm(s) when considered in isolation. There is thus no justification for me to withhold granting planning permission for these particular elements of the scheme. Moreover, as they are severable from the remainder of the proposal, I am able to issue a split decision.

Conditions

54. I have considered the Council's suggested conditions against the tests in the Framework and Planning Practice Guidance (PPG), and have amended their wording, where necessary.
55. As the proposal is part-retrospective, a condition specifying the time limit for the commencement of development is unnecessary. A condition is necessary to clarify the approved plan details in the interests of planning certainty. I have deleted reference to the application form and location plan as they are not approved plans and added the drawing numbers for clarity.
56. The Council suggests a pre-commencement condition requiring tree protection measures to be installed during the period of development works, which I consider to be necessary and reasonable having regard to the location of the proposal. The appellant has some concern regarding the timescale for the condition details to be reviewed. Legislation³ requires the Council to give notice to the applicant of their decision within a period of 8 weeks beginning with the day immediately following that on which the application is received, or such longer period as may be agreed by the applicant and the Council. Beyond that, there is recourse under the deemed discharge procedure, which the PPG⁴ describes as being designed to avoid unacceptable delays at a stage in the development process where applicants are close to starting on site.
57. I have added a further condition to ensure that the storage building is constructed with appropriate external materials for the area. Given the rural location of the site within the SDNP, and having regard to the PPG, it is necessary and reasonable to remove permitted development rights in order that the storage building and compost enclosure remain in agricultural use. In the event that these buildings cease to be used or required for such purpose, the Council has suggested that it shall be removed. However, the PPG⁵ advises

³ Articles 27 to 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

⁴ Paragraph: 041 Reference ID: 21a-041-20190723

⁵ Paragraph: 014 Reference ID: 21a-014-20140306

that a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. A change of use of these buildings would also require additional planning permission in any event. The condition I have attached therefore does not require such removal in the aforementioned circumstances.

58. A rainwater harvesting scheme condition is necessary in the interests of sustainable management of natural resource. As I am dismissing permission for overnight stays on site throughout the year, the Council's suggested conditions regarding further ecological survey and assessment, camper van restriction and further external lighting details, are not necessary.

Conclusion

59. For the above reasons, I conclude that the appeal should be allowed only in so far as it relates to the proposed storage building and the existing enclosure of the compost unit, but dismissed in so far as it relates to overnight stays on site throughout the year. When assessed in its entirety, the proposal conflicts with the development plan when read as a whole and the material considerations before me, including the Framework, do not lead me to a decision otherwise.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following plans (only in so far as they relate to the erection of a storage building to provide secure facilities on site to give provision for storing tools/equipment and the enclosure of an existing compost unit):
Site Plan and Elevations (Drawing No. 22029 101)
Site Section (Drawing No. 22029 101)
- 2) No development of the storage building hereby permitted shall commence on site until protective fencing has been erected around all close by trees, shrubs and other natural features and shall be retained for the duration of the works and shall be in accordance with the recommendations of BS5837:2012, unless otherwise agreed in writing by the Local Planning Authority. No placement of goods, soil or other materials shall take place inside the fenced area(s) during the works. No burning of materials shall take place where it could cause damage to any tree or tree group to be retained on the site or on land adjoining. No soil levels within the root protection area of the trees/hedgerows to be retained shall be raised or lowered.
- 3) The storage building hereby permitted shall be constructed with wooden external materials with green roof shingles as indicated on Drawing No. 22029 101.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, reenacting or modifying that Order) the storage building and compost enclosure hereby permitted shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act, 1990.
- 5) The storage building hereby permitted shall not be first brought in to use until a rainwater harvesting scheme has been implemented in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall thereafter be retained and maintained.