



South Downs

National Park Authority

Agenda Item 10

Report PC36/18

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| Report to | Planning Committee |
| Date | 14 June 2018 |
| By | Director of Planning |
| Local Authority | SDNPA (Called In Application) |
| Application Number | SDNP/17/05255/FUL |
| Applicant | Mrs A Ffitch-Heyes |
| Application | Renewing existing and installing new fencing work with access gates to reform grazing paddocks for horses into 3 new enclosures at the Old Racecourse Lewes in an area south of the Tote House, including new access tracks for vehicles to the south of the site running parallel to the gallops and a cross route to allow access to the old racetrack gallops land to the west of the site, the new paddock layout accommodates the established existing public bridleway route (Retrospective). |
| Address | The Tote House, The Motor Road, Old Racecourse, Lewes, East Sussex, BN7 1UR |

Recommendation: That planning permission be refused for the reasons set out in Section 10.1 of this report

Executive Summary

The site forms part of land belonging to the Tote House on the southern edge of the building envelope of Old Racecourse. This is one part of the wider Old Lewes Racecourse complex to the north west of Lewes in a landscape characterised by rolling Open Downland.

The application seeks planning permission for the retention of hard surfacing of a private track running parallel to the gallops as well as the provision of new and repaired fencing in the adjoining fields from the Tote House heading south east. The provision of new fencing results in the formation of three paddocks with two bridleway routes running through the site; one being a legally recorded public bridleway and the other an informal but well-established bridleway route. The fencing also seeks to enclose a right of access enjoyed by a neighbouring resident who owns a stretch of adjoining land to the west.

Whilst it is recognised that the land already serves an equestrian use where some fencing is deemed necessary, the proliferation of fencing across the site is not considered to be justified and private benefits of the proposal are outweighed by adverse landscape impacts across an historically Open Downland landscape, resulting in a more formal and enclosed appearance. The proposed fencing is considered to conflict with the reasons for the imposition of the Article 4 Direction which protects the defining characteristics of the Open Downland area.

Furthermore the surface, constructed from stone scalplings is in stark contrast to the chalk surface originally found along this private way and as can be found elsewhere across the wider area. There is insufficient justification for the retention of such works, given that there are already two established routes offering bridleway access. Officers consider that the surface, by virtue of its surface material

with increased width has an 'urbanising' effect and is inappropriate and unsympathetic to the defining characteristics of the rural area. It is considered that the justification for private benefits does not outweigh the landscape harm caused.

Officers therefore consider that the National Park landscape would not be conserved or enhanced by the proposed development, where landscape and visual impacts would affect the enjoyment of users of the public rights of way running through the site. The proposals are therefore contrary to the first purpose of the National Park which seeks the protection of local landscape and scenic beauty, the development plan and the National Planning Policy Framework. It is recommended that planning permission be refused on this basis.

1. Site Description

- 1.1 The application site is one of wider collection of buildings forming the Old Racecourse complex, located outside of the Lewes settlement boundary. Most of the buildings across the wider site are now given over to both residential and equestrian uses. Although it is no longer used for racing, the course to the west known as the 'gallops' has been used for the training of race horses.
- 1.2 The Tote House is single-storey single dwelling set in a spacious plot converted from its former equestrian use in 1980. The land belonging to the Tote House and forming the site for this application is considered to serve a lawful equestrian use; the applicant already keeps horses on the land, and uses 4 stables adjacent to her property.
- 1.3 The site lies within the Open Downland character area as defined by the South Downs Integrated Landscape Character Assessment (2011) which identifies key characteristics as a large scale open elevated landscape of rolling chalk downland, with dry valleys and scarp slopes. Secluded dry valleys are a special feature of the landscape.
- 1.4 The application site lies within an Archaeological Notification Area defining an area of known prehistoric activity and the site of the 1264 Battle of Lewes. It also lies within a 'Registered Battlefield' (Battle of Lewes).
- 1.5 A series of public rights of way run across the wider site including Bridleway 3, 17, 18b & 29b, as well as footpaths 5 & 48a. An adjoining land owner is stated to have a legal right of access of the applicant's land to

2. Relevant Planning History

- 2.1 Permitted development rights were removed by Article 4 Direction on 8 December 1993 for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. The Direction was made for the purpose of controlling various forms of enclosure in order to protect this characteristically open downland landscape.
- 2.2 SDNP/12/01438/FUL – Planning permission was approved in September 2012 by Lewes District Council for the erection of an extension to the Tote House for use as a bed and breakfast and for short stay guests.
- 2.3 SDNP/17/00340/HOUS – this proposal is for the proposed erection of 5 loose box stables adjacent to existing stables. The planning application is pending consideration by Members of the Planning Committee at 14 June 2018 meeting.
- 2.4 SDNP/18/00138/FUL – the proposal seeks the retention of a natural finished wooden cross standing within a paddock field adjacent to the Motor Road at the Old Lewes Racecourse, which was given planning approval in January 2012. The Planning application is pending consideration by Members of the Planning Committee at 14 June 2018 meeting.

3. Proposal

- 3.1 The application seeks planning permission for:
 - The retention of a limestone scalping surfaced track (and its subsequent widening) adjacent to the gallops and parallel to the eastern site boundary. This is proposed to provide shared access to the wider parcel of land and the adjoining neighbour's land, both serving an equestrian use.

- The retention of chestnut cleft and two rail fencing enclosing the track along the eastern site boundary - the new track is fenced on both sides; on one side it is chestnut cleft post and rail and on the other post and wire.
- The replacement of fencing enclosing an access track running from east to west across the site with chestnut cleft and two rail fencing.
- The replacement of existing fencing with chestnut cleft and two rail fence to enclose an informal but established bridleway route from north to south.
- The renewal of existing fencing adjacent to the all-weather gallop running along the western boundary and an existing track to the south with chestnut cleft and rail fencing
- The provision/retention of five-bar braced hardwood gates and seven-bar galvanised metal gates across the site, to maintain access to the historic bridleway
- A second access track, also using limestone scalplings, to be provided running from east to west between paddocks 1 and 2 to the north and paddock 3 to the south. This would provide direct access for the adjoining land owner to move horses from the race track and all weather gallops to the west of the paddocks to the rail gallops on the east side.

The submitted plan indicating each component of the proposal is listed at **Appendix 2** of this report.

Procedural note

An existing section of cleft post and rail fencing running between the bridleway and newly surfaced track is proposed to be removed from the site. If Members are minded to recommend approval of the application, a condition should be imposed seeking its removal to ensure the provision of no more than three paddocks.

4. Consultations

4.1 **St Ann (Without) Parish Meeting** - No comments received.

4.2 **Historic Buildings Officer** - Comment.

- Concern regarding the impact of existing and proposed works upon the historic Lewes Battlefield landscape which is protected under policy LW9 of the Lewes District Local Plan (2003).

4.3 **SDNP Access Team** - No objection (based solely on access).

- The plan makes provision for public access along the legally defined route as well as the established route.
- Provided ESCC as the Highway Authority grant approval for new structures in the highway then public access is still available.
- It is questionable as to whether the public enjoyment of this route would be affected by the increase in gates and fencing, particularly from a landscape perspective, however this judgement is referred to the landscape officer for comment.

4.4 **Public Rights of Way** - No objection.

- Provision is shown for both the legally recorded bridleway and the established route.
- It is understood that all gates would be compliant with current standards for bridleways.
- ESCC will accept an application for diversion of the recorded bridleway to the established route however this will be subject to consultation.
- The current proposal is not contingent on the diversion of the bridleway and is considered to be satisfactory.

4.5 **Archaeology** - **No objection subject to conditions.**

4.6 **Landscape Officer** – Objection.

- It is recommended that the application is not supported as the proliferation of fencing conflicts with the Article 4 Direction.
- The surfaced track does not have an agricultural justification as the main purpose would appear to be to divert users from the legal bridleway.

- The wide surfaced access track that has been constructed to the east of the existing bridleway is an intrusive feature in this open landscape. The width is that of a single track road and the dark surfacing is unsympathetic in this locality where the underlying geology is chalk.
- There is no evidence for a need for an alternative route there would appear to be no justification for this track.
- The proliferation of fencing and gates associated with this application has changed the character of this open landscape.
- Cleft chestnut post and rail is a characteristic type of fence in the Sussex countryside, however it is not suitable for this Open Downland landscape.
- Where agricultural fencing is essential on the racecourse it should be of a post and wire type as this would be less visually intrusive.
- Temporary tape fencing which is used in the area is intrusive and that permanent fencing could be an acceptable alternative to this more ad hoc type of fencing.
- The application for the fencing of the new track on both sides would not be needed if the public were not being encouraged to use the track as an alternative to the bridleway.

4.7 **Open Spaces Society – Objection.**

- The application is unclear.
- Recommend enforcement action is taken.
- Any gates across a right of way or a way that is used by cyclists and equestrians as if it was a right of way should be against the cross route and not across the right of way.
- Any fences or hedges that run along both sides of a right of way or a route used as if it were a right of way should be at least 5 metres apart as recommended by the British Horse Society.
- No permission should be given for any obstruction (including gates) across the definitive route.
- Fences are not necessary even if a road is needed.
- This right of way should be used instead of the proposed road.
- This road is unnecessary. It serves no purpose that could not be served by a far shorter route which would have far less environmental impact.
- The old racecourse area is an important part of the South Downs. It has historical interest as one of the few racecourses actually on the Downs and two out of three of the main routes from the South Downs way to Lewes pass by the racecourse, including one which goes through the site.
- Although the site is sandwiched between the old racecourse and the gallops, the space between them, taken with Landport bottom to the east of the gallops, is sufficient to give a feeling of space and openness.
- The society suggests that there should be a presumption against surfaced roads on the site. The soil is chalk and will be accessible in most weathers by many vehicles. If use by ordinary cars is proposed then we have to ask why this is necessary.
- The route currently in use has no gates and is heavily used by cyclists and equestrians for whom any gate would be an obstruction.
- There is fencing not subject to the application which is reported for enforcement action.
- The society suggests that any gates across a right of way or a way that is used by cyclists and equestrians as if it was a right of way should be against the cross route and not across the right of way.
- Any fences or hedges that run along both sides of a right of way or a route used as if it were a right of way should be at least 5 metres apart as recommended by the British Horse Society.
- No permission should be given for any obstruction (including gates) across the definitive route.
- What measures are in place to ensure that necessary gates are provided and maintained?

4.8 **South Downs Society – Objection.**

- The application is confusing.
- subdivision into paddocks necessitates new gates which are excessive in such a small area.
- the hard track is excessive for the area as there is another access marked through the centre of the paddocks.
- Concern regarding how a number of applications in progress for the area may relate directly or indirectly to each other.
- Recommend an overall development plan against which individual planning proposals and any measures impacting on rights of way may be assessed, in order that they may be considered more holistically.
- This highly sensitive part of the national park requires sensitive solutions.

4.9 **Natural England - No objection.**

4.10 **Historic England - No comment.**

5. **Representations**

5.1 45 third-party representations have been received objecting to the proposal. The total number of representations received is higher than this figure however a large number of representations have been submitted through local ward Members as a single representation. Notwithstanding this, all issues raised have been taken into consideration during the assessment of the applications, where the main issues have been highlighted as follows:

- The proposal results in the loss of open space.
- The works have gone ahead anyway.
- Vegetation was illegally removed during nesting season.
- The proposal discourages the use of PROW.
- The gates discourage cyclists and equestrian users and present safety concerns.
- The use of a waste tarmac surface is unsuitable for the area.
- A new road suggests high volumes of traffic are expected.
- There are large amounts of unnecessary fencing already erected.
- Works have affected the area which is well used by locals.
- Request enforcement action is taken to remove fencing and the track.

5.2 10 third-party representations have been received *in support* of the proposal. This includes a letter signed by 11 individuals. The representations highlight the following points:

- The Article 4 Direction is onerous and unreasonable, and should be subject to review
- The restrictions on fencing should not jeopardise the use of land for grazing and keeping of horses.
- Accidents will occur without fencing to signify land ownership and permissive routes.
- The track must be fit for purpose including use by vehicles.
- The track is a good running path surface and is safer for users including horse riders.
- The proposals do not harm the amenity of the area.
- Replacement of old fencing should not be a contentious issue.
- Gates appear to be easy for use by riders.
- It is not assumed there would be large numbers of vehicles using the track.
- Despite the landscape officer's objection there is already fencing of this sort at the site.
- Post and wire fencing is unsafe and inappropriate for keeping horses in paddocks.
- The fencing is better suited to horse grazing unlike barbed fences.

6. **Planning Policy Context**

6.1 National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;

- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the local community in pursuit of these purposes.

National Planning Policy Framework and Circular 2010

- 6.2 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks. Paragraph 116 states that planning permission for major developments within National Parks should be refused except in exceptional circumstances.
- 6.3 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.

7. Planning Policy

7.1 The statutory development plan in this area is the Lewes District Local Plan (2003) and the Lewes District Joint Core Strategy (2016).

7.2 The relevant Saved Policies in the Lewes District Local Plan are:

- CT1 – Planning Boundary and Key Countryside
- ST3 – Design Form and Setting of Development
- ST11 – Landscaping of Development
- RE8 – Equestrian and Related Activities
- LW9 – Lewes Battlefield

7.3 The relevant policies in the Joint Core Strategy are:

- CPI0 – Natural Environment and Landscape
- CPI1 – Built and Historic Environment & Design

South Downs Local Plan (2017)

7.4 The Pre-submission version of the South Downs Local Plan (2017) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation from 26 September to 21 November 2017, and the responses considered by the Authority. The Plan was submitted to the Secretary of State for independent examination in April 2018. The Submission version of the Local Plan consists of the Pre-submission Plan and the Schedule of Proposed Changes. It is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication. Based on the current stage of preparation, and given the relative age of the saved policies within the Lewes District Local Plan (2003), the policies within the Submission South Downs Local Plan (2018) are currently afforded considerable weight.

7.5 The following policies from the SDLP are relevant:

- SD1: Sustainable Development
- SD4: Landscape Character
- SD5: Design
- SD6: Safeguarding Views
- SD8: Dark Night Skies
- SD12: Historic Environment
- SD24: Equestrian Uses

South Downs National Park Partnership Management Plan (SDPMP)

- 7.6 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a vision and long term outcomes for the National Park, as well as 5 year policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.
- 7.7 The following Policies are of particular relevance to this case:
- General Policy 1 – conserve and enhance the natural beauty and special qualities of the landscape
 - General Policy 3 – protect and enhance tranquillity and dark night skies
 - General Policy 9 – the significance of the historic environment is protected from harm
 - General Policy 28 – Improve and maintain public rights of way and access land, to provide a better connected and accessible network for a range of abilities and users and to reduce conflict where it occurs
 - General Policy 29 – Enhance the health and wellbeing of residents and visitors by encouraging, supporting and developing the National Park as a place for healthy outdoor activity and relaxation.
 - General Policy 30 – Develop ‘access for all’ opportunities, particularly supporting those groups currently underrepresented in the National Park visitor Profile.

8. Planning Assessment

Why planning permission is required

- 8.1 The applicant has questioned whether planning permission is required for the surfacing and widening of the private track. In section 55 of the Town and Country Planning Act 1990 (the 1990 Act), ‘development’ is defined as ‘*the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land.*’ The creation of a track or the alteration of a track on land is usually defined as an ‘engineering operation’; under the current case it is regarded as ‘development’ for planning purposes.
- 8.2 Under Part 9 Class E of the Town and Country Planning (General Permitted Development) Order 2015 (As amended), a permitted development right exists for the carrying out on land within the boundaries of a private way for works required for the maintenance or improvement of that private way. The track has been subject to noticeable widening from its original width and is therefore considered to go beyond the scope of permitted works under permitted development rights.
- 8.3 Planning permission is required for maintenance, alteration, replacement and repair of fencing as well as the erection of new fencing due to the Article 4 Direction imposed in 1993.

Principle

- 8.4 The proposal does not constitute major development for the purposes of paragraph 116 of the NPPF or policy SD3 of the emerging South Downs Local Plan (2017). In reaching this conclusion, regard has been had to the opinions of James Maurici QC, and the recent judgment of the High Court in *R (FH Green Ltd) v South Downs National Park*.
- 8.5 In determining the principle of development, attention must be given to the Article 4 Direction and whether the fencing would contradict the purpose for its imposition which was to protect the rural character of the Open Downland landscape. Consideration must also be had to the justification for the principle of the fencing as well as design and visual impact of the new access track, having regard to relevant policies in the LDLP, the JCS and emerging policies in the SDLP.
- 8.6 Policies CT1 (Planning Boundary and key countryside), RES6 (New Development in the Countryside) seek to restrict new development in the countryside unless it conforms with other policies in the plan. Saved policy RE8 of the Lewes District Local Plan (2003) is a main

relevant policy which permits 'small-scale equestrian and related developments' provided that:

- a) There would be no adverse effect on nearby rights-of-way or open spaces and their users;
 - b) Good access is available to existing bridleways and the creation of new access points to public roads is avoided wherever possible;
 - c) The development would not give rise to new buildings, unrelated to existing buildings, in open downland landscapes; and
 - d) The proposals comply with other relevant policies of the plan. Proposals in the Sussex Downs area of outstanding natural beauty, parks and gardens of special historic interest, sites of special Scientific Interest and National Nature Reserves will not be permitted unless they are compatible with the objectives of these designations.
- 8.7 The provision of fencing required in connection with the keeping of horses and retention of the newly surfaced access qualifies the determination of the application against this policy.
- 8.8 Regarding point a), there are currently two public rights of way running through the applicant's land, including a legally recorded route (furthest west) and an established alternative route which runs centrally through the applicant's site. The legally recorded route remains open although access would be restricted to some extent by gates at three positions. However, ESCC has not objected to the proposal and confirms it has received an application to divert the legally recorded bridleway to the established bridleway which is not gated.
- 8.9 The established route would be enclosed on both sides in order to separate grazing horses and bridleway users. At present this is enclosed on one side for the majority of the route although it is already fully enclosed on the land adjacent to the curtilage of the Tote House. No gates are proposed along this route and the East Sussex PRow team do not raise an objection on this basis.
- 8.10 Points b) and c) are largely relevant to provision of new equestrian facilities and buildings, requiring that they are well related to public rights of way. In this instance no additional facilities are proposed and new buildings would require planning permission although some mobile field shelters can be provided without the need for planning consent.
- 8.11 Against point d), the fencing and access track are not thought to be sympathetic to the Open Downland landscape character as they are considered to have an 'urbanising' effect on the rural setting. The access track is particularly significant in this regard as it has been surfaced and widened using grey coloured stone scalplings which appear in stark contrast to the chalky surface typically associated with rural Downland areas. The Landscape Officer also highlights a lack of justification for the resurfacing and widening of the private track which is also considered to result in a detrimental visual impact. The proposals therefore fail to conserve and enhance the natural beauty of the South Downs National Park, as per the Park's First Purpose.
- 8.12 The Article 4 direction was put in place to prevent a proliferation of fencing. Having regard to local representations it is understood that the established path is well used and there is concern regarding the sense of enclosure resulting from fencing on both sides. The Landscape Officer has expressed concerns regarding the cleft chestnut post and rail fencing which is uncharacteristic of the Open Downland character area, also noting that more attention is drawn to the fencing as it fails to follow the natural contours of the land. Officers remain concerned regarding the proliferation of fencing to be provided across the site resulting in an unacceptable level of harm to the defining character of the Open Downland landscape.
- 8.13 The ILCA highlights that the Open Downland landscape is characterised by 'visually permeable post and wire boundaries. Few visible hedgerow boundaries and woodland cover limited to small deciduous woodland blocks and distinctive hilltop beech clumps.' The subdivision of the field into smaller paddocks and enclosure of permissible routes on both sides fails to complement this Downland landscape characteristic.

- 8.14 It is recognised that the land already serves an equestrian use, and therefore it is reasonable to conclude that a small amount of fencing and enclosure is reasonably necessary for the keeping of horses, however it is the proliferation of development across the applicant's site which is inappropriate in design detracts from the experiential qualities of the rural area which is well used by members of the public. Therefore the controls imposed by the Article 4 Direction remain valid in controlling the amount and type of fencing across the wider site.
- 8.15 In addition to RE8, the tests of emerging policy SD24 (Equestrian Uses) of the SDLP are relevant. Given the age of the existing Lewes Local Plan, this policy is considered to carry significant weight in decision making. The policy has not been subject to a high number of representations and no significant issues have been raised. The policy tests are set out as follows:
- a) The development is of a scale and / or an intensity of equestrian use compatible with the landscape and the special qualities;
 - b) It demonstrates good design which is well located and responds to local character and distinctiveness;
 - c) It will re-use existing buildings wherever feasible and viable;
 - d) Measures taken to locate new buildings, stables, yard areas and facilities adjacent to existing buildings provided they respect the amenities and activities of surrounding properties and uses;
 - e) The proposals are well located to existing utilities and transport infrastructure, including vehicular and field accesses, tracks and bridleways;
 - f) New or supplementary landscape features are provided including hard and soft treatments and planting, consistent with local character; and
 - g) A conservation based land management approach can be demonstrated
- 8.16 Point a) largely relates to the provision of buildings and change of use of land. In this case the land already serves an equestrian use although the fencing and track are proposed in support of this land use. Having regard to the comments made by the Landscape Officer, it is considered that the development in its current form is incompatible with the landscape and its special qualities as outlined in the ILCA.
- 8.17 In relation to point b), the Landscape Officer has highlighted that the use of chestnut cleft and rail fencing is uncharacteristic of the Downland areas, and is more fitting of lowland Sussex countryside. The access track and proposed track to be provided across the site are already stated to be out of keeping with the rural area and furthermore there is little justification setting out why the resurfaced access track are necessary, given the presence of two established routes including the bridleway through the land.
- 8.18 Naturally formed tracks in this area would normally be of white chalk, although it is acknowledged that chalk tracks do become slippery in wet weather and that some form of surfacing may be necessary. The recycled road planings used to create the track are not the most sympathetic material for this location.
- 8.19 Point c) and d) are not applicable as there are no buildings, stables, yards and facilities proposed which could be measured against possible reuse of existing buildings at the site.
- 8.20 The development carried out thus far is considered to impact on views across the area and has an adverse impact on the open character of the Downland. The post and rail fencing dividing the area from west to east is particularly intrusive as it does not follow the contours of the land, although this is to be removed as part of the proposal. However, it is noted that a further west to east track is proposed in the same surface material already used on the private track, which is not supported by officers.
- 8.21 Point e) is not applicable to the proposals.
- 8.22 In relation to point f) and g) no supplementary landscape features are proposed and there is no submitted land management approach within which any landscape or ecological enhancements and provided.
- 8.23 Having regard to the overall principle for such development in this sensitive location, officers consider that the proposals are contrary to policies CT1, RE8 and SD24. Further detailed

consideration of design, landscape impact, heritage impact and effects on local amenity are considered in further detail below.

Further consideration of design and landscape impact

- 8.24 The South Downs Integrated Landscape Assessment places the site in the landscape Type A: Open Downland the most relevant key characteristics to the site are:
- large scale open elevated landscape of rolling Chalk Downland, with dry valleys and scarp slopes;
 - Sparse settlement, with occasional isolated farms and barns;
 - blocks of modern farm buildings punctuate the open landscape with some urban development, beyond the designated area apparent in views from the wider landscape.
- 8.25 Policies CPI0, CPI1 of the JCS seek to preserve and enhance the character and appearance of the countryside. LDLP policy ST3 seeks high quality design in new development and notes that materials should be of a quality, type, colour and design which is appropriate to the character of the local area. The proposals are considered to conflict with these policies given that the fencing type and surfacing of the access track are unsympathetic to the local landscape character.
- 8.26 Policy ST11 requires applications to include a framework for landscaping and maintenance showing features to be retained as well as new landscaping measures. (2003). No further landscaping is proposed although the applicant has offered to provide a top surfacing layer of chalk to reduce the impact of the private track.
- 8.27 Policy SD4 in the emerging Local Plan permits development proposals where they conserve and enhance landscape character. The policy was not subject to significant issues during consultation stage and is therefore considered to carry substantial weight overall. The policy requires that proposals demonstrate that:
- a) they are informed by landscape character reflecting the context and type of landscape in which the development is located;
 - b) The design, layout and scale of proposals conserve and enhance existing landscape and seascape character features which contribute to the distinctive character, pattern and evolution of the landscape
 - c) They will safeguard the experiential and amenity qualities of the landscape;
 - d) Where planting is considered appropriate, it is consistent with local character, enhances biodiversity, contributes to the delivery of green infrastructure and uses native species.
- 8.28 SD5 only permits where they adopt a landscape-led approach and respect the local character, through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area. SD6 seeks to preserve the visual integrity, identity and scenic quality of the National Park, in particular by conserving and enhancing key views and views of key landmarks within the National Park. Again, no significant issues were raised against these policies during consultation stage.
- 8.29 In the view of officers the proposals are in conflict with these emerging Local Plan policies, as the proliferation of fencing which is of an inappropriate design fails to conserve or enhance this characteristically open and rural landscape. Moreover, there is no justification for the surfacing and width increase of the private access track with which the landscape harm could be justified.
- 8.30 The Landscape Officer has commented that where fencing is essential on the racecourse it should be of a post and wire type as this would be less visually intrusive although the applicant and several supporters of the application highlight a difficulty in using wire fencing for the welfare of horses.
- 8.31 The British Horse Society offers guidance on the provision of fencing, noting that any fence should be sufficiently strong and well-maintained to prevent horses from breaking through it and should also discourage animals from leaning through to graze, which could lead to injury to the horse or damage the fence boundary.

- 8.32 Some forms of fencing are indicated to be more desirable than others and post and rail wooden fencing or post and rail-solid uprights and flexi-rails with either electric tape or wire are suggested as being advantageous over wire fencing (both plain or barbed) or single strand electric wire as they can be potentially injurious. However, wire fencing options are available for use with horses and these options should be thoroughly explored.
- 8.33 Whilst some fencing can be considered reasonably necessary to serve an equestrian use of land, the proliferation of fencing in this location is not considered acceptable. Even if the quantum of fencing was considered acceptable, which it is not, the inappropriate design of the access track and fencing is not considered to conserve or enhance the defining characteristics of this sensitive rural landscape. Therefore, it is considered that the design and landscape impact of the proposals is contrary to ST3 and ST11 of the LDLP (2003), CPI0 and CPI1 of the JCS, SD4, SD5 and SD6 of the South Downs Local Plan (2017).
- 8.34 The Landscape Officer has recommended mitigation measures as follows:
- Reducing the impact of the access track by removal of the post and rail fencing on the west side. It is recognised that the post and wire fence to the east of the track, which separates the gallops and the paddocks, may be justified for safety reasons.
 - Where fencing is considered to be acceptable post and rail fencing should be replaced with post and wire stock proof fencing.
 - Removal of the gate at the northern end of the bridleway and relocation of the same at the entrance to the new track, if this is to be retained, to prevent unauthorised vehicular access.
 - Encouraging grass to grow into the edges of the track to help blend it into the surroundings.
 - Removing the west to east permanent fencing which divides the long paddock.
 - Not permitting the creation of a surfaced west to east track across the paddocks.

Heritage Impact

- 8.35 Policy LW9 of the LDLP states that planning permission will not be granted for development which would affect the landscape, setting or archaeological integrity of the Lewes Battlefield. The fencing (new, replacement and repair) must be considered in its own right and also in accumulation with other development at the site, including the existing and proposed stables. The subtext of this policy states that 'Apart from the expansion of Lewes towards Offham Hill, the battlefield is essentially unchanged from the open grassland of 1264'.
- 8.36 ESCC Archaeology have commented on the extensive prehistoric field system (Landport Bottom) which stretches across the application site and out towards the north-east and east. The extant remains of this field system comprise lynchets and soil marks. These fields denote prehistoric agricultural activity, presumably once located near contemporaneous settlement. Furthermore, the site of two Bronze Age ring barrows to the south of the application site and a Bronze Age cremation and at least one other Bronze Age burial mound to the north provide concrete evidence for local prehistoric burial and ritual.
- 8.37 The ESCC Archaeologist has not objected to the proposal on the basis that the information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions including a written scheme of investigation, recording and analysis.
- 8.38 The historic Building Officer has expressed concerns regarding the impact of fencing and the access track on the designated battlefield landscape and officers are of the view that the proliferation of fencing and retention of the private access track result in harm to the setting of the Lewes Battlefield contrary to LW9 of the LDLP (2003).

Amenity

- 8.39 Overall the provision of fencing and retention of the recently surfaced access track are without harm to the amenity of neighbouring residents although officers consider that they

have a negative impact on the enjoyment of the landscape, particularly by walkers, cyclists and the wider general public navigating public rights of way through the site.

Other issues

- 8.40 A number of objectors have commented that works have been carried out including the removal of areas of vegetation throughout the bird nesting season, however it is understood that the relevant land lies outside of the current application site.

9. Conclusion

- 9.1 The proliferation of gates and fencing and the retention of the new surface (including its widening) by virtue of their design, form, layout are considered to result in an unacceptable degree of harm to the landscape and visual amenities of the area with insufficient justification to outweigh the harm caused. The proliferation of fencing is in direct conflict with the Article 4 Direction and the proposals would fail to enhance or maintain the vitality of the rural setting, contrary to the protection of local landscape and scenic beauty of the National Park, which is afforded the greatest protection under the National Planning Policy Framework.

10. Reason for refusal

- 10.1 It is recommended that the application be refused for the following reasons:
1. The fencing, by reason of its sense of enclosure, use of non-locally distinctive materials and lack of justification would fail to conserve or enhance the open downland character of this part of the South Downs National Park or the Lewes Battlefield designation. This would be contrary to policies CT1, ST3, ST11, RE8 and LW9 of the Lewes District Local Plan (2003) and policies CPI0 and CPI the Lewes District Joint Core Strategy (2016), policies SD1, SD4, SD5, SD6, SD12 and SD24 of the emerging South Downs Local Plan: Pre-Submission (2017), the NPPF and the first purpose of the National Park.
 2. The works to the access track, by reason of the use of non-locally distinctive materials and lack of justification would fail to conserve or enhance the open downland character of this part of the South Downs National Park. This would be contrary to policies CT1, ST3, ST11, RE8 and LW9 of the Lewes District Local Plan (2003) and policies CPI0 and CPI the Lewes District Joint Core Strategy (2016), policies SD1, SD4, SD5, SD6, SD12 and SD24 of the emerging South Downs Local Plan: Pre-Submission (2017), the NPPF and the first purpose of the National Park.

11. Crime and Disorder Implication

- 11.1 It is considered that the proposal does not raise any crime and disorder implications.

12. Human Rights Implications

- 12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

13. Equality Act 2010

- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

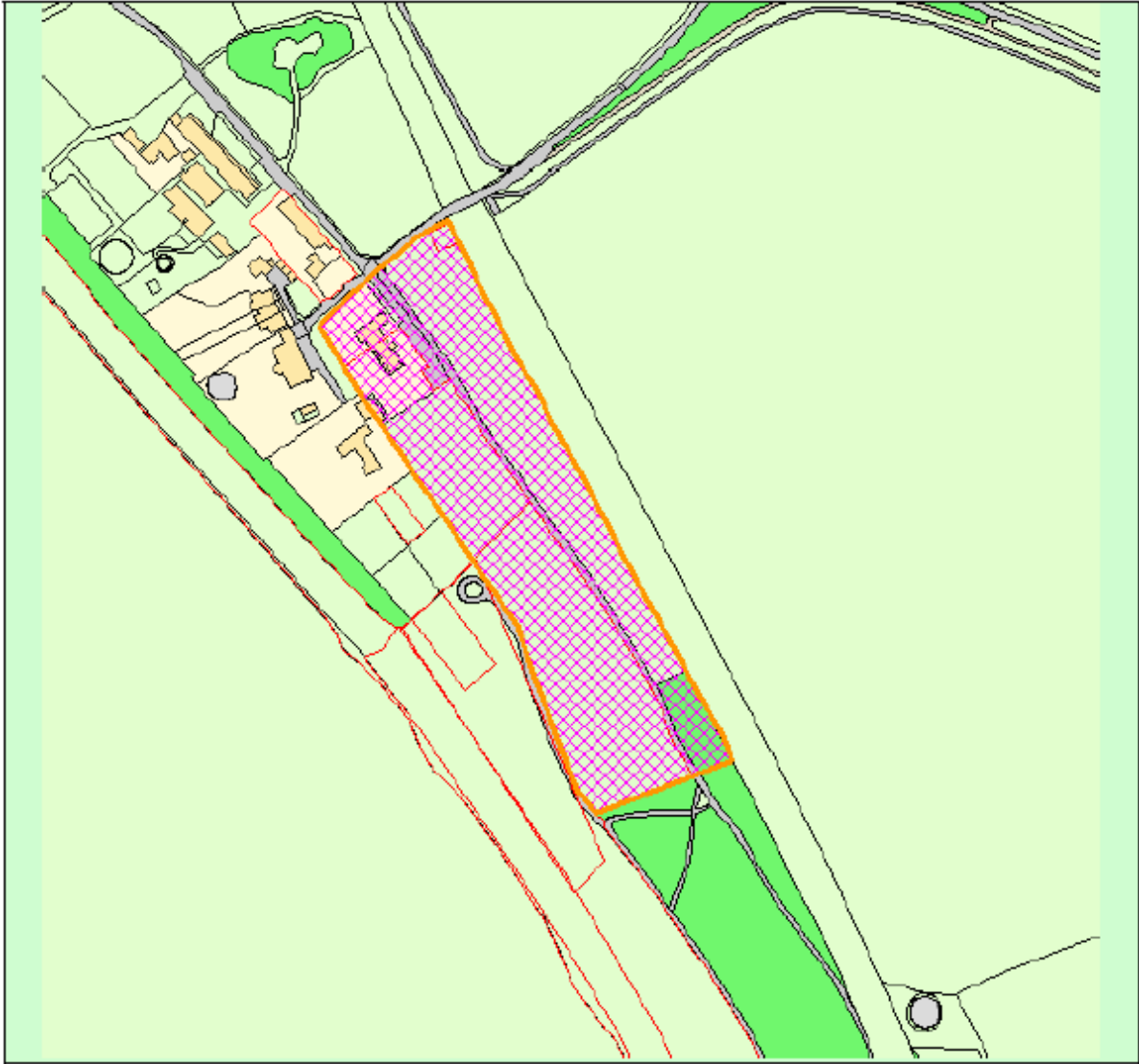
14. Proactive Working

- 14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included discussions concerning the key issues. Unfortunately this did not result in a positive officer recommendation in light of more significant concerns.

TIM SLANEY
Director of Planning
South Downs National Park Authority

Report Author: Luke Smith
Contact Officer: David Cranmer
Tel: 01730 819271
email: david.cranmer@southdowns.gov.uk
Appendices
1. Site Location Map
2. Proposed Site Plan
SDNPA Consultees
Legal Services
Background Documents
[Application Documents](#)
[Lewes District Local Plan \(2003\)](#)
[Lewes District Joint Core Strategy \(2016\)](#)
[South Downs National Park Local Plan \(2017\)](#)
[South Downs Local Plan Schedule of Changes \(2018\)](#)
[South Downs Partnership Management Plan \(2014-2019\)](#)
[National Planning Policy Framework](#)

Site Location Map



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Proposed Site Plan

