



Appeal Decision

Hearing held on 29 April 2025

Site visit made on 30 April 2025

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

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025.

Appeal Ref: APP/Y9507/W/24/3354708

Land at Queens Field, New Way lane, Hurstpierpoint, West Sussex, BN6 9PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms and Mr Trudie and Micko Vries and Spasevski against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/24/01592/FUL.
 - The development proposed is for the erection of an agricultural barn, temporary dwelling in connection with agricultural use, access track.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For certainty, I have used the appeal site address given on the South Downs National Park Authority (SDNPA) decision notice.
3. The SDNPA confirmed a number of updated drawings submitted by the appellant were consulted upon as part of the appeal application. I have determined the appeal on this basis.
4. The National Planning Policy Framework (the Framework) was revised in December 2024. 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 and its relevant Paragraph numbers.
5. At the Hearing it was brought to my attention that the SDNPA has an emerging Local Plan. However, as the Plan is yet to be adopted the SDNPA attribute it limited weight. I see no reason to disagree.

Main Issues

6. The main issues in this appeal are:
 - whether there is an essential agricultural need for rural worker's accommodation on the site,
 - the effect of the proposal on the character and appearance of the scenic beauty of the South Downs National Park (SDNP), the setting of the Clayton Conservation Area CA and nearby listed buildings; and,
 - the effect of the proposal on biodiversity.

Reasons

Essential need

7. At the Hearing I heard that the appellants propose to create a micro agro-ecological smallholding. The smallholding would include a barn for the purposes of quail farming, the growing of micro-greens and the establishment of a vermi-composting system. A temporary dwelling for the appellants' family would also be constructed that would be accessed from the site entrance on New Way Lane over an interlocking mud control slab track.
8. The SDNPA brought to my attention that to be permitted the proposal would need to meet a number of criteria set out in Policy SD32 (4) of the South Downs Local Plan (2019) (SDLP). The policy requires that any development in the countryside should be essential to support agricultural enterprise. Moreover, temporary dwellings will only be permissible if it has been demonstrated that there is a firm intention and ability to develop the enterprise, that there would be a clear functional need and that it has been planned on a sound financial basis. Further that the location would be suitable for a permanent agricultural dwelling and that the temporary dwelling could be easily dismantled and/or taken away.
9. I heard that the SDNPA has outstanding concerns related to a direct functional need for the development and it also remained unconvinced that the proposed enterprise would commence on a firm financial basis, particularly as it considered the quail egg market to be saturated. Furthermore, the SDNPA reported that cost estimates within the submitted business plan lacked substance and/or were incorrectly calculated or missing. For example, but not limited to, costs related to the purchase of new equipment, ongoing services and quail feed. I also noted that there were conflicting calculations for staffing and salary costs in the revised business plan. Doubts were also raised by the SDNPA related to the suitability of the barn layout for the range of products proposed and the predicted profits associated with the projected egg numbers, particularly as the appellants wish the enterprise to remain as a micro entity.
10. The appellants conceded that the 'Feathers and Talons' business is not yet commercially active and that they could not be certain how the market would develop. However, it was clear that the appellants have a firm intention to develop the enterprise and had used their knowledge, experience and connections in the restaurant and food industry to undertake research into the quail egg/meat and microgreen market. It was also brought to my attention that the appellants' business plan has been updated from its original iteration and includes aspirations for increased bird numbers over a 3-year period to 1000 quails with the intention to expand both egg and meat sales to meet estimated profit levels.
11. In support of their case, the appellants also asserted as most quail eggs are sourced from France that they were confident that demand for quail eggs in the UK remains high; and in any event that the ratio between meat and egg production could be adjusted when demand is more certain. Further, that there would be the potential for the sale of excess egg supply and meat to pet or zoo outlets and the production of pickled eggs during times of fluctuating production or demand.

13. Nonetheless, the fact remains that there is no certainty as to whether the barn set-up would be practical and expandable to meet this aspiration. I acknowledge the updated barn layout. However, notwithstanding the ridge and elevation vents which have been added to the barn for climate control, detail was lacking related to the overall use of the barn space, such as the precise set up and size of the quail cages, information pertinent to preparation and separation of the egg, meat and microgreen products for the purposes of food hygiene, the chill storage locations and the division of areas available for packing and dispatch of the goods.
14. Therefore, given the limits of the appeal site which is subject to an Article 4 direction, even if labour requirements and other costs were to be correctly identified it is unclear whether the barn space would be adequate for the proposed enterprise either now or in the future. Despite the appellants' claim that they would be adaptable and flexible in this respect and that further revisions to the set-up would be possible during and at the end of the 3-year temporary permission, to my mind these matters need to be clarified to a very high level of certainty from the outset for a proposal such as this to be successful, especially as the barn element of the development would be a permanent structure.
15. Moreover, even if production of raspberries and strawberries on the site were to be acceptable and possible on the constrained space available, I was provided with no substantive evidence from London restaurants, public house chains or other associates known to the appellants to confirm that these businesses were willing to purchase the proposed products from 'Feathers and Talons' on a regular basis. Indeed, as a trusted supply chain is likely to be of utmost importance to these types of businesses, whilst the total amount of eggs, meat, and micro greens produced by the proposed enterprise remains unknown, it would seem very unlikely that businesses would be willing to enter into a firm contract with the appellants as there are already established suppliers elsewhere.
16. Drawing this together, from the submitted evidence and the discussion at the Hearing, it is clear that the cost and profit levels for the proposed business have not been adequately substantiated by the appellant and that the business plan has been compiled on a number of unsupported assumptions and projections for all areas of the proposed enterprise. Consequently, and as forward funding is not yet in place for the proposed business, I am not persuaded that the enterprise has been planned on a sound and convincing financial basis or that it would succeed in the long-term.
17. Turning to the matter of suitable location, the appellants contended that the dwelling and barn development on the appeal site would be essential to support the proposed agricultural enterprise. The appellants argued that as farmers work long hours to meet business needs it would be necessary for the appellants family to live on site in the interests of quail welfare and to care for plant crops. Overnight security concerns were also raised as the appellants worry that if they were living elsewhere that the business would be vulnerable to theft, water and feed system failures or attacks by foxes or other vermin in the absence of a 24/7 presence on site.

18. I find to the contrary, while I acknowledge that in certain circumstances larger animals such as horses and sheep may need round the clock attention at certain times of the year, for example during foaling and lambing, I have been provided with limited evidence that this is the case for quails, their eggs and chicks, or microgreen plants in order to justify the construction of a temporary family dwelling on the appeal site.
19. In respect of security concerns, technical solutions have been discounted by the appellants as a suitable alternative to accommodation on site in the event of emergency need. However, I heard from the SDNPA that nearby settlements include Hurstpierpoint, Hassocks, Burgess Hill and Brighton which are likely to offer a range of accommodation options for family living. Furthermore, despite the appellants' fears, travel times to and from nearby settlements are relatively short, especially during the night when traffic congestion thwarting quick access to the site is very unlikely to occur. Moreover, while I heard the appellants reservations regarding affordability of rental properties, I have no substantiated evidence before me regarding rental levels in those settlements or whether they would be affordable to the appellants or not. As such, in this case, I consider technical solutions to be a reasonable alternative to an onsite dwelling.
20. Even if I were to find otherwise, while the proposal is for a temporary family home, it appears it would be of a robust construction that would be unlikely to be easily dismantled or taken away in comparison to a more temporary structure such as a mobile or modular home which are common to this type of venture.
21. Accordingly, for the reasons given above, justification for an essential agricultural need for a workers dwelling on the site has not been met. Therefore, the proposal is contrary to Policies SD25, SD32 and SD39 of the SDLP when read as a whole.

Character and appearance

a) Scenic beauty

22. The appeal site is formed of Plots 20 and 21 of Queens Field which is located in the countryside as part of the SDNP and adjacent to the CA where a number of Grade II listed buildings can be found including Clayton Tunnel and the 'Jack and Jill' windmills.
23. The surrounding area is characterised by scattered woodland, undulating agricultural and pasture type fields that are bounded by hedgerows set against the chalk slopes and hills of the Adur to Ouse Scarp, including Wolstonbury Hill and the South Downs Way which can be seen to the south-west of Queens Field.
24. Queens Field is accessed from a gate on New Way Lane which is a Historic Rural Road to the northwest of the site that is lined by a low hedge. The field is subject to an Article 4 direction and divided into numerous plots including the appeal site of Nos 20 and 21. The grassland field has low-lying shrubs and brambles as well as some plots which are lined or scattered with juvenile trees. The appeal site is located in the south-eastern corner of the field which is an elevated plot adjacent to established woodland. The site is bounded by a railway track to the east, and a hedge and tree-lined bridleway to the west.

25. The Framework is clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which are afforded the highest status of protection. I am also mindful of the statutory duty 4, which is now set out in S45 of the Levelling-up and Regeneration Act 2023 (LURA) which amended the earlier duty which requires that relevant authorities must 'seek to further' the statutory purposes of Protected Landscapes. The statutory purposes of the National Parks are set out on the DEFRA guidance as; conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas designated and the requirement to promote opportunities for the understanding and enjoyment of the special qualities of those areas by the public.
26. The appellants contended that the site is not particularly rare or representative of the surrounding landscape and that the proposal would be 'discreet' and located to the corner of the appeal site. However, notwithstanding that the appellants' Landscape Visual Impact Assessment which states that the visual impact of the development would be reduced by surrounding infrastructure and other visual 'clutter', there can be no doubt that the scale and mass of the two bulky structures would be readily visible to those visiting popular bronze and iron-age features or using footways leading to and from Wolstonbury Hill, including the South Downs Way from which unfettered viewpoints towards the appeal site and the countryside beyond can be enjoyed. Moreover, at certain times of the year when leaf cover is less dense, the development would also be seen by those travelling or walking along New Way Lane. Additionally, the dwelling would be accessed via an 'L' shaped interlocking mud slab track lined by wildflowers. The appellants said the track had been chosen in place of a crushed chalk option as it would restrict compression of grass and soil to the limits of vehicle tyre tracks and have a lower visual impact in the wider views. However, the SDNPA stated that it could not be certain if the track was wide enough to accommodate the wildflower planting suggested, which in any event it considered to be uncharacteristic planting on the simple grassland field which would be likely to become muddy, slippery and unattractive during wetter weather. Indeed, whether wildflower planting would be viable/acceptable or not, I am in no doubt that regular vehicle movements along the track and the associated glint of glass and metal from those vehicles would be likely to draw the eye from distant views towards other domestic paraphernalia associated with the dwelling. For example, but not limited to, parked cars, garden seating, barbeques, washing lines and play equipment. Increased landscaping options, such as fruit trees, would not be adequate mitigation.
27. Furthermore, notwithstanding the National Trust's suggestion for additional screening, the SDNPA argued that contrived and 'neat' subdivision of the site, which already includes an uncharacteristic avenue of trees along the proposed access way, would further erode its historic pattern. I see no reason to disagree. As described by the SDNPA, I also concur that the barn would be at odds with local agricultural buildings, which I noted at my site inspection are mostly road facing structures in the surrounding area that are found near to access ways, and that the proposal would compromise the 'lush greenery' space between nearby settlements and harm the scenic beauty of the SDNP. This would be the case whether the site is considered to be either class B or D.
28. As such, while the proposed development would be constructed in traditional materials, its raised corner location on Queens Fields would make it a prominent and incongruous addition to the unfettered field.

b) CA and heritage assets

29. At the Hearing the appellants argued that nearby heritage assets are relatively distant to the appeal site and are, or could be, hidden by landscaping. At my site inspection I noted that the CA is found across the relatively wide A273 Highway, the 'Jack and Jill' windmills can only be seen from Queens Field in the longer views and that the octagonal turreted Clayton Tunnel is set down from the site and screened in part by hedging and trees. Therefore, while mindful of the SDNPA's Historic Buildings Officer who found no direct impact on the nearby listed buildings, I conclude that there would be a limited effect on the setting of the CA and nearby listed structures.
30. Paragraph 212 of the Framework and the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are matters of considerable importance and weight. In this respect, overall I conclude that the proposal would result in 'less than substantial harm' to the setting of the nearby listed buildings and the setting of the CA as designated heritage assets. It is important to note the 'less than substantial harm' does not equate to a less than substantial planning objection. Furthermore, Paragraph 215 of the Framework requires that 'less than substantial harm' should be weighed against the public benefits of the proposal. I will return to this later in my decision.
31. Consequently, given my findings above, the proposal would harm the character and appearance of the scenic beauty of the SDNP and fail to preserve or enhance the setting of the nearby listed buildings and the setting of the CA and hence be contrary to Policies SD1, SD4, SD5, SD6, SD12, SD21, SD25 and SD39 of the SDLP and the National Parks First Purpose, which are clear that planning permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the SDNP.

Biodiversity

32. The general biodiversity gain condition has a statutory basis as a planning condition under Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended). The condition is deemed to apply to every planning permission granted for the development of land in England, unless exemptions or transitional provisions apply. This condition is separate to the conditions suggested by the SDNPA. However, Article 7A, part 7A of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) sets out the minimum information that should accompany proposals that are subject to the biodiversity gain condition requirement.
33. In this case the proposal did not include a reptile survey and in the SDNPA's view the subsequent small site matrix was completed incorrectly in relation to the extent of the site assessed, the suitability of the non-native wildflower planting possible on the site, and the ecological value of the proposed pond and additional trees. As a result, the SDNPA did not agree with the appellants' claim that there would be a 20% Biodiversity Net Gain on the site and denied that 'trading rules' had been met.

34. Nonetheless, in order to make a scheme acceptable, it should be considered whether the biodiversity gain requirements are capable of being discharged successfully through the imposition of conditions. Therefore, in addition to the statutory condition, I have considered the use of suitable condition(s) to secure BNG on the site. However, given the limit of the information available and the appellants' position at the Hearing regarding the necessity of reptile surveys ahead of planning approval, the exclusion of new buildings and areas of hardstanding in the existing calculations and the uncertainty as to the suitability for habitat related to the use of interlocking mud control slabs on the site, it is unclear to me whether the required BNG or a sufficient degree of mitigation and future monitoring could be met. No exceptional circumstances exist. As such, the use of condition(s) or other mechanisms such as biodiversity credits would not be reasonable in this case.
35. For the above reasons, and taking a precautionary approach, I conclude that the proposed development fails to demonstrate adequate provision for BNG. It follows then that the proposal would be contrary to Policies SD2 and SD9 of the SDLP as supported by the SDNPA BNG Technical Advice note which require amongst other things that proposals conserve and enhance biodiversity, and retain, protect and enhance features of biodiversity and supporting habitat, and ensure appropriate and long-term management of those features.

Heritage Balance and Other Matters

36. I have found that the proposed development would harm the character and appearance of the scenic beauty of the SDNP and fail to preserve or enhance the setting of the character and appearance of the CA. It would also have a harmful effect on the setting of the nearby listed buildings. In accordance with Paragraph 215 of the Framework, I am required to assess the extent of such harm.
37. Economic benefits would include employment opportunities connected to the construction of the barn and dwelling and the establishment of a new rural business. There would be future patronage of local services by the new occupiers and their employees. However, as the proposal is small scale and the construction period short-term, I afford these benefits minimal weight.
38. The proposal would be a low waste, low impact, sustainable micro agro-ecological smallholding that would contribute to food security and tend to the upkeep of the site. I attribute this moderate weight. The appellant stated that the site has the potential to provide educational opportunities in the longer term. As this is far from certain, I give this social benefit little weight.
39. I note that the appellants hold a DEFRA licence regarding the suitability of the site for agriculture, have ownership of the accessways across the site and that the success of the business would help family income. I also acknowledge that there are other operations and activities nearby such as a winery, an equestrian business and a quarry. However, I have limited details of those schemes before me which are very different to the proposal and/or may have been permitted under a different development altogether.
40. Overall, I conclude, even when considered in combination, that the benefits of the proposal and other considerations do not outweigh the harm to the scenic beauty of the SDNP and the 'less than substantial harm' to the setting of the CA and the setting of nearby listed buildings I have found above.

Conclusions

41. Having considered all matters raised in support of the proposal, I find that the other considerations in this case do not clearly outweigh the substantial and demonstrable harm that I have identified above. Accordingly, the proposal is in conflict with Policies in the SDLP, the Framework and the First Purpose of the National Park when considered as a whole, and as there are no other material considerations that indicate a decision other than in accordance with those Policies, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR

APPEARANCES:

For the Appellant:

- Mr Micko Spasevski - Appellant
- Ms Trudie Vries – Appellant
- Ms Suzanne Asher – Asher Planning Ltd

For the Local Planning Authority - (South Downs National Park Authority)

- Ms Julia Allen – Rural Surveyor - BA (Hons) MRICS FAAV
- Ms Stella New – Planning Development Lead - MSc MRTPI
- Mr Sam Whitehouse – Planning Case Officer - MSc

Others/Observers:

- Helen Wiggins – Resident

*****End*****