

**Agenda Item 8**  
**Report PC 20/21-30**

Report to	<b>Planning Committee</b>
Date	<b>11 February 2021</b>
By	<b>Director of Planning</b>
Local Authority	<b>Chichester District Council</b>
Application Number	<b>SDNP/20/01796/FUL</b>
Applicant	<b>Gillie Tuite</b>
Application	<b>Change of use from forestry to mixed use comprising forestry, production of forestry products, education and training courses and associated camping. Erection of barn for use for forestry, production of forestry products, education and training courses. Erection of toilet and shower building. Retention of roundhouse, framing bed, pizza oven, IBC and solar panel.</b>
Address	<b>Smugglers Copse, Borden, Milland, West Sussex</b>

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**Recommendation:**

- 1. That planning permission be granted subject to:**
    - i. The completion of a Section 106 legal agreement, the final form of which is delegated to the Director of Planning, to secure that Smugglers Copse (as shown on the location plan in blue) is managed in accordance with the submitted Woodland Management Plan (January 2021) and adequately monitored for a minimum period of 10 years.**
    - ii. The conditions as set out in paragraph 10.2 of this report.**
  - 2. That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the S106 Agreement is not completed or sufficient progress has not been made within 6 months of the 11<sup>th</sup> February 2021 Planning Committee meeting.**
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**Executive Summary**

In 2018, a breach of planning control was identified and an enforcement notice served due to, without planning permission, the change the use of the land from forestry to mixed use comprising camping, education and training courses and manufacture of wood products. This notice was subject to an appeal which was dismissed by the Planning Inspectorate. The Inspector confirmed that most of the proposals would require planning permission but commented that the uses would appear to fall within the ethos of the National Park. The appeal decision also stated that the educational use, on a small scale, would clearly sit within the second purpose of the National Park and suggested that its potential impacts should be evidenced and assessed in an application for planning permission.

This planning application comes as a response to address the issues raised by the Inspector, to regularise works and provide the forestry enterprise with planning permission to operate.

The applicant has worked, during the process of the application, with officers to address the concerns raised in terms of ecology, fire safety and woodland management, amongst others. The use of the site for courses and associated campsite is considered of low intensity and can be adequately controlled by conditions, not causing harm to neighbours, tranquillity and dark skies.

A series of natural environmental enhancements and a woodland management plan through conditions and a Section 106 agreement is to be secured.

Overall, it has been demonstrated that the proposal would provide opportunities for understanding and learning traditional wood crafts and sustainable woodland management in line with the Development Plan requirements. This initiative also delivers the SDNP Partnership Management Plan. For the reasons explained in the report, and in the absence of any material consideration to warrant a reason for refusal, this application is recommended for approval.

This application is placed before Members due to the significant number of third party representations.

## **I. Site Description**

- 1.1 Smugglers Copse is a privately owned woodland of 10.5ha which forms part of the larger Rondle Wood, which is an ancient replanted woodland. The woodland in the ownership of the applicant has been managed as sweet chestnut coppice woodland for decades with occasional silver birch and holly. The woodland expands beyond the application site to the east and west, following the ridge and scarp of the downs.
- 1.2 The application site comprises 0.49 hectares of land within Smugglers Copse. It is accessed via a single unmade track off Gatehouse Lane to the east, which runs across the wood to the application site. There is a network of unmade paths within Rondle Wood, some of which are definitive public rights of way. The Serpent Trail (footpath 1164-3) follows the northern boundary of the wood from east to west and public footpath 1167-1 and bridleway 1167 run south to north across the wood where they meet the Serpent Trail. No public right of way runs through the application site, which is centrally located in the wood and sits approximately 100 metres away from the Serpent Trail.
- 1.3 The land rises from the access point along the track towards the application site. There is a significant drop in levels to the north of Smugglers Copse. Given its topography, the site does not suffer from river or surface water flooding.
- 1.4 There is a hut on site currently used for storage and shelter for use by, a seasonal woodland worker who also leads the educational courses. This is the only structure that is of a robust construction, albeit it is a simple wooden hut. Other structures on site include: a round timber frame structure, a timber cutting frame, general store, wood store, a pizza oven, a photovoltaic panel and an outdoor shower and latrine.
- 1.5 There are several residential properties nearby. The Lodge and Garden Cottage to the south and across the road, were formally part of the Dangstein estate. They are 150m and 250m away from the site respectively. Another dwelling is located approximately 180 metres to the west.
- 1.6 The site is located outside any Settlement Policy Boundary as defined in the Local Plan. A small group of trees on the south east corner of Smugglers Copse is covered by a Tree Protection Order (ref. 65/00712/TPO). Trees within a plot immediately adjacent to it were felled by the applicant under a Forestry Commission felling licence in 2018.
- 1.7 The application site is located within the Dark Sky Core (Zone E0). This is also an area of medium level of relative tranquillity as shown in the SDNP Tranquillity Study.

## **2. Relevant Planning History**

### SDNP/16/00110/COU Enforcement Notice (19 June 2018)

- 2.1 The breach of planning control in the notice is, without planning permission, to change the use of the land to mixed use comprising camping, education and training courses and manufacture of wood products.
- 2.2 The requirements of the notice are listed below and the period of compliance is 3 months.
  - a) Cease the use of the land for camping, education and training courses and for the manufacture of wood products;
  - b) Remove the metal corrugated sheeting, plastic corrugated sheeting, wooden planks,

metal oil drums, caged plastic container, photovoltaic panel, vans and spare wheels from the land;

- c) Remove from the land, the two touring caravans;
- d) Dismantle the 'round house' used as a central communal structure, the outside kitchen, the pizza oven, the framing bed and structural canopy, the structure used as a 'workshop', the old toilet structure used as a general store and the wood store, the enclosed wooden podium, and
- e) Remove from the land all the resulting debris from the structures dismantled in (d) above including the removal of the associated wooden tables, chairs, work surfaces, benches and clay oven.

2.3 An appeal was made against the enforcement notice.

APP/L3815/C/18/3208260 Appeal dismissed and notice uphold (14 January 2020)

2.4 The Planning Inspectorate dismissed the appeal and upheld the enforcement notice. The most relevant aspects of the appeal decision are highlighted below. The appeal decision is included in Appendix 2 to this report.

2.5 In the appeal decision, the Inspector states that “small scale forestry activities and low impact educational courses involving the hands-on manipulation of woodland products is very much within the ethos of the National Park and it is this that the appellant is promoting on the appeal site. The issue is therefore whether in the process the very special qualities that the appellant seeks to promote are also being undermined.”

2.6 Regarding the timber product production, the Inspector stated that “the manufacture of wood products by a single person, using hand tools and wood sourced solely from the coppiced woodlands is clearly something that the SDNP would support. At the level it is being carried out at the present it clearly causes no harm.” It also agrees that the production of items such as gates, yurts, timber framed buildings go beyond what would constitute ancillary forestry products, requiring processing, and therefore not falling within permitted development rights. Planning permission would be required.

2.7 The Inspector also mentioned the educational use of the site: “The use of the site for educational purposes, on a small scale and for small groups of people also, in my view, clearly sits within the second purpose of the National Park, to promote the understanding and enjoyment of its special qualities.” The Inspector acknowledged the associated impacts of camping and parking, which hadn't been sufficiently considered and addressed at appeal stage. These include, amongst others: light pollution, disturbance, proliferation of structures, and ecology.

2.8 The Inspector agreed that the lack of a planning application was the problem of the appeal proposal. The appeal decision also stated: “A properly thought out proposal with evidence as to numbers and frequency of the different types of activity and conditions to control that, as well as provide certainty as to the impacts on the site of parking, camping and the potential proliferation of structures would all be necessary to allow a reasoned determination by the Council as well as proper consultation and reassurance for neighbours. I have no doubt that given the evidence I heard that a proposal for some level of intensification above the current low level use could be acceptable and would sit comfortably within the national park, but I am not satisfied that I have evidence to suggest what that should be.”

### **3. Proposal**

3.1 The application seeks planning permission for the change of use from forestry to mixed use comprising forestry, production of forestry products, education and training courses and associated camping of 0.49 hectares of land within Smugglers Copse.

3.2 The proposed mix of uses, frequency, period and size of courses has been explained by the applicant in the submitted Planning Statement. The applicant proposes to limit the production of forestry products for no more than 30 days in a year, for timber to be sourced from the site only and to use unpowered tools and chainsaws.

- 3.3 Courses will not run concurrently. Educational courses and camping activities are detailed in the table below:

Courses	People			Days		Vehicles	Tents
	Number of participants per course	Total number of courses	Total people in a year	Days per course	Total days	Maximum number of vehicles	Maximum number of tents
Log to chair course	4	4	16	6	24	4	5
Round framing course	4	3	12	4	12	4	5
Spoon and pizza course	6	8	48	1	8	5	N/A
Total in a year	-	15	76	-	44		

- 3.4 This planning application is intrinsically associated to the management of the surrounding woodland, where timber is coppiced for forestry product manufacturing. To ensure a sustainable use of the woodland, the applicant has produced a Woodland Management Plan, which accompanies this application, sets up a vision, objectives, a management and monitoring strategy for all the woodland within the applicant's ownership (blue line).
- 3.5 The proposal also comprises the erection of a new building (barn on site plan) for the use of forestry and forestry products as well as the education and training courses. This barn will be used for the storage of tools and for working and shelter. It will also be used as a sheltered work space for courses in inclement weather.
- 3.6 The barn measures 5.2 metres in width and 9.2 metres in length and would be 5 metres high. It will be constructed from wood harvested from the site, including its structure, roof and wall cladding. The solar panel currently on site will be relocated to the eastern roof slope of the barn.
- 3.7 Proposals also include new compost toilet and shower, and seek the retention of other structures: roundhouse, framing bed, pizza oven, a latrine and an IBC water container. These are to be used in connection to the mixed use and will provide amenities for overnight stays and courses.
- 3.8 Access would remain as existing, off Gatehouse Lane through an unmade forest track and 5 unsurfaced parking spaces are proposed close the camp area, adjacent to the track. No external lighting is proposed.
- 3.9 This proposal also includes the removal of a store and caravan; although the latter had been removed at the time of the site visit.

#### 4. Consultations

##### 4.1 Milland Parish Council: Comments:

- The Parish Council initially decided not to object to the proposal subject to adequate controls and restrictions to be applied to the entirety of Smugglers Copse (10.5 hectares). Following further inspection, the Parish Council decided to object to the proposal should controls and restrictions only be applied to the application site (0.49

hectares of campsite and working area) rather than the whole Smugglers Copse (10.5 hectares). They suggested, anyway, the following conditions:

- The area where trees were felled should be replanted.
- Removal of permitted development rights for forestry.
- The proposed barn should not be used for residential purposes.
- The number of courses, course frequency, permitted vehicles and tent numbers, as supplied by the applicant should be strictly adhered to.
- No vehicle or trailer capable of providing overnight accommodation should be permitted.
- No more than one open fire should be permitted. The Fire Authority requirements should be met.
- Light sources should be limited.
- No amplified music should be used.
- Toilets and showers should be restricted to those on plans.
- It would be reasonable to assume that the application site area matches with the 10.5 hectares parcel of land referred to in the Enforcement Notice and subsequent appeal decision.
- Many supporters of the application are not residents of this or neighbouring parishes. Some of which have never visited the site.

4.2 Rogate Parish Council is the neighbouring parish and was consulted on this application. They raised the following comments:

- There is a lack of compliance with the enforcement notice.
- Concern regarding how any limit of use could be managed.
- Potential loss and damage to wildlife habitat.
- Potential fire risk.
- Should permission be granted, conditions are recommended: camping/parking is only used in connection to woodland craft courses and not to be used independently.; camping limited to 6 two-person tents; no camper vans or caravans allowed; and the number of days of activity and camping is limited.

4.3 SDNPA Countryside and Policy Manager: Support.

- This application provides extensive opportunities to achieve the Outcomes and Priorities of the South Downs Partnership Management Plan 2020-2025.
- The change of use is complimentary and symbiotic to the long term health of the forest and increases its natural capital value by sustainable management and social engagement whilst providing carbon positive produce from timber products.
- The application is within a tranquil location however activities are limited within the day time and are not industrial where as other conventional land management use can be noisy and run for a considerable amount of time. No artificial light will be required.

4.4 SDNPA Planning Policy: Support.

- There is an essential need for a countryside location for this forestry enterprise.
- This proposal will provide opportunities for people to visit the National Park and enjoy a number of special qualities.
- Agreement with the appeal decision where the Inspector commented that 'small scale forestry activities and low impact educational courses involving the hands-on manipulation of woodland products is very much within the ethos of the National Park and it is this that the appellant is promoting on the appeal site'. The Inspector also stated to be 'happy that the submitted scheme does not undermine the special qualities of the National Park and complies with the relevant Local Plan and Neighbourhood Plan policies subject to the necessary restrictions on the number of days the educational facility can operate and the type of materials and equipment used on site'.

- 4.5 SDNPA Landscape Officer: No objection subject to conditions:
- This application has the potential to generate real landscape benefits through sensitive woodland management, development of rural skills and generation of ecological gains.
  - Two comments: 1) Clarify whether solar panels will be on building or on the ground? 2) how waste will be managed on site? It would be expected to control it by condition.
  - The following recommendations are made: 1) no lighting; 2) control atypical noise through condition; 3) measure landscape enhancements and monitor these; 4) parking should be restricted to the bays as per plans.
- 4.6 Natural England: No objection.
- 4.7 Ecology Officer: No objection subject to conditions:
- The ecological impact from the proposed works is considered to be low.
  - The recommendations in the ecology report and the woodland management plan are sensible and considered to be acceptable.
  - The existing sweet chestnut woodland should continue to be managed on a coppice cycle using hand tools only, along with continuous management of non-native rhododendron.
  - An area of grassland has been created as a result of woodland felling. This area should be managed as a glade rather than a pasture.
  - It is recommended that the woodland management plan is monitored for 10 years since the grant of planning permission, with monitoring reviews in years 5 and 10. This is to ensure that the management proposals continue and that the proposed activities have not resulted in any adverse impacts on the woodland.
  - Suggested conditions: development to comply with Preliminary Ecological Appraisal and Woodland Management Plan, and monitoring and review mechanisms.
- 4.8 Environmental Health Officer: No objection subject to conditions:
- Waste shall be disposed in accordance with relevant Waste Regulations. No burning of waste.
  - The development is unlikely to generate significant vehicle movements. Cycle parking spaces should be provided.
  - The level of usage of the composting toilet will not need an environmental permit.
  - Hours of use of the chainsaw should be limited to 08:00 to 17:00 hours, Monday to Friday, and 09:00 to 13:00 hours on Saturdays to reduce noise disturbance.
- 4.9 Forestry Commission: Comments:
- The Forestry Commission (FC) encourages and supports sustainable practices and the retention of rural skills such as green woodworking and smaller-scale timber-products production. This is subject to these being carried out in a sympathetic manner and not causing unnecessary damage to the woodland and its floral, faunal, landscape and historical value.
  - The production of timber products would be relatively low in this case. It is requested that the Authority controls that there is no gradual encroachment of camping pitches into the ancient woodland and that the change of use does not allow permanent residency in the woodland.
  - The FC is pleased to see that a Woodland Management Plan (WMP) to be endorsed by the FC has been created for this site. The WMP is currently 'approved in principle' with the Forestry Commission. The FC is happy with the contents of the plan subject to the end of a 28-day consultation period.
  - The area of coppice which has previously been grubbed out will be replanted as part of the WMP.

- Buildings appear to be appropriate. More clarity would be expected on where the applicant would spread the waste from composting toilets. Ancient Woodland soils and flora are important and these could be affected by nutrient or mineral content.
- 4.10 Dark Night Skies Ranger: Comment:
- The overall impact could be low provided that a good lighting plan is adopted.
- 4.11 WSCC Fire and Rescue Service: Comments:
- The nearest hydrant for this proposed commercial area is 540 metres away. The supply of water for firefighting for commercial premises should be within 90 metres.
  - Advised to condition the installation of a fire hydrant or an alternative supply of water that conform with Building Regulations.
  - The access road to the site will also need to support a 12 to 18 tonnes axial weight for a fire appliance, minimum road width of 3.7 metres and a turning circle of 19.2 metres.
- 4.12 WSCC Public Rights of Way: No objection.
- 4.13 WSCC Highways: No objection.
- 4.14 CDC Drainage Engineer: No objection.

## 5. Representations

- 5.1 A total of 114 third-party representations have been received: 49 objecting to the proposal and 63 in support. 2 neutral comments were also received. The representations raised the following issues:

### Objection

- The application has been submitted regardless of an enforcement notice that remains in force. The applicant has not provided sufficient justification to set aside the requirement of the enforcement notice such that planning permission should be granted.
- Clearance of the woodland has taken place without permission/licence.
- Any approval would lead to a development creep over time. The site is untidy and leads to changes to the character of the area.
- Degradation of the woodland and overall fauna and flora. Concern regarding impacts on wildlife and protected species in particular.
- Increase in traffic. Not sufficient parking spaces. Inadequate road and transport links. Highways safety concerns at the road junction. Additional traffic on the road may be unsafe for other users. Road not suitable for heavy vehicles. Not suitable infrastructure to support these industrial/commercial premises.
- Impacts on tranquillity and residential amenity due to noise and activity. Noise disturbance from parties in the woodland.
- Concern with the scale of the barn. Question whether cooking facilities and permanent buildings are required.
- There is no reason for additional leisure/education facilities in the area, in light of the Dangstein Conservancy nearby.
- Significant fire risk. The WSCC Fire Brigade would require access to the site and it is not provided.
- Would conditions be put in place to control the number of courses? Would the SDNP control no residential use? How any limit of use would be managed? Conditions are suggested to control numbers of people and tents.
- The LVIA and Landscape Officer's comments are bias and inaccurate. The LVIA fails to accord with the Landscape Institute standards.
- The community is not being heard.
- Proposals do not increase employment nor add well-being to locals.
- Concerns about setting precedent for similar projects.

- Some supporters of this application are not local to the area.

#### Support

- The level of intensity of use would be acceptable and it was agreed by a Planning Inspector. The educational and processing uses are very modest.
- Parking and tents are well away from public views and neighbouring properties. No social gatherings are intended.
- Proposals will deliver benefits to the local woodland and local community with negligible adverse impacts. It is a sustainable management of the woodland.
- The site would become a sustainable asset for the community and surrounding ecosystems. The application embraces the SDNP Partnership Management Plan.
- Opportunities to enjoy traditional timber skills and crafts and to learn about the natural environment. Activities that the National Park should enable. These are particularly important for young and vulnerable people.
- The woodland worker is an expert in managing woods and his teaching programme will engage the local community with the woodland.
- Control of invasive non-native plants.
- Use of renewable resources: timber.
- Plans are sympathetic to the woodland and do not intend to erect further buildings.
- Benefits to wildlife, biodiversity and well-being.
- Activities are well valued by previous attendees.
- Objectors misunderstand the aspirations for improving biodiversity and traditional crafts.
- Parking would be off road and limited to 5 vehicles.
- Refusal of this application would be at odds with the SDNP vision and PMP
- Proposals are in line with purpose 2 of the National Park and the NPA's duty.
- The Dangstein Conservancy nearby differs to this one in site, facilities and courses offer. They do share a similar ethos.
- There is no fire access road made. There have never been any uncontrolled fires and fire risk is low as the cooking and fire pit are well managed and protected from risk.
- Permissive access is allowed throughout the woodland by the land owner.

## **6. Planning Policy Context**

- 6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The relevant statutory Development Plan comprises of the **South Downs Local Plan 2014-2033** and the **Milland Neighbourhood Development Plan 2016-2030**. The relevant policies are set out in section 7 below.

#### National Park Purposes

- 6.2 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

- 6.3 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 in February 2019. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF



states at paragraph 172 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.

#### National Planning Policy Framework (NPPF) 2019

6.4 The National Planning Policy Framework has been considered as a whole. The following NPPF sections have been considered in the assessment of this application:

- Achieving sustainable development
- Building a strong, competitive economy
- Promoting healthy and safe communities
- Promoting sustainable transport
- Making effective use of land
- Achieving well-designed places
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

#### Relationship of the Development Plan to the NPPF and Circular 2010

6.5 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with it.

#### The South Downs National Park Partnership Management Plan 2020-2025

6.6 The South Downs Partnership Management Plan as amended for 2020-2025 on 19 December 2019, sets out a Vision, Outcomes, Policies and a Delivery Framework for the National Park over the next five years. The relevant outcomes include:

- Outcome 1: Landscape and Natural Beauty
- Outcome 2: Increasing Resilience
- Outcome 3: Habitats and Species
- Outcome 4: Arts and Heritage
- Outcome 5: Outstanding Experiences
- Outcome 6: Lifelong Learning
- Outcome 7: Health and Wellbeing
- Outcome 8: Creating Custodians
- Outcome 10: Great Places to Work

#### Other relevant documents

- South Downs Landscape Character Assessment (2020)
- Dark Night Skies Technical Advice Note (2018)
- Ecosystem Services Technical Advice Note (2019)
- Planning Position Statement by the SDNPA during COVID-19 Pandemic (2020)
- Roads in the South Downs (2015)

## **7. Planning Policy**

7.1 The following policies of the **South Downs Local Plan 2014-2033** are relevant to this application:

- SD1 – Sustainable Development
- SD2 – Ecosystems Services
- SD4 – Landscape Character
- SD5 – Design

- SD6 – Safeguarding Views
- SD7 – Relative Tranquillity
- SD8 – Dark Night Skies
- SD9 – Biodiversity and Geodiversity
- SD10 – International Sites
- SD11 – Trees, Woodland and Hedgerows
- SD17 – Protection of the Water Environment
- SD19 – Transport and Accessibility
- SD20 – Walking, Cycling and Equestrian Routes
- SD21 – Public Realm, Highway Design and Public Art
- SD22 – Parking Provision
- SD23 – Sustainable Tourism
- SD25 – Development Strategy
- SD34 – Sustaining the Local Economy
- SD39 – Agriculture and Forestry
- SD45 – Green Infrastructure
- SD48 – Climate Change and Sustainable Use of Resources
- SD49 – Flood Risk Management
- SD50 – Sustainable Drainage Systems
- SD54 – Pollution and Air Quality

7.2 The following policies of the **Milland Neighbourhood Development Plan 2016-2030** are relevant to this application:

- EN.1 – Natural Environment
- EN.2 – Dark Night Skies
- EN.3 – Green Infrastructure
- HD.2 – Landscape Character
- S.3 – Development Outside Settlements
- HD.3 – Built Form and Materials
- I.2 – Lanes
- LE.6 – Leisure Pursuits

## 8. **Planning Assessment**

### Background

- 8.1 The applicant, with the help of a forester, has been actively managing and coppicing Smugglers Copse since it was separated from the former Dangstein estate in 2009. The woodland has been managed using hand tools in a low impact manner, and selling various by-products such as fences, gates and timber framed buildings. In 2012, the forester started running occasional courses in woodland type skills such as chair making or timber framing. Structures were erected on site, some in connection to the forestry use, others to the camping and educational activities.
- 8.2 As explained in Section 3 (Planning History), an enforcement notice was issued in 2018. The breach of planning control in the notice was, without planning permission, to change the use of the land to mixed use comprising camping, education and training courses and manufacture of wood products, which would require planning permission. An appeal was made to the enforcement notice and subsequently dismissed and enforcement notice upheld. Whilst dismissed, the Inspector agreed that the principles of the mix uses proposed are very much within the ethos of the National Park and suggested that a planning application would

be the correct way forward to regularise and better define uses and control any development. Consequently, this planning application was submitted.

8.3 Following from initial concerns raised by some consultees, including the Landscape, Ecology Officers and the Fire and Rescue Service, the applicant was given the opportunity to address concerns and amend the proposal. Additional and revised information was submitted and reviewed by the relevant consultees. This includes:

- Revised plans.
- A Landscape and Visual Impact Assessment;
- A Camp Area Management Plan, which applies to the application site (red line);
- A new Woodland Management Plan, which applies to the whole woodland (blue line);
- A Fire Risk Assessment.

#### Policy context and principle of development

8.4 The proposal does not constitute major development for the purposes of the NPPF and Policy SD3 of the South Downs Local Plan (SDLP).

8.5 The National Park purposes are of significance in the assessment of this planning application since the proposed mix of use has the potential to deliver on both purposes. Purpose one refers to the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the area. Purpose two relates to the promotion of opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

8.6 Policy SD34 of the SDLP is relevant as it relates to sustaining the local economy and supports proposals that foster the economic and social well-being of local communities. In particular, it supports proposals that promote and protect business linked to forestry and tourism, two key sectors in the National Park. The proposal also has a timber-product manufacturing educational aspect, which is considered to be a business part of the knowledge sector. This sector, together with tourism and forestry, are identified by the SDNPA Planning Position Statement as to be at greater risk under the Covid-19 pandemic.

8.7 Policy SD25 of the Local Plan sets out the development strategy of the National Park, resisting development outside the defined Settlement Policy Boundaries. Exceptionally, Policy SD25 permits development outside settlement boundaries where it complies with relevant policies of the SDLP, responds to the context of the relevant area and there is an essential need for a countryside location. The application site is located outside any Settlement Policy Boundary. However, it is clear that there is an essential need for a countryside location for this forestry enterprise, given its nature, in line Policy SD25. The educational and visitor accommodation (camping) uses are also considered to be strongly and directly related to the forestry enterprise and therefore, also justify their countryside location.

8.8 The manufacturing of forestry products proposed with the application is only limited to a maximum of 30 days per year, at any time of the year. No use of powered tools would be required, except chainsaws, and timber would be sourced from the wood. This is considered to be a very low key manufacturing use of the woodland, which, as explained later in the report, is complementary to and supports the sustainable management of the woodland. Considering the very low intensity use of the manufacturing and its strong link to the management of the woodland, the use, is appropriate.

8.9 The proposal also seeks planning permission for camping use (5 pitches) in association to the courses that will require an overnight stay. These are the 'log to chair' and 'round framing' courses, which run for 6 and 4 days respectively. These are to be held 4 and 3 times in a year and would not exceed 5 tents on site at any time. The proposal for a low key accommodation, of limited intensity of use, where the number of course attendees and number of tents will be restricted.

8.10 Policy SD23 states that proposals for visitor accommodation, attractions and recreation facilities will be permitted where they provide opportunities for visitors to increase their awareness, understanding and enjoyment of the National Park. Certainly the proposal meets

the requirement as it would bring people to the woodland to learn sustainable woodland management, forestry product manufacturing, as well as to enjoy tranquillity and the landscape of the area. These are great opportunities for recreation and learning which are encouraged in the SDNP Partnership Management Plan 2020-2025 and compliant with the second purpose of the National Park.

- 8.11 Whilst Policy SD23 expects proposals to minimise the need for travelling by private car, the relatively remote location of the site in the rural area and the forestry nature of the enterprise makes it difficult to achieve this requirement.
- 8.12 Whilst outside any settlement boundary, this forestry enterprise would be closely associated to the public right of way network. The site can be accessed from public footpaths and bridleways in the immediate setting as well as the important Serpent Trail which adjoins the northern boundary of the wood. Therefore, although visitors would likely visit the site by private car, opportunities to use public transport and the public right of way network are available.
- 8.13 The proposed courses and overnight stays are to be limited by condition as per the proposal description table on paragraph 3.3 of this report. This is considered to be a relatively limited use of the site on an occasional basis: a total of 15 courses from April to November, across 44 days and a maximum of 76 visitors per season. As explained in this report, the intensity of use and associated physical landscape and perceptual changes will not detract from the experience of visitors or will adversely affect the character and appearance of the area.
- 8.14 Overall, in light of the appeal decision above-mentioned and for the reasons explained in this report, it is considered that the proposed woodland management, timber-product manufacturing, educational and tourism enterprise will positively contribute to the two purposes of designation of the National Park.

#### Landscape and public views

- 8.15 Policy SD4 relates to landscape character and states that development proposals will only be permitted when they conserve and enhance landscape character. Policy SD25 requires for development outside settlements to respond to the context of the area. Similarly, Policy SD23 puts emphasis in tourism development to not to adversely affect the character, appearance or amenity of the area. Policy SD6 is also relevant as it refers to conserving and enhancing key views.
- 8.16 The Landscape Officer was consulted on this application and raised some concerns in the initial consultation response due to the lack of sufficient landscape evidence to support the proposals and an analysis of the impacts on landscape character, views and perceptual qualities. Overall, the Landscape Officer requested to demonstrate that the proposal was sensitive to the landscape and that it conserves and enhances the area. Since then, officers worked with the applicant, who submitted a Landscape and Visual Impact Assessment (LVIA) as per officers' requirements.
- 8.17 Policy SD23 requires proposals to make use of existing buildings if possible, and if not, then for new buildings to be sensitive to the character and setting. The only existing building on site is the forester hut, which is in use by the forester for shelter and therefore not available for other purposes neither part of this planning application. The proposed structures are simple, sympathetic with the surrounding wood environment, made of sustainable materials and not of a permanent construction. Buildings are also to be built of sustainable materials and be powered with a photovoltaic panel. This is welcomed, and in light of the small scale of the proposals, proportionate and in accordance with Policy SD48 with regards to the sustainable use of resources.
- 8.18 The proposed barn would be entirely built from wood coppiced within Smugglers Copse, which is a sustainable approach to design and a material choice supported in the Milland Neighbourhood Development Plan (Policy HD.3). All structures are made of timber and are of a simple utilitarian appearance, which is appropriate for a forest enterprise in such rural location. Buildings are of a scale that do not dominate the area, are well sited and do not result in significant harm to the landscape character. The presence of structures in a natural

woodland is not generally positive in terms of landscape character, however, these respond to the working landscape where they locate and are designed in a manner that positively relate to their context. Notwithstanding this, once any forestry enterprise ceases on site, it would be requested that these structures are removed from the site. This is secured via condition.

- 8.19 Following further consultation with the Landscape Officer, the proposal has been supported with a Camp Area Management Plan as well as a Woodland Management Plan. Proposals have also been better defined, identifying two areas within the site: a) a teaching and working zone, and b) a camping zone. Structures associated to these zones and activities shall not extend beyond these as shown on the site plan. This zoning arrangement is positive and concentrates all activity within a single site, avoiding any encroachment into the woodland. This is controlled by condition.
- 8.20 The Landscape Officer has raised no objection to the proposal on the basis of the most recently submitted information. Several landscape benefits would result from this proposal, such sensitive woodland management, development of rural skills and ecological gains. Whilst some limited negative effects are identified by presence of buildings and activity within the woodland, these would be very limited and overall, would not cause harm to landscape character. This application is considered consistent with Policy SD4 of the Local Plan and policies HD.2 and HD.3 of the Milland NDP.
- 8.21 With regards to public views, the LVIA identified a very limited area to be visible by the general public. The site is entirely surrounded by a private woodland with some public rights of way in close distance, but from where direct views of the site cannot be clearly achieved, especially during the warmer months when trees are leafy. Having visited the site and in light of the evidence submitted, only some glimpses of the site may be achieved from the rights of way points to the west during the winter months. Notwithstanding this, views would be very localised and of a low impact. The proposal would not detract from the amenity value of the public right of way network and views will remain undisturbed, in line with the purposes of Policy SD6.
- 8.22 Concern was raised by the local community on the potential duplicity of similar enterprises in the area, as the site is only located a few hundred metres from Dangstein Conservancy (Laundry Cottage). It is acknowledged that both enterprises share a similar business type (recreation, learning and forestry) although they differ in the type of course offer and in their scale. The Smugglers Copse proposal is considered to be of lower use intensity compared to Dangstein Conservancy and it is limited to a few number of days per year. It enables the sustainable management of the woodland, which is the main use of Smugglers Copse. As assessed in this report, the landscape impacts of the proposal would not be significant in isolation or cumulatively.

#### Dark night skies and tranquillity

- 8.23 The application site is located within the Dark Sky Core. The area is also in an area of medium level of relative tranquillity as shown in the SDNP Tranquillity Study.
- 8.24 Policy SD8 relates to the conservation and enhancement of the intrinsic quality of the dark night skies, and the integrity of the Dark Sky Core. The application documents confirm that no external lighting is proposed within the site. The only light sources would be the fire pit and head torches used by visitors. This is reflected in the Camp Area Management Plan and no other external lighting will be allowed. This is controlled by condition.
- 8.25 In the absence of external lighting, the proposal is in line with the requirements of Policy SD8 of the Local Plan and Policy EN.2 of the Milland NDP, as it will conserve and enhance the quality of dark skies and the integrity of the Dark Sky Core.
- 8.26 Policy SD7 of the SDLP states that development proposals will only be permitted where they conserve and enhance the relative tranquillity of the National Park. The site is located within an area of medium tranquillity scores, and it is perceived as a tranquil space given its relative remoteness.

- 8.27 The LVIA concludes that the proposal would lead to a low level localised impact on tranquillity for limited periods of time in a year (a total of 44 days per year). The Landscape Officer, in consideration of the tranquillity sensitivities of the area, have requested that lighting should be avoided, which is the case. It is also requested that any noise that is atypical of a woodland, such as music, is avoided and controlled by condition to mitigate any nuisance impact that would detract from tranquillity. The Camp Area Management Plan sets up the rules that would apply to the entirety of the application site and stipulates that no amplified music will be allowed. Other activities such as timber-product manufacturing, through the use of tools and chainsaws, would lead to noise, however, this would be expected in a woodland. Considering that the use of the site for training activities is limited to only 44 days in a year and that alien noise from music is not allowed, it is considered that the proposal conserves the relative tranquillity of the area. Consequently, the proposal is in accordance with Policy SD7 of the Local Plan.

#### Impact on amenity of local residents

- 8.28 Policy SD5 of the Local Plan requires proposals to have regard to avoiding harmful impacts upon surrounding uses and amenities. As mentioned in Section 1, the site would be located approximately 150 metres away from the closest residential property.
- 8.29 Neighbours have raised some concern on potential impacts from traffic and noise from the proposed development. As explained above, amplified music will not be allowed on site and this is controlled by condition. The intensity of use of the site is low and timber products manufacturing with hand tools and eventual chainsaws would not be detrimental in terms of noise to residents' living conditions. Similarly, the small groups of people attending courses and staying overnight, in the absence of music, would not necessarily lead to noise levels as to detract from living conditions. Proposals, as controlled by condition, are consistent with Policy SD5.

#### Protected species

- 8.30 This planning application has been supported by a Preliminary Ecological Appraisal report (September 2020). The report confirms that the proposed barn will require coppicing of two sweet chestnut trees and felling of one semi-mature silver birch tree. The proposed shower and toilet facilities will affect a small area of young sweet chestnut coppice with patches of bramble and the parking areas is covered by mainly areas of bare ground.
- 8.31 The Ecologist was consulted on this application and concluded that the ecological impacts from the proposed works is considered to be low. It was suggested that the number of vehicles and courses, periods of use and fire pits should be controlled via condition to avoid any adverse impact on the Ancient Woodland/Local Wildlife Site. The Ecologist agrees with the conclusions of the report that no adverse impact to protected species would result from the proposal, and suggested conditions, which have been incorporated in the report. The proposal would accord with the ecological mitigation and enhancement requirements of Local Plan Policy SD9 and the Milland NDP (Policy EN.1).
- 8.32 The site is located within the Local Plan Policy SD10 International Sites buffer zones: 12km from the Singleton and Cocking Tunnels and on the edge of the 5km from the Wealden Heaths Phase II. Proposals have been found to have low impact and would not adversely affect bat population and their flight lines. Furthermore, no net increase in residential units would result from this proposal, therefore no Habitat Regulations Assessment would be required. Natural England has not raised any adverse comments and proposals are in line with Policy SD10.

#### Woodland management

- 8.33 A Woodland Management Plan (WMP) has been submitted to the SDNPA for review during the life of the development. It is considered to fit with the SDNP Partnership Management Plan 2020-2025. The WMP sets out the following objectives:
- Increase diversity in the tree species present in the woodland to provide future resilience to disease, economic shocks, and climate issues;

- Continue coppice rotation of Smugglers Copse to provide income generation and local employment opportunity;
  - Create open space and implement a network of rides to increase biodiversity opportunities;
  - Provide facilities for coppice management and woodwork education;
  - Conservation and enhancement of landscape character.
- 8.34 The overall vision and objectives, as well as the actions contained within, are supported by the Ecology, Landscape and Woodland Officers. The WMP is also at an 'approved in principle' stage at the Forestry Commission and they are content with the content of the plan.
- 8.35 It is considered that proposals will not lead to a deterioration of the ancient woodland and that the WMP would contribute to an enhancement of Smugglers Copse due to the management of non-native rhododendron, diversification of tree species, coppice cycles using hand tools and selective glades creation, amongst others actions.
- 8.36 The WMP is essential in the delivery of biodiversity net gain opportunities, as well in the delivery of the activities proposed: timber-product manufacturing and courses. The WMP is also fundamental for the delivery of ecosystem services (Policy SD2), and overall, to achieve compliance of the proposal with the Local Plan requirements to enhance landscape (SD4), biodiversity (SD9), woodland (SD11) and Green Infrastructure (SD45). It is therefore considered that the WMP is necessary to make the development acceptable in planning terms. Furthermore, the WMP is directly related to the manufacturing and course uses within the application site and it is a proportionate and reasonable plan to be linked to the proposed development.
- 8.37 The Ecologist has recommended to monitor the woodland during a 10-year period since the grant of planning permission with reviews in years 5 and 10. Monitoring is also required by the Landscape Officer.
- 8.38 The SDNPA have agreed with the applicant that the adherence to and implementation of the WMP and its monitoring will be secured in a Section 106 legal agreement.

#### Ecosystem Services and Green Infrastructure

- 8.39 Policy SD2 of the SDLP relates to ecosystem services and states that development proposals will be permitted where they have an overall positive impact on the ability of the natural environment to contribute goods and services. This is to be achieved through high quality design and delivering all opportunities to manage natural resources sustainably. Policy SD45 is also relevant as it requires to maintain and enhance Green Infrastructure (GI) assets. Policies EN.1 and EN.3 of the Milland NDP also relate to the natural environment and GI.
- 8.40 This proposal would provide opportunities for access to the natural and cultural resources and people's well-being thanks to the proposed courses. Moreover, the manufacturing of timber-made products will support the sustainable production of forestry and raw materials. Other ecosystem benefits relating to habitat enhancements and biodiversity will arise from the implementation of a sensible Woodland Management Plan.
- 8.41 Smugglers Copse forms part of the wider GI network, and the WMP will strengthen the resilience this ecological networks by increasing biodiversity within the woodland, also providing resilience to disease and climate change due to an increase diversity in tree species.
- 8.42 Proposals are therefore in line with policies SD2 and SD45 of the Local Plan and with NDP policies EN.1 and EN.3.

#### Access, parking and public rights of way

- 8.43 The Local Highways Authority (LHA) was consulted on this application and raised no objection to the proposal. The LHA considers that a 'severe' increase in vehicular trips is not anticipated and that the access is acceptable. The LHA also supports the Strategic Traffic Management Scheme submitted with the application, which encourages visitors to use public

transport, cycling and car sharing. This is welcomed and within the aims of the Local Plan for rural development.

- 8.44 The enterprise would have a small number of visitors, which would require a maximum of 5 parking spaces. These have been designated within the application site immediately adjacent to the track. These spaces would be located within a coppiced area, to remain unsurfaced. A condition will secure that parking spaces are retained as such. No harm to the landscape value of rural roads is anticipated due to the very low traffic impact of proposals, in line with 'Roads in the South Downs'.
- 8.45 The Public Rights of Way Team at the LHA have also commented and raised no objection. The proposal will not alter any public right of way in the vicinity, and as explained in the report, it would not lead to harm to the amenity value of the public right of way network.
- 8.46 In light of the above, the proposal is considered to comply with Policies SD19, SD21 and SD22 of the Local Plan.

#### Fire risk

- 8.47 The WSCC Fire and Rescue Service advised that commercial developments should be provided with a supply of water for firefighting within 90 metres of the premises. The site is located 120 metres away from the nearest road and 540 metres from the nearest hydrant. The Fire and Rescue Service would require a new fire hydrant or an alternative water supply as well as an access road of 3.7 metres of width and turning area.
- 8.48 Officers have considered the above comments regarding fire risk and identified difficulties for this proposal to meet the WSCC Fire and Rescue Service requirements. In order to meet access requirements, a substantial turning area and widening of the track would be needed, from approximately 2.3m to 3.7 metres. This would likely lead to changes to landscape character, ecology and significant loss of trees along the 400 metres long access track. Furthermore, the applicant may face an unaffordable cost of installing mains water, plus a hydrant, which may not be practically feasible and is disproportionate to the scale and limited use of the site.
- 8.49 The application has been accompanied with a Fire Risk Assessment, containing risk control measures and an action plan towards reducing fire risks and facilitating their extinction should there be an eventual fire. The Fire and Rescue Service have reviewed the additional information but remain requiring the hydrant and access. Having reviewed the submitted Fire Risk Assessment, SDNPA officers consider it to be a pragmatic and proportionate ad hoc plan for the site as it covers well all risks. The Fire Risk Assessment is, together with the Camp Area Management Plan, controlled by condition.
- 8.50 The lack of a standard access for firefighting vehicles is unfortunate but it should be balanced against the conditioned fire safety measures. These have been produced on behalf of the applicant and therefore confident that they can be adhered to during the operation of the courses.
- 8.51 The comments made by the Fire and Rescue Service were based on compliance with building regulations requirements. However, from a planning perspective, the SDNPA considers that the proposed safety measures are proportionate and adequate for this proposal and that any additional requirements as per the consultee's suggestion would be disproportionate to the proposal.
- 8.52 This proposal deals with fire risks in a proportionate manner and conditions will secure that fire safety measures are adhered to during the life of the development.

## **9. Conclusion**

- 9.1 Given the above, it is considered that the proposal is in accordance with the Development Plan and there are no overriding material considerations to otherwise indicate that permission should not be granted.
- 9.2 The proposal has demonstrated that the mixed uses and buildings will not detract from the special qualities of the National Park and to be in line with the purposes of designation. Conditions will ensure that the development does not lead to any harmful impact to nearby



residents and tranquillity and that fire risks are adequately managed within the site. Proposals will also secure significant natural environment benefits. It is therefore recommended that planning permission is granted.

## **10. Reason for Recommendation and Conditions**

10.1 Planning permission is recommended to be granted subject to:

- i. The completion of a Section 106 legal agreement, the final form of which is delegated to the Director of Planning, to secure that Smugglers Copse (as shown on the location plan in blue) is managed in accordance with the submitted Woodland Management Plan (January 2021) and adequately monitored for a minimum period of 10 years.
- ii. The conditions as set out in paragraph 10.2 of this report.

And that authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the S106 Agreement is not completed or sufficient progress has not been made within 6 months of the 11th February 2021 Planning Committee meeting.

10.2 Proposed conditions:

### Timescale

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended)/ To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

### Approved plans

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interests of proper planning.

### No external lighting

3. No external lighting shall be installed on the building or within the site.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of night time amenity, tranquillity, wildlife and protect and conserve the International Dark Night Skies.

### Ecology

4. The development shall proceed in complete accordance with the measures detailed in the submitted Preliminary Ecological Appraisal by DJW Ecology (September 2020) and Woodland Management Plan by David Archer Associates (October 2017).

Reason: to ensure the protection of Randle Wood Local Wildlife Site and Ancient Replanted Woodland and the protected species it supports against recreational pressure and unsympathetic management, in line with Policies SD9 and SD11 of the South Downs Local Plan.

### Chainsaw hours of use

5. Only hand tools should be used in connection with the educational courses, with the only exception of chainsaws, which shall not be used outside the following times:

- a) 08:00 – 17:00 on Mondays to Fridays,
- b) 09:00 – 13:00 on Saturdays
- c) Not at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of conserving tranquillity and reduce noise disturbance to nearby residents.

No waste burning

6. There shall be no burning of stable waste (arising from the stables hereby permitted) on the application site at any time.

Reason: In the interests of amenity and of preventing pollution.

No amplified music

7. No external loudspeakers, public address/tannoy systems or amplified music shall be used on the site at any time.

Reason: To safeguard the tranquillity of the countryside and neighbouring amenity.

Parking

8. No part of the development shall be first brought to use until the car parking spaces have been constructed in accordance with the approved plans. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide sufficient car parking space for the use.

Fire safety

9. The development hereby permitted shall be implemented and operated in complete accordance with the submitted Fires Risk Assessment for Smugglers Copse Woodland at Borden, West Sussex (Produced by Stephen Granger, dated 30 September 2020). This plan shall be followed at all times.

Reason: In order to avoid and reduce fire risks and facilitate a safe operation of the site.

Use restriction

10. The site shall be used for the manufacturing of forestry products up to a maximum of 30 days per year. The site shall be also used for the delivery of education courses on the manufacturing of forestry products and associated camping use from the 1 of April until the 30 of November of each year. Camping is only permitted where it is in connection to the courses and no independent overnight stay is allowed. The site shall operate in accordance with the specifications as stated in paragraph 2.1.3 of the submitted Planning Statement (produced by Terrapermageo, dated July 2020) which sets out the duration, frequency and size of courses and overnight stays.

Reason: To enable the Local Planning Authority to regulate and control the development of land.

Barn

11. The approved barn shall be constructed in complete accordance with the approved plans and specifications and shall be used for the purposes of manufacturing timber product and associated training and not for overnight stays. The building shall never be used for residential purposes.

Reason: To comply with the details of the application and avoid any residential use where would be contrary to the Development Plan.

Camp area management

12. The site shall operate in complete adherence with the submitted 'Smugglers Copse Camp Area Management Plan' dated January 2021. No vehicles shall be used for overnight stays and all visitor stay shall be limited to the designated camping areas and pitches as detailed in the approved plans.

Reason: To comply with the details of the application and avoid an unacceptable use of the campsite which would lead to adverse impacts in the National Park.

#### Removal of structures

13. Should any use cease on site, all relevant structures associated to the use shall be removed from the site, debris removed and the ground restored to its previous condition, or otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the conservation of landscape character, woodland habitat and amenity value of the countryside.

#### Removal of permitted development rights

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development falling within the following Classes of Schedule 2 of the Order shall be carried out without the prior written approval of the South Downs National Park Authority: Part 6 Classes A and E.

Reason: To ensure the development is satisfactory in accordance with the purposes of the South Downs National Park and does not result in harm to landscape or in an unacceptable intensification of use.

#### Informatives

- I. To accord with current building regulations WSCC Fire and Rescue have advised that there should be a fire hydrant within 90 metres of the development for the supply of water for firefighting for a commercial premise. If a requirement for additional water supply is identified by the Fire and Rescue Service and is subsequently not supplied, there is an increased risk that the service may not be able to control a potential fire.

### **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 the provision of pre-application advice from the SDNPA Development Management Officer and SDNPA Landscape, Woodland Officers, the opportunity to provide additional information to overcome technical issues and the opportunity to amend the proposal to add additional value as identified by SDNPA Officers and consultees.

## **TIM SLANEY**

### **Director of Planning**

#### **South Downs National Park Authority**

Contact Officer: Rafa Grosso Macpherson

Tel: 01730 819336

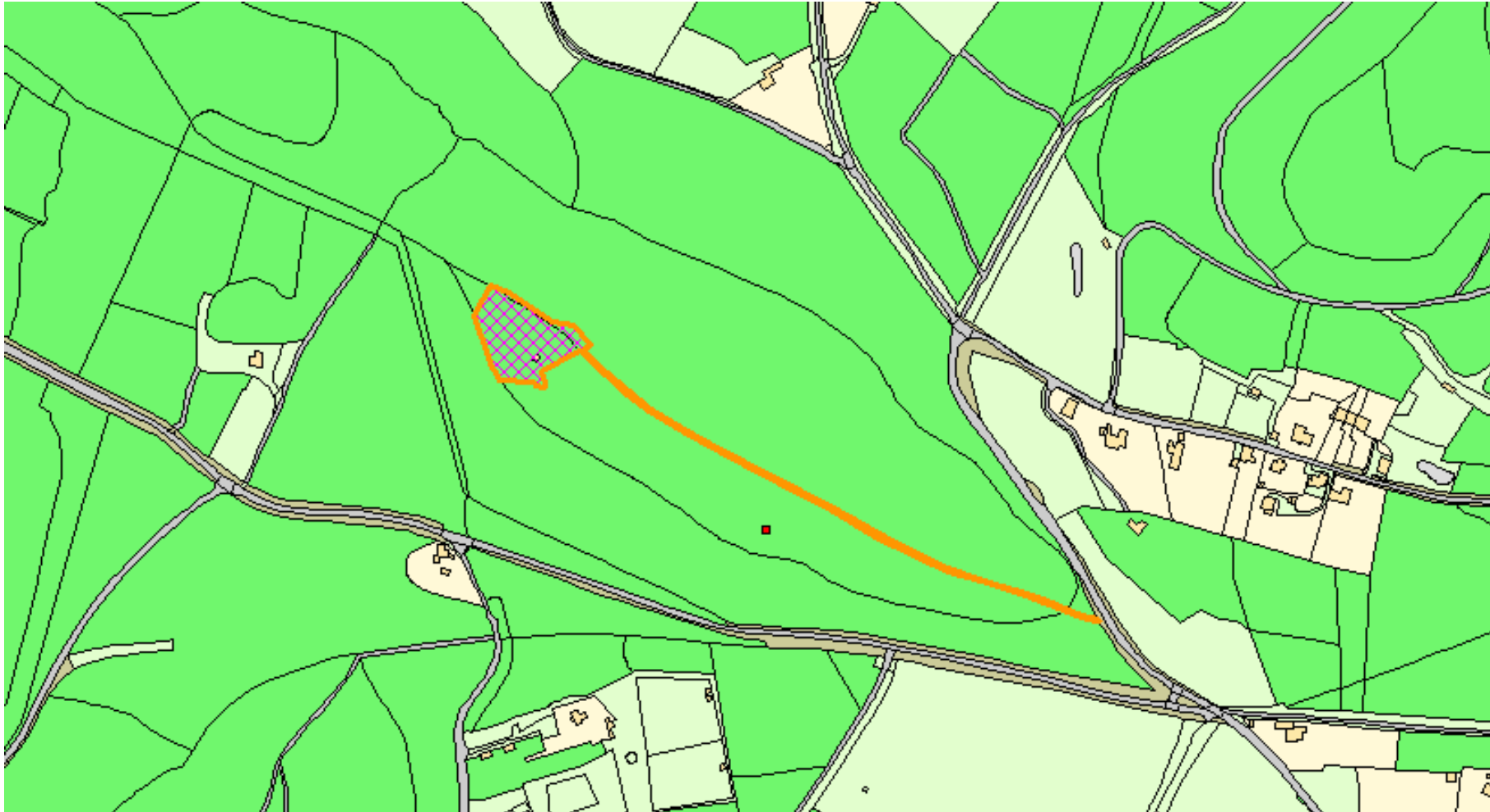
email: [Rafael.Grosso-Macpherson@southdowns.gov.uk](mailto:Rafael.Grosso-Macpherson@southdowns.gov.uk)

#### Appendices

1. Site Location Map
2. Appeal decision ref. APP/L3815/C/18/3208260

SDNPA Consultees	Legal services, Development Manager, Director of Planning
Background Documents	<p>Planning application (documents, representations and consultation responses)</p> <p><a href="https://planningpublicaccess.southdowns.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://planningpublicaccess.southdowns.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a></p> <p>South Downs Local Plan 2014-2033</p> <p><a href="https://www.southdowns.gov.uk/planning/south-downs-local-plan_2019/">https://www.southdowns.gov.uk/planning/south-downs-local-plan_2019/</a></p> <p>Milland Neighbourhood Development Plan (2016)</p> <p><a href="https://www.southdowns.gov.uk/wp-content/uploads/2016/08/Milland-NDP-Made-Plan.pdf">https://www.southdowns.gov.uk/wp-content/uploads/2016/08/Milland-NDP-Made-Plan.pdf</a></p> <p>National Planning Policy Framework (2019)</p> <p><a href="https://www.gov.uk/government/publications/national-planning-policy-framework--2">https://www.gov.uk/government/publications/national-planning-policy-framework--2</a></p> <p>The South Downs National Park Partnership Management Plan (2020-2025)</p> <p><a href="https://www.southdowns.gov.uk/national-park-authority/our-work/partnership-management-plan/">https://www.southdowns.gov.uk/national-park-authority/our-work/partnership-management-plan/</a></p> <p>English National Parks and the Broads: UK Government Vision and Circular (2010):</p> <p><a href="https://www.gov.uk/government/publications/english-national-parks-and-the-broads-uk-government-vision-and-circular-2010">https://www.gov.uk/government/publications/english-national-parks-and-the-broads-uk-government-vision-and-circular-2010</a></p> <p>South Downs Integrated Landscape Character Assessment (2020)</p> <p><a href="https://www.southdowns.gov.uk/landscape-design-conservation/south-downs-landscape-character-assessment/south-downs-landscape-character-assessment-2020/">https://www.southdowns.gov.uk/landscape-design-conservation/south-downs-landscape-character-assessment/south-downs-landscape-character-assessment-2020/</a></p> <p>Planning Position Statement by the SDNPA during COVID-19 Pandemic (2020)</p> <p><a href="https://www.southdowns.gov.uk/planning-position-statement-update/">https://www.southdowns.gov.uk/planning-position-statement-update/</a></p> <p>SDNPA Technical Advice Notes</p> <p><a href="https://www.southdowns.gov.uk/planning-policy/supplementary-planning-documents/technical-advice-notes-tans/">https://www.southdowns.gov.uk/planning-policy/supplementary-planning-documents/technical-advice-notes-tans/</a></p> <p>Roads in the South Downs (2015)</p> <p><a href="https://www.southdowns.gov.uk/wp-content/uploads/2015/09/Roads-in-the-South-Downs.pdf">https://www.southdowns.gov.uk/wp-content/uploads/2015/09/Roads-in-the-South-Downs.pdf</a></p>

**Site Location Map**



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## Appeal Decision

Hearing Held on 7 January 2020

Site visit made on 7 January 2020

**by Simon Hand MA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14<sup>th</sup> January 2020**

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**Appeal Ref: APP/L3815/C/18/3208260**

**Land West of Junction with Dangstein Road and Borden Lane, Borden, Milland, West Sussex, "Smugglers Copse", GU31 5BZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Ms Gillie McNicol against an enforcement notice issued by Chichester District Council.
  - The enforcement notice, numbered ML/25, was issued on 19 June 2018.
  - The breach of planning control as alleged in the notice is without planning permission, change of use of the land to mixed use comprising camping, education and training courses and manufacture of wood products.
  - The requirements of the notice are (i) Cease the use of the land for camping, education and training courses and for the manufacture of wood products; (ii) Remove the metal corrugated sheeting, plastic corrugated sheeting, wooden planks, metal oil drums, caged plastic container, photovoltaic panel, vans and spare wheels from the land; (iii) Remove from the land, the two touring caravans; (iv) Dismantle the 'round house' used as a central communal structure, the outside kitchen, the pizza oven, the framing bed and structural canopy, the structure used as a 'workshop', the old toilet structure used as a general store and the wood store, the enclosed wooden podium, and (v) Remove from the land all the resulting debris from the structures dismantled in (iv) above including the removal of the associated wooden tables, chairs, work surfaces, benches and clay oven.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (d) of the Town and Country Planning Act 1990 as amended.
- 

### Decision

1. It is directed that the enforcement notice be corrected by adding in "forestry" between "comprising" and "camping" in the allegation and varied by deleting reference to "the old toilet structure used as a general store" from requirement (iv). Subject to this correction and variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Costs Application

2. An application for an award of costs was made at the hearing and is the subject of a separate decision letter.

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## Background to the Appeal

3. The appellant purchased a block of woodland that was formally part of the Dangstein estate in 2009. It covers about 10.5ha and is predominantly coppiced sweet chestnut. The Land is bordered by a bridleway, part of the serpent trail to the north and east, Dangstein road to the south and a public footpath to the west. A forest track runs through the site on a west-east alignment and carries on beyond the appeal site to further woods in different ownership beyond to the west. Part of the western edge footpath passes through a small ravine which is a noted site for rare briophytes. The whole site falls within a larger area identified as a Site of Nature Conservation Interest by the County Council and is a replanted ancient woodland.
4. The appellant, with the help of a forester, Richard Bates, has been actively managing and coppicing the land, which had previously been left to its own devices, using hand tools in a low impact manner, and selling various by-products such as fences, gates and timber framed buildings. Also, since 2012, Mr Bates has also been running occasional courses in woodland type skills such as chair making or timber framing.
5. A similar undertaking, but on a larger scale, at Laundry Cottage<sup>1</sup> on the other side of the road from the appeal site, was recently granted planning permission following an appeal in October 2019, and a number of issues are common to both appeals. Both parties made reference to that decision in this appeal.
6. It was agreed that the notice should be corrected to include 'forestry' within the mixed use allegation, and this would not prejudice either party. There is a hut on site currently used for storage and for Mr Bates as a seasonal woodland worker. This is the only structure that is of a robust construction, albeit it is still a simple wooden hut. The Council accept that a working forest requires some form of shelter and the hut is not included in the notice and so not affected by this appeal.

## The Appeal on Ground (c)

7. This ground is that the matters alleged do not need planning permission. In this case it is argued the forestry products are ancillary to the use of the land for forestry purposes and the educational courses are permitted development by virtue of Class B of Part 4, Schedule 2 of the General Permitted Development (England) Order 2015.
8. It was accepted by the appellant that the reasoning in the Laundry Cottage appeal as to what constituted ancillary timber production was relevant here. In that appeal the Inspector held that it was the amount of 'processing' that occurred that was important to determine whether a wood product was 'consequential on' the coppicing of trees as a crop. In this appeal Mr Bates is producing benches, small timber round-wood frames, field gates, hurdles and a yurt frame as well as shingles or shakes, pea sticks, fence posts, bean poles and so on.
9. Following on from the Laundry Cottage decision, it is my view that the latter items, the shingles/shakes, pea sticks, fence posts, bean poles and so on are all clearly ancillary products, they require little or no processing, and are consequential on the coppicing process. However, the other items, gates,

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<sup>1</sup> APP/Y9507/C/18/3199595 & 3194790.

hurdles, the yurt and timber framed buildings do require considerable added value in terms of processing, whether in a low impact, hand tool fashion or not. I consider that even the occasional production of such items because they requires some processing is not ancillary to forestry and so is not permitted development.

10. The second element of the ground (c) appeal concerned the educational courses. Again, there was no dispute about the length of time taken up by these courses, which was a maximum of 19 days in 2013. Since 2017, when the Council began investigating the alleged breaches the number of courses has tailed off. Mr Bates said that he had run two, one-day course this autumn involving two people on each course, making a chair and a stool. This is a very low key activity that falls well within the 28 days a year allowed by Class B of Part 4, which covers temporary uses of land. However, the Council argue that it falls outside Class B because B.1(b) says that development is not permitted if "*the land in question is a building or is within the curtilage of a building*". In this case, the Council say, a number of timber structures are involved in the courses and the outdoor elements are within the curtilages of these buildings.
11. As I saw on the site visit, within the wood is a small area known as 'the camp' that contains a number of buildings or structures made out of the wood's own timber products. The exception was a touring caravan used by Mr Bates in his seasonal forestry worker role. Also tarpaulins or a parachute were used to roof some of the timber frames that had been erected. These were only brought into use when required for a course, otherwise they remained as simple framed structures. There was no argument from the appellant that the structures were not buildings for the purposes of the GPDO, and I think it is commonsense that they must be. In which case, whether or not they can be said to have a curtilage is irrelevant, as at least some of the courses rely on the use of the buildings and buildings are excluded from the permitted development rights which are concerned only with the use of the land.
12. While not all the courses would necessarily use a building, for example a one day course on making spoons held in the summer might be entirely outdoor based, it is clear that some have. The appellant suggests the buildings are actually part of the lawful forestry use and the occasional use for educational activities is simply co-incidental and does not impinge on the rights granted by Class B. The buildings comprise a timber framed 'roundhouse' communal hut, a compost toilet, an old compost toilet now used as a store, the framing bed, a wood store and a workshop. The notice also includes a 'dance podium' and an outside kitchen which have already been removed.
13. A number of these buildings were constructed as part of the courses in timber framing, and it is clear the number of buildings can fluctuate as old ones are dismantled and replaced by new, possibly in a different location and for a different purpose and of a different size. This is in keeping with the low key, low impact philosophy underlying the use of the site as a whole. However, it is clear that not all these buildings are genuinely necessary for or ancillary to forestry activities. I have already found the making of timber frames is not permitted development, and so the framing bed cannot be said to be related to a lawful forestry activity. The roundhouse is obviously used for more than forestry activities and various of the other structures, the compost toilet for example, have shared uses. The permitted development rights granted by Class B specifically exclude the use of buildings and insofar as the courses use



these buildings, they cannot be permitted development. I have no evidence to determine which if any courses are entirely outdoors based, so I can only find the use of the site for educational purposes as a whole is not permitted development.

14. A secondary issue is whether the activities of wood product manufacture and educational courses amount to a material change of use. They might not be permitted development, but if, in volume terms they amount to such a small scale activity that they are not material, then they would not amount to development requiring planning permission.
15. In this case the appellant's figures for timber products are 15-16 days spent on each year for the last four years. Activity in previous years is less. This is a very low level of activity. The figures for educational courses over the same period is only 6 in 2017, 1 in 2019 (up to July) and it seems a further 2 in the autumn of 2019. However, this dip in activity follows on from the issue of a PCN by the Council and visits from the enforcement team in 2016 when it became clear to the appellant that the Council were concerned about the activities in question. Certainly educational courses had been running at a higher level, about 15 days a year up to then. The courses require people to travel to the site, with 2-3 cars per course it would seem, and in many cases camping on the site overnight. Although this too is a low level of activity, taken together there is a pattern of regular courses and timber product manufacture that amounts to more than an occasional or de minimis use of the land and does, just, suggest the material change of use as alleged has been made. Therefore the appeal on ground (c) fails.

### **The Appeal on Ground (d)**

16. This appeal concerns only three of the structures mentioned above, the compost toilet, the framing bed and the old toilet/store. There is no dispute the three structures have been on site for more than 4 years and so, for that reason are immune from enforcement. However, the Council argue they are integral to the material change of use of the land and if the notice is upheld on that basis these structures can be removed regardless of whether they are lawful or not. There are a number of court cases that have defined this principle, the key one for this appeal being *Bowring*<sup>2</sup>, where it was held that if the operational development installed as part of the material change of use is to be removed, it must be integral too or part and parcel of the use alleged. It is not sufficient if the works had been undertaken for a different and lawful use and could be used for that other lawful use if the unauthorised use ceased.
17. In this case the framing bed can only be used for the production of timber frames or also as part of a timber framing course, which I have found above not to be ancillary to forestry. The compost toilet and the store could both be used by a forestry worker, going about lawful forestry tasks. I have little evidence concerning the uses these two structures have actually been put to. Mr Bates statement says the store was used in a framing course in 2012, but it is clearly a general small storage structure. I think one has to be careful when applying this principle too liberally and in my view it is far from clear these two structures are integral to the unlawful activities subject to the notice.

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<sup>2</sup> *Bowring v SSCLG & Waltham Forest BC* [2013] EWHC 1115

18. The appeal on ground (d) succeeds for the old toilet/store but fails for the framing bed. I note that in fact the compost toilet is not specifically included in the allegation or requirements, but for the avoidance of doubt I consider that it has gained immunity from enforcement by way of the passage of time.

### **The Appeal on Ground (a)**

19. It was agreed the Milland Parish Neighbourhood Plan (2016-2030) and the South Down National Park Local Plan (2019) form the development plan for the purposes of this appeal. The site is an SNCI and so policy EN1 of the Milland NP requires an Ecological Impact Assessment if there is likely to be an adverse effect on the site. No EIA has been provided, but the appellant argues the Woodland Management Plan effectively covers the same ground and with a high level of detail. I agree that it is difficult to see what would be gained by the production of a further EIA.
20. Policy SD4 of the SDNP local plan deals with the protection and enhancement of the landscape, SD7 seeks to preserve and enhance relative tranquillity and SD23 encourages sustainable tourism within certain parameters. The site also lies in an area classified as the Dark Sky Core and the SDNP Partnership Management Plan has a policy to protect and enhance tranquillity and dark night skies. However, the main thrust of all these policies is to encourage development that promotes the understanding and enjoyment of the special qualities of the park as long as those qualities are not harmed. Small scale forestry activities and low impact educational courses involving the hands-on manipulation of woodland products is very much within the ethos of the National Park and it is this that the appellant is promoting on the appeal site. The issue is therefore whether in the process the very special qualities that the appellant seeks to promote are also being undermined.
21. The site lies in an area designated as being of intermediate tranquillity for policy purposes. As I experienced myself, apart from the noise of a helicopter, it was very quiet and peaceful and the preservation of this tranquillity is important.
22. The manufacture of wood products by a single person, using hand tools and wood sourced solely from the coppiced woodlands is clearly something that the SDNP would support. At the level it is being carried out at the present it clearly causes no harm. However an unfettered permission might well have much more serious consequences. The woodland could be more intensively managed and production of timber products could be significantly stepped up. I am aware also that a certain amount of raw timber could be imported to be worked on. More machinery and more workers would lead to more noise and disturbance and also visits by lorries taking away finished products. I am not suggesting this is the intention of the appellant, but there is no guarantee she will remain the owner so any future use would need to be controlled by conditions.
23. The use of the site for educational purposes, on a small scale and for small groups of people also, in my view, clearly sits within the second purpose of the National Park, to promote the understanding and enjoyment of its special qualities. Again, the current level of use is very low. Even with 15 days of courses a year which is the level before 2017, there is no reason why this could not be carried out without causing any harm. However, these courses have certain associated activities and effects that also need consideration. Most

- people will arrive by car, which will need to park on site. Those on multi-day courses will also need to either stay locally or on the site. In the past people have tended to rough camp in the woodland wherever there is a flat area sufficiently clear of trees. This might be fine for a couple of tents a couple of times a year, but less so if numbers are to grow as is proposed.
24. The people attending the courses also need toilet facilities – the current single compost toilet (even with two adjacent seats) may not be enough, and there is no running water in the camp, although there is a tap 100m away. With more people staying there will need to be at least some rudimentary washing facilities for basic hygiene purposes, and they will also need to be fed. There is a pizza oven on the site and a small communal pizza gathering in the evening has been the norm in the past. Again this will expand given more people and more courses.
  25. Finally, it has been the practice for the timber making course to produce a structure that is then used on the site. The Council were concerned about the proliferation of such structures throughout the woodland, especially as more framing courses are envisaged.
  26. The appellant has suggested a number of conditions to deal with these issues. They accepted there should be a limit on any lighting, which would satisfy the dark skies problem. They also agreed the management plan for the woodland could be conditioned to ensure environmental and habitat concerns were met. I accept these would overcome any problems in these areas. A condition is also suggested limiting the production of non-ancillary woodland products. It is envisaged this would include only wood sourced from the site and only hand tools and chainsaws shall be used. Again I agree this is a necessary condition which would help restrain the potential disturbance from this activity. It is also envisaged production would only take place on 60 days a year. Some limit to production is clearly required.
  27. As to the educational courses it was suggested these too are limited to 60 days a year and to 10 participants a day. Cumulatively, with the timber production, this would amount to 120 days of activity a year and up to 600 people on the site attending courses. The appellant accepted this was not what they envisaged and suggested refining the condition along the lines of a maximum of 8 participants on 1 day courses and 4 on timber framing courses, no more than 10 courses a year up to a maximum of 60 days. I think this is the right way to approach the problem, but it is quite unsatisfactory to make up these conditions on the hoof. What about the courses that are more than 1 day but aren't framing courses?
  28. There is also the issue with the associated impacts discussed above of camping and parking. I was shown various spaces in the woodland where cars could park and it was suggested a condition could require enough spaces to be identified and marked out in some way. This may be possible, but I have no evidence as to how many or where they might be. It was suggested that no facilities were envisaged for camping, but I find this hard to believe. It suggests to me that this element has been insufficiently considered.
  29. As to the proliferation of structures, the appellant agreed this was not envisaged, and was happy to have a condition restricting the numbers, but again no condition was put before me. Something akin to a site management plan In my view the implications of success on ground (a) have not been

properly thought through, particularly as this is development within a national park subject to the highest standards of protection in national as well as local policy.

30. Mr Campion who represented third parties, suggested the lack of a s78 application was the problem and I agree. A properly thought out proposal with evidence as to numbers and frequency of the different types of activity and conditions to control that, as well as provide certainty as to the impacts on the site of parking, camping and the potential proliferation of structures would all be necessary to allow a reasoned determination by the Council as well as proper consultation and reassurance for neighbours. I have no doubt that given the evidence I heard that a proposal for some level of intensification above the current low level use could be acceptable and would sit comfortably within the national park, but I am not satisfied that I have evidence to suggest what that should be. Consequently, I find the development proposed would be likely to be contrary to policies SD4 and SD7. I am not sure that SD23 is relevant, but if it is, then it would be contrary to that as well. The Appeal on ground (a) fails.

### **Conclusions**

31. The appeal on ground (c) fails, but on ground (d) it succeeds for the compost toilet and old compost toilet store. I shall vary the requirements to delete the removal of the old compost toilet/store. The appeal on ground (a) fails and I shall refuse to grant planning permission for the matters alleged. I shall correct the notice to include forestry within the mixed use. Subject to that correction and the variation of the requirements I shall dismiss the appeal and uphold the notice.

*Simon Hand*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

James Shorten – agent  
Gillie McNicol – appellant  
Richard Bates – woodland worker

### FOR THE LOCAL PLANNING AUTHORITY:

Shona Archer – Chichester DC  
Steven Pattie – Chichester DC

### INTERESTED PERSONS:

David Campion  
Colin Stopher – Milland PC

## **DOCUMENTS**

- 1 Richard Bates, statutory declaration
- 2 Tranquillity map
- 3 Rights of Way map
- 4 Dark Skies map

