



Appeal Decision

Site visit made on 28 May 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22ND July 2025

Appeal Ref: APP/Y9507/W/25/3362006

Foxbury Farm, West Burton Road, West Burton, West Sussex RH20 1HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr A Redman against the decision of South Downs National Park Authority.
- The application Ref is SDNP/24/05126/PA3R.
- The development proposed is for the three agricultural buildings and silos to change use to Class C1 (Hotel) under Class R of the General Permitted Development Order 2015 (as amended).

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The submitted location plan labels the highway that the appeal site is accessed from as West Burton Lane. The application form, decision notice and appeal forms however provide the address as West Burton Road, which is also referred to as such by other interested parties in their representations. For clarity, and as this highway is rural in character, I refer to it as “the lane” from hereon in.

Main Issues

3. The National Park Authority (NPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the NPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out under Class R. Based on all of the submitted evidence, the main issues are whether or not prior approval should be granted, having regard to:
 - transportation and highway impacts of the development and;
 - noise impacts of the development.

Reasons

Transportation and highway

4. The appeal proposal relates to three barn buildings and three grain silos, with vehicular access off the lane. The permitted development right under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) allows for the change of use of an agricultural building to a flexible use falling within one of a list of use classes as set out in the Use Classes Order. This includes a hotel, and the proposal is further described by the main parties as an aparthotel.

5. Although the submitted plans include achievable visibility splays, this requires a proposed realigned vehicular access outside of the red line boundary of the appeal site. This is supported by West Sussex County Council Highways Authority, as set out in their consultation response. However, as Class R does not permit operational development, these works cannot be considered as part of the appeal proposal. Such works would require additional planning permission from the NPA.
6. Paragraph 116 of the National Planning Policy Framework (the Framework) sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, taking into account all reasonable future scenarios.
7. Even if it can be assumed that the access realignment would be included within a subsequent full planning application for the associated operational development required for the change of use, it remains that separate planning permission is still needed for such operations, and is not given under the GPDO. In the absence of such permission, there is also no mechanism currently available to ensure that appropriate realignment works (if granted planning permission) would be completed prior to implementation of the current proposed use.
8. Turning to the existing site access from the lane, I noted during my visit that visibility to the north was noticeably restricted by dense shrubbery on a raised verge. It appears that much of this shrubbery is within the application site red line and could thus be reduced in height under control of the appellant. However, visibility would still be restricted by the acute angle between the lane and the existing access route within the appeal site.
9. Looking southwards, I found visibility from the existing access to be restricted by a decline in the lane gradient adjacent the Cross Street Farm access. Existing visibility to the north and south is therefore significantly less than the approximately 86m and 109m distances indicated for the proposed realigned access.
10. I observed traffic speeds and levels to be low at the time of my visit, which may be due to the narrow and undulating nature of the lane. The submitted evidence however does not demonstrate the actual average speeds in each direction approaching the site access. Visibility splay distances for the existing site access are also not before me. I therefore have insufficient evidence to conclude whether the existing vehicular access has sufficient and safe visibility for the proposed change of use. Taking a precautionary approach, I conclude that there would be harm to highway safety in this respect.
11. The lane in the vicinity of the access is also narrow with no centre line and limited passing points. Verges on both its sides had areas of tall and dense shrubbery at the time of my visit. This restricts the ability for two vehicles to pass each other, as well as the manoeuvrability needed for larger vehicles to acutely exit right from the existing access, which would require three-point turns in some instances. Additionally, the existing acute access angle would also obscure views of vehicles exiting the appeal site for those travelling southbound along the lane. All these matters would lead to conflict between vehicles, and with other highway users, and amount to an unacceptable impact on highway safety.
12. It is put to me that the existing access has been used regularly by large farm vehicles on a day-to-day basis. This has however not been corroborated by evidence. It has therefore not been demonstrated that the existing or recent

frequency and nature of vehicle movements entering and exiting the site is comparable to or worse than that which would likely be generated by the proposed change of use. The lack of an accident record at the established access point does not in itself demonstrate acceptable highway safety for the proposal, given that only crashes which involve personal injuries are recorded by the police.

13. The appeal submission includes a Vehicle Trip Number Technical Note. Having regard to this and the anticipated characteristics of the proposed use, I do not envisage a severe impact on the road network, even when accounting for the rural location, and staff and supply vehicles entering and leaving the site.
14. I however found that the proposed parking area for ten vehicles is largely beyond the existing hardstanding area. The proposed block plan also indicates that much of the existing hardstanding areas adjacent the barn buildings would be removed to provide outdoor recreation space for the proposed aparthotel units. This therefore amounts to further operational development requiring planning permission beyond the scope of Class R.
15. From what I also saw on site, there appears to be some additional hardstanding when compared to the photographs provided within the Planning Statement dated December 2024. It is unclear as to whether this requires or benefits from planning permission. I therefore cannot include these areas as potential parking space for the proposed change of use. It has thus not been demonstrated that sufficient off-street parking space is available to facilitate safe operation of this change of use.
16. For the above reasons and based upon the evidence before me, the proposed change of use would result in unacceptably harmful transportation and highway impacts that would be prejudicial to highway safety.
17. A public right of way (PRoW) runs through the appeal site. An alternative permissive route has been provided, although this does not have the same legal force as a PRoW. Any deliberate obstruction of a PRoW would be an offence subject to separate legislation. Any grant of planning permission would also not of itself authorise any obstruction of a PRoW. The existing route and condition of the PRoW, and the legal status of the alternative permissive route, are therefore not matters that can be determined under this s78 appeal.

Noise

18. Class R of the GPDO does not explicitly refer to tranquillity as one of the issues to be determined under this prior approval procedure. Nor does it preclude land within a National Park. However, tranquillity in audial terms can be relevant when assessing the existing ambient noise levels and characteristics of an area.
19. Paragraph W.10(b) of the GPDO requires the decision-maker to have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Framework Paragraph 198 sets out that planning decisions should ensure new development is appropriate for its location taking into account, amongst other things, the likely effects of pollution on living conditions, as well as the potential sensitivity of the wider area to impacts that could arise from the development.
20. In this respect, the Framework states that potential adverse impacts resulting from noise from new development should be mitigated and reduced to a minimum.

Tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value should also be identified and protected.

21. Although my visit was a snapshot in time, ambient noise levels within the site and along the lane were generally low. Audible noise included vehicles traversing the lane, birdsong, farm animals, hedge trimmers and a radio in a nearby garden. I did not find the site and surrounding area to be highly tranquil in audible terms, given the proximity to the lane and the presence of buildings in the wider vicinity. A certain sense of tranquillity can nonetheless be experienced, and this is in part due to the overall low ambient noise levels in a rural setting.
22. I accept that aparthotel facilities in rural locations would often be occupied by families, and that they would not be fully occupied throughout the year. However, the proposal indicates a significant level of internal and external communal recreation space, both in absolute terms and relative to the number and size of the proposed aparthotel units.
23. These recreational facilities would be within and around the easternmost “Barn 3”, as annotated on the proposed block plan. It would amount to 281sq m of floorspace, annotated as including a “gymnasium/TV room”. It would also include 281sq m of external open space adjacent Barn 3, on an elevated position relative to the surrounding open countryside. Although the large terrace as indicated may require additional planning permission as operational development, this is nonetheless a clear indicator of the intended use of this external space.
24. The land also declines significantly towards the northern site boundary, allowing views of a two-storey dwelling to the northeast, albeit at a distance from the barns and silos. There is closer proximity between the barns and the nearest dwelling to the southwest (Cross Street Farm), with some intervening shrubbery.
25. The extent of recreational facilities relative to the proposed accommodation would make it attractive for various indoor and outdoor social activities associated with the aparthotel use. This could cause significant noise impacts, given the elevated siting and the relatively tranquil noise climate, even if the overall use would not be a significant employment generator. The noise generated could travel at significant distance across the surrounding area, and extend to later evening and night times. The extent and characteristics of such activities would to my mind go beyond what would be reasonably generated by a Use Class C3 dwellinghouse use.
26. The proposed use would therefore likely generate substantially greater noise and disturbance levels than what is currently experienced by occupiers of the neighbouring dwellings. Even if this noise generation would not exceed the relevant industry standards, I anticipate that the impacts would still be greater than what neighbouring residents would reasonably expect to tolerate in such a rural and relatively tranquil location.
27. No information is before me regarding the acoustic qualities of the existing building materials. The barn buildings contain some open elevations, and their enclosure would be subject to a separate planning application. The anticipated materials for these works are also not before me, and neither are any other noise mitigation or management measures. Whilst noise from air conditioning units and extraction systems could be secured by means of planning condition, had I been minded to allow the appeal, I am not satisfied that the other anticipated noise generation can be adequately secured by condition.

28. I therefore conclude that the change of use would likely cause unacceptable noise impacts on neighbouring residential occupiers. This forms an additional reason to refuse prior approval.
29. Although recent agricultural traffic emanating from the site has not been demonstrated, the anticipated level of traffic generation arising from the proposed use would not lead to a substantial increase in traffic noise beyond the existing use of the lane. Whilst the identified noise impacts may be experienced by users of the PRoW within and near to the site, this would not stop the overall ability to use the PRoW for recreational purposes.

Other Matters

30. The existing site vehicular access visibility is referred to by a previous Inspector in a 2024 appeal decision¹ as “currently acceptable when exiting the site and looking towards the north”. This Inspector also commented that “much of the bank is presently mostly sparsely-populated by vegetation”. I also note that Chichester District Council’s Environmental Health Officer (EHO) raised no objection in consultation, subject to the imposition of conditions relating to external mechanical plant, delivery hours and the potential of contaminated land being present.
31. I note however that the previous Inspector visited the site in wintertime, when vegetation may have been less tall or dense than what I observed. The full evidence considered by that Inspector is also not before me. It is unclear as to whether the EHO conducted a site visit as part of their assessment. In any event, I have undertaken my own judgement having regard to the current site circumstances and all the submitted evidence before me.

Conclusion

32. For the reasons given, the appeal should be dismissed.

R Cahalane

INSPECTOR

¹ Appeal Ref: APP/Y9507/W/23/3321091 – paragraph 20.