




---

## Appeal Decisions

Inquiry Held on 9 April and 28 October – 31 October 2019

Site visits made on 9 April and 31 October 2019

**by Simon Hand MA**

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

**Decision date: 18 November 2019**

---

### **Appeal A: APP/Y9507/C/18/3199595**

#### **Laundry Cottage, Dangstein, Rogate, Petersfield, West Sussex, 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 Dangstein Conservancy against an enforcement notice issued by South Downs National Park Authority.
  - The enforcement notice, reference RG/36, was issued on 26 February 2018.
  - The breach of planning control as alleged in the notice is without planning permission, change of use of the land to a mixed use for leisure, education and training purposes and for the production of timber products.
  - The requirements of the notice are (i) cease the use of the land for the mixed use for leisure, education and training purposes and for the production of timber products; (ii) remove the imported timber from the Land; (iii) remove from the land, the touring caravan, awnings/tents and archery equipment including (but not limited to) targets, target markers, ornamental figurines of animals, plastic protective sheeting covers, bows, arrows, tables, chairs and two portable toilets; (iv) dismantle the wooden kitchen structure/building, the raised decking, the wooden compost toilet building and the wooden scout hut structure, (in the approximate positions shown on the attached plan) and remove the resulting debris from the Land; and (v) remove from the land all wooden tables, chairs, work surfaces, benches and the 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), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- 

### **Appeal B: APP/Y9507/W/18/3194790**

#### **Laundry Cottage, Dangstein, Rogate, Petersfield, West Sussex, GU31 5BZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Dangstein Conservancy against the decision of South Downs National Park Authority.
  - The application Ref SDNP/17/03623/FUL, dated 16 July 2017, was refused by notice dated 19 December 2017.
  - The development proposed is the continued use of land for forestry and woodland management, and use of land for recreation, education for life-long learning and tourism. The provision of 4 camping pitches and the erection of 4 overnight shelters, a community shelter, composting toilet and washroom. Replacement visitor parking area and new footpath between proposed parking area and facilities.
-

## Decisions

### Appeal A - 3199595

1. It is directed that the enforcement notice be corrected by adding into the allegation the word "forestry," between "for" and "leisure"; varied by deleting requirement (ii) altogether and by deleting the words "the touring caravan" from requirement (iii) and "and the wooden scout hut structure" from requirement (iv). Subject to these corrections and variations 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.

### Appeal B - 3194790

2. The appeal is allowed and planning permission is granted for the continued use of land for forestry and woodland management, and use of land for recreation, education for life-long learning and tourism. The provision of 4 camping pitches and the erection of 4 overnight shelters, a community shelter, composting toilet and washroom. Replacement visitor parking area and new footpath between proposed parking area and facilities at Laundry Cottage, Dangstein, Rogate, Petersfield, West Sussex, GU31 5BZ, in accordance with the terms of the application, Ref SDNP/17/03623/FUL, dated 16 July 2017, subject to the conditions contained in the "Conditions Annex" below.

### Preliminary Matters

3. At the inquiry a number of matters were agreed. Firstly the appellant accepted that Chichester District Council had proper authorisation to issue enforcement notices on behalf of the South Downs National Park Authority and so did not pursue their invalidity argument.
4. The LDC that had been issued for the archery use had been successfully challenged by local residents and the certificate had been quashed. Several days before the Inquiry opened the Council redetermined the LDC and refused the application. The appellant indicated he would be likely to appeal that decision. As a consequence, for the appeals before me, the archery is not lawful and is included in the mixed use alleged in the notice and permission is sought for it as the "recreation" element of the s78 appeal. As the ground (d) would be for the mixed use as alleged, the appellant agreed to withdraw this ground, as they only wished to contest the archery element and this would be more appropriately done as an appeal against the LDC. The Council confirmed that if this current appeal were lost and the notice upheld it would not, of itself, prevent the issue of an LDC solely for archery, should the evidence suggest that was lawful.
5. The appellant also withdrew the ground (c) appeal and confirmed the ground (b) appeal related solely to the question of forestry related activities, and the ground (f) appeal related to the issue of whether the Council should have asked for a reduction in activity rather than a cessation.
6. The Council for its part accepted the notice should be corrected to include "forestry" within the mix of uses enforced against. This is correct as the description of the mixed use should include all the elements, even those that do not require planning permission. The Council also asked me to delete the phrase "touring caravan" from requirement (iii) as they accepted it was not

expedient to enforce against it; and to delete “and the wooden scout hut structure” from requirement (iv) as that had only ever been a temporary structure and was long gone. The appellant was content with these corrections which do not cause injustice to any parties.

### **Appeal A – The Appeal on Ground (b)**

7. The appellant argues that the production of timber products included in the allegation are ancillary to the lawful forestry use of the land. It was common ground between the parties that forestry assumed more than just growing and felling trees. A certain amount of work could be done to the trees, once felled, to turn them into a marketable product, the dispute arose as to exactly what work had been carried out on site and whether that amounted to a process that went beyond an ancillary forestry activity.
8. I should say first of all that this is not a straightforward issue. It seemed to be accepted by the Council that once felled a tree could be cut into logs, and those logs cut into planks and also, if necessary, stripped of their bark. This would still produce raw timber that would then be transported off-site to be sold or worked on further to turn it into an actual product such as fence posts, bus shelters or other wooden structures. However, the simple cutting of small branches into lengths creates products such as bean poles or pea sticks but this would clearly still be an ancillary activity. Similarly the stripped branches of a certain size could be finished fence posts, without any further ‘processing’. It seems to me it is the degree of processing that is important.
9. Some help is provided by the Court of Appeal judgement in Millington<sup>11</sup>. In that case the appellant was growing grapes and turning them into wine on the premises. Although not coming to a definitive view the court strongly suggested that the production of wine was “ordinarily incidental to” or “consequential on” the growing of grapes. The Council argued there were two main differences between grapes and trees, one that grapes were solely grown in order to produce wine or juice and so wine production was consequential to grape growing, and secondly that wood products required finishing by skilled artisans which grapes don’t. I don’t think either of these arguments are particularly good. It was pointed out by the appellant’s forestry expert that trees are a crop, like any other, and in a properly managed woodland they are harvested through coppicing or felling like any other crop. The production of wood products is just as consequential for a wood as wine is for grapes. Similarly to suggest little skill or artistry goes into producing wine would almost certainly elicit a violent response in Bordeaux or Burgundy, and simply isn’t true.
10. However, I would not like to push the Millington example too far, or it could become an excuse to allow all sorts of production to go on at a forestry site. The key issue is whether the production is genuinely incidental/ancillary, or does it amount to a separate activity and that must turn on the amount as well as the details of the activity. The most important phrase from Millington is “consequential on”. What the appellant has done on site is fell and coppice trees, cut the results up into logs of various sizes, turn some into planks and strip some of their bark. All of this is ancillary. Also, some products have been created that involve minimal extra work, such a fence posts, bean poles, pea sticks and so on. These too, because of the minimal amount of ‘processing’,

---

<sup>11</sup> Millington v SSE & Shrewsbury and Atcham BC [1999] EWCA Civ 1682

count as ancillary. The creation of a fully finished bus shelter is clearly a manufacturing process, albeit one carried out by artisans with hand tools. Making bus shelters is not consequential on forestry. However, this was only carried out once, when a number of shelters were made for a local Parish Council. Apparently, they could not be built on the roadside as there was nowhere safe to do so, hence they were assembled in the timber yard and moved by lorry to their final sites. I have no doubt the 'Artizans of Wood' who operate the timber yard for the Conservancy had no idea it was unlawful to do so, but they soon found out as it caused a considerable "hoo hah" locally.

11. Finally, one of the outputs of the yard is pre-cut timber to make wooden framed buildings to order. The timber is cut to length and jointed in the yard, by laying out each frame on a framing bed. The frames are then disassembled and taken to their final site and erected. This is the usual process for the bus shelters, except in the case above where there was no safe room for final assembly on the roadside. While this is not a volume activity, it would seem to be something carried out regularly if not often. It involves considerable added value and processing of the raw timber to create an artefact, that is then essentially taken in kit form to a site and erected. This goes beyond processing of timber to make it marketable but is part of the creation of a product itself and would not seem to me to be ancillary to forestry, but a separate and potentially commercial process.
12. The appellant referred to an appeal decision at Hillyfield<sup>2</sup> in Dartmoor, which, they claim, provided guidance as to what might constitute a timber product. This is only an appeal decision and so is not binding but is nevertheless helpful. The appeals were complex and there was some discussion as to what took place on the site, but essentially the Inspector determined that prior approval was not required for a drying shed or storage barn. It followed that the activities on the site were all ancillary to forestry. These activities comprised the sale of milled timber planks, coppiced wood for firewood, rocket logs (a one log bonfire), timber for wood pellets and fence posts, gates and tree stakes. These latter items (fences, gates and stakes) were for use on the holding. I have no doubt all of this is ancillary to forestry and is similar to the forestry activities being carried out at Dangstein. I note future activities might include charcoal production and coppice craft products, but the Inspector makes no determination whether these would be ancillary or not, and indeed, the question of ancillary activities is only approached somewhat tangentially as it does not seem to have been central to the outcome of the appeal. I do not see how this decision helps the appellant as all the activities seem to be squarely within any reasonable view as to what would be ancillary to forestry, which is not the case in this appeal.
13. A list of products was provided by the appellant in his response to a PCN request in May 2016, but I am happy to read that as the sorts of things that might be made from the wood once it had been prepared at the yard and sold off-site, rather than a description of items made at the yard. The appellant and Mr Walker of Artizans of Wood, explained they had never made any besoms, baskets, laths, etc. Mr Walker had had a go at splitting chestnut for shakes but decided against taking this any further. It was agreed that the occasional imports of wood from other nearby woodlands where they did not have the means to process it, for the sort of ancillary processing described above was

---

<sup>2</sup> APP/J9497/W/15/3140928 & 3168180 Issued May 2018

lawful and there is no evidence of wood being imported in any quantity for educational purposes. In some of those cases Mr Walker had made an occasional simple bench or table out of a tree trunk and given it as a form of gift in return for the original tree, and also to take to a fete to display leaflets on and then leave there as a gift. He estimated about five overall. He also made some post and rail fencing for another outdoor charity in the area. In my view these activities, the bench, table and fencing, fall into a grey area between ancillary and not. Had these been the only examples of product making then I would have considered them to be *de minimis*, and probably quite typical of any managed woodland. But taken along with the framing and bus shelters, it adds up to a low level creation of timber products that go beyond what is ancillary to the lawful forestry activities.

14. It would seem to me therefore that timber products are produced on site, albeit at a fairly low level, and so the appeal on ground (b) fails.

### **Appeal B and Ground (a) from Appeal A**

15. As the Council pointed out, the appellant does not really want planning permission for what he has been doing on the land (the ground (a) of Appeal A) but wants planning permission for what he proposes to do (the s78 Appeal B). This would seem to be true, as he accepts the current facilities for the archery are scruffy and unsightly, while the wooden kitchen, shelter and toilets were only ever meant to be temporary. No attempt has been made to argue that these are acceptable and should be granted planning permission. However, the notice also requires the imported wood to be removed, whereas it seems the Council accepted the import of wood, as long as it was for ancillary purposes, was lawful. I have found the framing and small scale bench, table and fencing production not to be ancillary. I assume the appellant would still like this low level activity to be allowed but it is not included within the s78 appeal. It is a small part of the mixed use in the ground (a), but that mixed use as a whole cannot succeed for the reasons given above. This is therefore a separate matter that the appellant will have to pursue with a s78 application. However, the evidence I have suggests this is a low level of activity which if it stays at that level should not be a cause for concern.

### *The site and the appeal proposals*

16. The s78 appeal essentially seeks to bring together the disparate elements of the activities that have already taken place or, in the case of the archery, are on-going at the site. The site comprises a generous 11ha of wood and heathland and is roughly rectangular. The site is bounded by Dangstein Lane to the north, where the main access is taken and Fynings Lane to the west, where there is a subsidiary access used by the timber yard. To the east is the drive to Garden cottage and beyond that Dangstein House, which used to be the centre of a large estate, of which the appeal site was but a small part. To the south is open farmland and Home Farm and livery, with a number of small commercial units in the farmyard. Fynings Lane serves the hamlet of Terwick Common which lies beyond the site to the west, and a straggle of dwellings that finish at the junction of the Lane with the timber yard access. At this junction is a telephone box and another small lane that leads to several houses in the woods to the southwest of the site, as well as a builder's yard which is visible from the timber yard access track. In other words this is not an isolated site but sits in a wider landscape that seemed to me to be typical of much of

this area of the National Park where houses and small scale businesses are scattered through the woods and fields.

17. Within the site towards the southwestern end, the timber yard lies close to the Fynings Lane access with Laundry Cottages, where the appellant lives, nearby. This dwelling is adjacent to but outside the appeal site. The main access from Dangstein Lane is shared with Garden cottage and then turns west into the northern part of the site to a small car park, where the archery equipment is also stored. This is quite close to Garden cottage and is a source of nuisance to the residents of that cottage. Further into the centre of the site is the heathland area with the camp kitchen and toilets. Beyond these to the south and east is more woodland and to the east the heathland slopes down towards a wooded lane that leads down to Laundry Cottages and beyond the lane towards the eastern boundary is an ancient trackway within a recognised site of ancient woodland. This trackway leads back up to the car park. It is separated from Garden cottage and Dangstein House by steep wooded slopes with a thick laurel hedge along the top, where there is also the substantial remains of the Victorian rubbish dump, which is slowly being removed by the appellant.
18. It is proposed to move the car park further into the site, away from Garden cottage, and remove altogether the archery storage. The camp kitchen and toilets will be replaced by a purpose built wooden community hut, which will also provide storage and shelter for the archers, along with compost toilets. The central heathland area will thus become the focus for a number of activities, and four wooden overnight shelters will be constructed along its northern and western margins, while four rough camping pitches will be provided in a stand of trees to the south.
19. The activities proposed fall into a number of categories. Life Long Learning comprises three types of activity. A forest school or similar woodcraft type educational activity will take place on a maximum of four weekdays a week. Eight residential courses will be held every year from 2 to 4 days each, mostly over a weekend, but possibly sometimes in the week. These will cover woodland management and traditional woodcrafting skills such as roundpole framing. Thirdly there will be four evening events, possibly one per season, focussing on dark sky astronomy, story-telling and folk tales. In addition it is intended to hold a one-off event every year, described as a 'annual conservancy gathering and community outreach event'. This would be an overnight festival. The second category is low impact tourism, which consists of the four overnight shelters and four rough camping pitches. The third is the archery which would take place only on the weekends.

### *Policy and Issues*

20. The SDNP local plan was adopted in July this year and now forms the development plan. It was agreed the references to the saved local plan should be ignored and the two main policies where there is alleged conflict are SD4, which deals with landscape character and SD7, which deals with relative tranquillity. Although there was some discussion about sections 2-5 of SD4 in my view they are not engaged. Section 2 deals with designed landscapes, which is not the case here. Section 3 deals with settlement patterns and the integrity of open land between settlements, again not at issue. Section 4 deals with blue and green corridors. These are defined elsewhere in the plan and the

- do not affect the site. Section 5 supports the restoration of degraded landscape features. This is relevant only in that the Conservancy is gradually restoring the health of the ancient woodland, which is clearly a positive benefit.
21. The issues with SD4 therefore are limited to 1(a)-(c). 1(a), the Council say the proposal is not informed by the landscape character, 1(b) they say the design, layout and scale of the proposal would actively harm the landscape and 1(c) they say the experiential and amenity qualities of the landscape would be undermined. There is no dispute about planting, which forms 1(d).
  22. SD7 permits proposals where they conserve or enhance the relative tranquillity of the site. There is a need to consider direct visual and aural impacts and indirect impacts on areas remote from the appeal site.
  23. Although the Council were not directly concerned with neighbours' amenity, making the judgement that it would not be harmed, local residents had considerable misgivings. No policies were brought to my attention that specifically deal with residential amenity, but I take it that as neighbouring dwellings are embedded in the landscape, harm to the "experiential and amenity qualities of the landscape" would encompass local residents' amenity as would harm to tranquillity.
  24. I think it is fair to say that given limits on the numbers of people attending these various events (16 at the forest school, 12 on the residential course, 36 on the evening event, 16 campers and 32 archers), none of these on their own cause difficulties for the Council, but it is the cumulative effects that are of concern. I will discuss third party concerns later. Therefore the main issues are whether the cumulative impacts would harm the character and tranquillity of the National Park and the amenities of neighbouring residents.
  25. I shall discuss the impact on tranquillity under SD7. The harm to SD4 is mainly centred on the use of the site and its impact specifically on the heathland, but also on the wider ecology of the site; and the harm caused by traffic and the proposed numbers of people to the experiential and amenity qualities of the landscape.

#### *SD4 - Landscape*

26. The Council were primarily concerned with the vagueness of the proposals and the lack of both a zoning plan and a Landscape and Ecological Management Plan (LEMP). Their landscape witness was concerned that there was insufficient evidence to be certain the proposals could be satisfactorily accommodated on the site. In fact she went further to suggest conditions would not solve the problem because there was a potential that no satisfactory solution could be found. The Council more generally were concerned that none of the limitations suggested by the appellant were enforceable. I think it was generally accepted that an untrammelled consent could well be harmful to the landscape, ecology and tranquillity and that is certainly my view. Therefore the first issue is to determine whether the proposed activities can be effectively limited by condition and if they can, would they, at that level, be harmful?
27. The conditions suggested would restrict the various activities by numbers and times and to a certain maximum number of events. A log of events should be kept enabling the Council to check that the maximum numbers were being adhered to. By restricting numbers, traffic movements would also be

effectively limited. I do not share the Council’s concerns that this would be impossibly onerous to enforce. If it is brought to the Council’s attention that the forest school is using the site every day, or there are regular night time activities beyond the numbers allowed, that should be fairly easy to check, especially as the appellant is obliged to keep a record. These sorts of conditions are not unusual and I think the alleged complexity is more apparent than real.

28. The conditions limiting the number of camping pitches, overnight structures and their occupation are also typical and should present no problem. There is no reason why a site management plan or a LEMP should not be drawn up once planning permission has been granted but before activities re-commence. The other conditions on accesses, splays, noise, lighting etc are all standard and present no problems. In my view the conditions should be enforceable, but if I am wrong the temporary 3 years proposed would enable that to be discovered and the permission need not be renewed. Consequently, I consider the main issue is whether, as restricted, the proposed uses cause harm.
29. The table below shows the matrix of uses, and I have included in that the various concessions made during the discussion of conditions.

Life-Long Learning			Low-impact tourism	Recreation
Day activities, forest school etc	Residential courses	Seasonal evening events	X4 overnight shelters & x4 tent pitches	Field archery
4 weekdays per week	8 courses per year, 4 days each	4 evenings per year	Any time	One day at the weekend (apart from disabled archery)
07:00-18:00	07:00-18:00 then overnight	19:00 – 23:00	overnight	09:00-18:00
Maximum 16 persons	Maximum 12 persons	Maximum 36 persons	Likely to be 2 persons per pitch	Maximum 32 persons

30. The busiest activity is the forest school-type activity, but 16 children four days a week is not excessive, especially given the size of the site. This activity will be largely confined to the centre of the woodland, where the site is predominantly heathland so the impact outside the site would be very limited. I agree that many parents are likely to car share, so traffic numbers are, in reality, likely to be less than the maximum feared. The residential course will only happen 8 times a year so possibly once a month during the better weather. These are limited to 12 people and would take place within the woodland or the timber yard. Not everyone will stay in the campsite or the shelters, but some will, so the traffic generation over the weekend will be modest.



31. The four evening events will be larger scale affairs, with up to 36 people between 7pm and 11pm. This is unlikely to produce 36 separate vehicle movements, but even so, would be noticeably busier than I should imagine the roads are on a typical evening in the area. Add in the two day 'festival' and that is five busy evenings. However, in terms of local amenity issues, five times a year is not excessive.
32. The tourism use is pretty low key. The eight pitches, including the four shelters, are all within the centre of the site and their use by people who enjoy wild camping should not cause any issues. The appellant suggested from his own experience that occupancy rates would be likely to be around 40%. There was no actual evidence either way, but that would not seem an unduly low figure to me. While I am not entirely convinced by the appellant's view that campers would be so interested in the woodland activities they would be unlikely to leave the site once there, I agree that the sort of people attracted to this managed woodland camp with very limited facilities would not be typical tourists and are likely to generate less car travel once there than at a more commercial campsite.
33. The archery is a daytime use and restricted to one day on the weekend only and to a maximum of 36 participants. Disabled archery could take two days, but this is likely to be a very small overall component.
34. One of the key issues is that none of the courses or educational activities would overlap and nearly all the activities, except perhaps for the camping are events, so that visitors turn up once in the day and leave once. For the vast majority of the time there should be very little disturbance beyond the site at all. It does not seem to me therefore that there should be much if any harm to residential amenity.
35. The activities will all take place within the site. Much of this is woodland and there was no suggestion that any harm would be caused to the woods. The area in the centre of the site is now mostly heathland, which is in the process of being restored by the Conservancy. The community shelter will be on the edge of this area and so will the camping plots and overnight shelters. The forest school-type activity will also be generally based here. New paths will be created to allow access, especially for wheelchair users to the car park. There was concern that the level of activity proposed would damage the fragile heathland environment. I was reassured by the fact that numbers are proposed to be low and walking across the heath, which is made up predominantly of heather, gorse and bracken is not easy. I think the vision of tens of children charging about trampling everything underfoot is unlikely to come to pass. However, the appellant's ecology expert also advised that while the ecosystem of heathland may be fragile this came not from people walking on it, which was to be welcomed, but from invasive species being allowed to get out of control.
36. The appellant has a heathland management plan and an ecology appraisal which sets out how to manage the landscape so that visitors do not harm the ecology of the area. Given the evidence I heard at the inquiry I have no reason to consider these are inadequate in any way.
37. Zoning of the activities to make sure the archery is kept away from the campsite etc can be secured through conditions. I saw nothing that suggested this would prove to be difficult, especially given the size of the site.

38. The Council's landscape witness, Kate Collins was concerned at the loss of mystery and tranquillity. I shall deal with tranquillity below, but here I note she accepted the site was not remote and not always quiet. Ms Collins concerns about the structures and their impact seemed to be limited to those currently on site, which will be removed, and she had no argument against the new community shelter and structures.
39. She also agreed that the cumulative effects of the proposals were of primary concern, especially as it did not seem they could be controlled by conditions. I do not share her fears about conditions and in my view the cumulative effects will not be great. There will be no overlapping of events and while at any one time one part of the site might be busy others will remain unaffected. I also do not share her view that the proposed site management plan and LEMP have to be agreed before planning permission is granted. No explanation was given as to what the feared shortfall might be other than the generalised concern about cumulative impacts. I am also aware that this is a commercial woodland with no public access, other than that encouraged by the landowner. Any sense of mystery within the site would be for Mr Cox and his family only and he is happy to see this diminished in order to open up the woodland to more people. I do not think there should be any great impact on people living outside the site apart from some car movements at certain limited times of the day. Therefore the impact on the character of the landscape in its wider setting will be minimal.
40. The amenity and experiential qualities of the landscape will be enhanced as many more people will be able to experience the woodland and to learn about it without unacceptably degrading its essential qualities. I also note the National Park strongly encourages the sorts of activities that are proposed here. In my view therefore the proposals are in line with policy SD4.

#### *SD7 - Tranquillity*

41. The National Park has a tranquillity map which divides the park area into squares and scores each one for tranquillity. The tranquillity scores show relative tranquillity and range from -123 to +113. Each square is slightly bigger than the site itself, and the site occupies the corners of four squares. The site lies predominantly in an area just above 0, the main squares score +0.4 and +1.3. A third square scores -6.9 and the fourth is +14.2. These scores are undoubtedly useful for revealing relative tranquillity, but do not tell one much about how quiet it actually is. The very tops of the Downs, where there are no roads or settlements score in the 100s and centres of villages and towns score in the minus 100s, so the site is really very average. In fact it seemed quiet to me on my two site visits. There was passing aeroplane noise and several cars used the two lanes, but with no forestry activity going on one could hear birdsong and tree leaves rustling most of the time.
42. SD7 requires development to "*conserve and enhance relative tranquillity*", although I think this must mean "conserve or enhance", otherwise the "conserve" element would be unnecessary. It goes in SD7(2) to say that in intermediate tranquillity areas, which is where the site lies, development should "*conserve and enhance, and not cause harm to relative tranquillity*". It is difficult to imagine any development proposal that would increase peace and quiet so "tranquillity" in this sense is more than just noise, but, is, as 5.52 of the Plan explains much wider, encompassing a feeling of peace, quality of life,

a perceptual quality of the landscape, influenced by both what people see and hear.

43. Thus it would seem the woodland friendly activities such as forest schools and roundpole making courses are positive, but the associated vehicle movements, disturbance and visual clutter would be negative. Ms Collins was concerned with the current visual clutter of the site, but this would be cleared away so enhancing tranquillity. She again accepted it was the cumulative impact of the proposals that was of most concern and that this was not a deeply tranquil area, but as an edge site was highly vulnerable. This is only partly true. Tranquillity scores increase to the north of the site and decrease to the south west, but the highest score on the map which shows the immediate surroundings is +17.8, which, with a maximum of 113 is still not that tranquil.
44. Looking at the factors in determining the tranquillity scores, there are 44 factors in all, and most would be unaffected by the proposal, those that would be are more people and non-natural sounds. These might cause some downgrading of the tranquillity scores in the two main boxes containing the site, but the site would seem to have the capacity to absorb much of the potential noise from children or from the residential courses, which should have little impact on the tranquillity outside the site. I have discussed cumulative impacts above and concluded they have been exaggerated by the Council. In my view there should be little impact on overall tranquillity in this part of the National Park and it should therefore be conserved. Policy SD7 is not, in my reading of it, contravened.

#### *Third party concerns*

45. Local residents have expressed considerable concern about the proposed uses but it follows from my reasoning above that I consider their concerns are misplaced. With suitable controls in place there should be no harm to amenity or the woodland. It seems to me the residents fears largely stem from an abrupt change in activity that occurred when the appellant took over the wood and began to actively manage it as well as to introduce some of the uses discussed above. It is my understanding that before his ownership, the woodland was effectively unused and left to become overgrown. Locals would have heard little for years on end except perhaps for some occasional archery use which used to take place across the wider estate before it was sold off in parcels. When Mr Cox took over, he began with a significant thinning project, which was noisy and involved numerous large lorries visiting the site to remove timber. The archery use began again involving the installation of portaloos, the bus shelters were constructed on site, again involving a large lorry to remove them, and the final straw seems to have been the 'cosmic tribe' event.
46. However, much of this activity was lawful and many of the issues concerning the local residents seem to stem from the management of the woodland, which has required a lot of work to begin to return it to a useful state. The management of woodland is something supported by the National Park, as it is both economically and ecologically preferable to allowing non-natural woods to decay. I can quite understand why local residents have been somewhat shocked by what has been going on but given that this is now an actively managed woodland it is inevitable there is going to be more activity and disturbance than there was before. A wood of this size is difficult to manage economically without adding value from other activities, such as those

proposed here. With suitable safeguards in place they should not harm local amenity, albeit, there will be more activity and more comings and goings than when nothing was happening.

47. I am also aware that a number of witnesses were not called by the appellant as their evidence was not disputed by the Council. These were largely concerned to explain the positive benefits that accrue from the various activities proposed such as the forest school, the residential woodland courses and the active management of the woodland. Benefits both to the participants and the landscape itself. These are all important and should be given appropriate weight. Had I found there would be some loss of tranquillity, such that the proposal was contrary to SD7, that would have been outweighed by these positive benefits.

### **Conclusions**

48. The second purpose of a National Park is to promote opportunities for the understanding and enjoyment of its special qualities, and this should be pursued as long as there is no conflict with the first purpose of conserving and enhancing natural beauty, wildlife and cultural heritage. In my view the activities proposed by the appellant fit into both purposes, wildlife and cultural heritage will be enhanced and opportunities for the understanding and enjoyment of its special qualities will be promoted. There should be no conflict with the conservation of the Park's natural beauty so the proposals are in accord with the purposes of the National Park. It follows there is no conflict with paragraph 172 of the NPPF and I have concluded above that there is no conflict with policies SD4 and SD7 of the South Downs Local Plan, nor harm to the amenities of local residents. I shall allow the s78 appeal subject to the conditions discussed above.
49. As to the enforcement appeal, ground (b) failed and planning permission should not be granted for the development alleged in the notice. The ground (f) was essentially that a low level of activity could safely be carried out on the site, but that has been overtaken by the grant of planning permission for the s78 appeal. The ground (g) is similarly rendered irrelevant. I shall therefore dismiss the enforcement appeal and uphold the notice. This will be overridden insofar as it conflicts with the planning permission granted by Appeal B. But it will require the scruffy archery equipment, tents, storage and portaloos to be removed as well as the temporary camp kitchen, compost toilets and so on. These will all be replaced by the structures granted permission by Appeal B. I shall remove from the requirements the need to remove the imported timber as it was agreed this was not unlawful.
50. The only area of future activity that is not covered by the s78 appeal that I assume would wish to be pursued by the appellant is the low level production of wood products, such as the timber frames. This is a separate matter he will need to discuss with the Council.

*Simon Hand*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Rajkiran Barhey – of counsel  
She called

Paddy Cox – appellant  
Dylan Walker – Artizans of Wood  
James Shorten – forestry planning  
Tony Whitbread – woodland ecologist  
Ian Ellis – planning agent

### FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis – of counsel  
He called

Kate Collins – landscape  
Shona Archer – enforcement  
Heather Lealan - planning

### INTERESTED PERSONS:

Mollie McMillan  
David Campion  
Nick Jacobs  
Julie Yardley

## **DOCUMENTS**

- 1 Council's openings
- 2 SDNP policies
- 3 Statement of Common Ground
- 4 Appellant's closings
- 5 Council's closings

## Conditions Annex

- 1) The uses hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. On or before that date the structures hereby permitted shall be removed and the uses hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 2) The development hereby permitted shall be carried out strictly in accordance with the approved plans listed below:
  - Location Plan (no number)
  - Block Plan drawing no. 4745
  - Woodland shelter floor plan DC001
  - Woodland shelter south & east elevations DC002
  - Woodland shelter west & north elevations DC003
  - Washroom and composting loo floor plan DC004
  - Washroom east & north elevations DC005
  - Composting loo south & west elevations DC006
  - Community shelter section DC008
  - Community shelter section DC009
  - Community shelter north & south elevations DC10
  - Community shelter east & west elevations DC11
  - Community shelter floor plan DC12
  - Composting loo and washroom elevations 13
  - Community shelter floor plan DC12 with water butts added
  - Site elevations artist impression plan DC13
  - Site elevations artist impression DC14
  - Woodland shelter floor plan with rainwater harvesting added DC001
  - Washroom and composting loo floor plan with rainwater harvesting added DC004
  - Site plan with added note drawing no. 4775
  - Existing sightlines drawing no. 4999
- 3) The educational and recreational uses of the site shall be limited to the following activities and for no other uses whatsoever which may fall within Use Classes D1 and D2 as stated in the Use Classes Order 2015 (as amended or revoked and re-enacted):
  - a) No more than 4 educational day courses of up to 16 students in connection with the understanding of the natural environment and outdoor skills per week between Mon-Friday and 7am-6pm.
  - b) No more than 8 residential educational courses of up to 12 students in connection with the understanding of the natural environment and outdoor skills lasting up to 4 days in any calendar year.

c) No more than 4 evening educational events of up to 36 students between 7pm - 11 pm in any calendar year.

d) No more than 1 annual event which is related to the approved activities above shall take place in any calendar year. Such event shall last no more than 2 days.

e) Field archery shall only take place on one day during weekends and between the hours of 9am - 6pm only. The only exception to this restriction is archery involving disabled archers which may take place on both weekend days between the hours of 9am – 6pm only. The maximum number of archers allowed on the site at any one time shall be 32.

A record of the educational courses, training and activities held on site shall be maintained and kept up-to-date and shall be made available to the Local Planning Authority upon request (within 14 days of a written request being made).

- 4) The 4 shelters hereby approved shall only be used for holiday accommodation or in connection with the residential educational and training courses only and for no other purpose (including any other purpose in Class C3 of the Town and Country Planning (Use Classes) Order 2015 (as amended or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order).
- 5) The holiday accommodation and camping pitches hereby approved shall not be occupied by any person, group or their dependants, for a period of more than 14 days in any twelve month period. A register of the occupancy of the lodges shall be maintained and kept up-to-date by the operator of the units and shall be made available to the Local Planning Authority upon request (within 14 days of a written request being made). It shall record the names and addresses of all visitors and their arrival and departures dates.
- 6) In the event that the tourist accommodation use on the site ceases, the 4 shelters as specified in Block Plan 4745 hereby permitted shall be removed and the land restored to its former condition.
- 7) The camping use hereby approved shall be limited to a maximum of 4 pitches in the area shown on Block Plan 4745.
- 8) Notwithstanding the provisions of Schedule 2 part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended or revoked and re-enacted the same) the use of the site for any temporary purpose which is not specified in this permission shall not be undertaken.
- 9) No external loudspeakers, public address/tannoy systems shall be used on the site at any time other than for the annual event described at condition 3(d) above and then not beyond 11 pm or before 9.00am on either day.
- 10) A Site Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to any activity, as specified in condition 3, taking place, which shall include (but not limited to) the following:
  - a) Site management in respect of noise and visitor activities such as barbeques, pets and amplified music.

- b) A Waste Management Plan identifying all waste streams and confirming how waste shall be collected, stored and disposed of.
- c) Car parking for the 1 annual social event

The Site Management Plan shall be implemented in accordance with the approved details and adhered to in the operation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

- 11) Prior to any activity, as specified in condition 3, taking place, a Landscape and Ecological Management Plan (LEMP) for the entire site shall be submitted to and approved in writing by the Local Planning Authority. The details of the Heathland Management Plan (dated July 2017) shall be incorporated into the LEMP. The development and all activities shall subsequently proceed in accordance with any such approved details.
- 12) Development and all activities shall proceed in accordance with the measures set out in Section 5 of the submitted Preliminary Ecological Appraisal (PEA) (Scotty Dodd, May 2016); Section 4 of the Addendum to PEA report (Scotty Dodd, June 2017); Section 4 of the badger survey report (Scotty Dodd, June 2017); and the submitted Heathland Management Plan Update (CJH Agri-Environment Consultants Ltd, July 2017), with features and management approaches retained and maintained as described.
- 13) Prior to any activity, as specified in condition 3, taking place, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the submitted ecological reports and shall set out measures to avoid impacts, including pollution prevention and encroachment of working or storage areas, on ancient woodland habitats, priority habitats and notable/protected species. The development and any activities shall be subsequently implemented in accordance with the approved details.
- 14) The use of the site shall strictly accord with the following access arrangements:
  - a) The means of public access to the development shall be from Dangstein Road only.
  - b) The access from Fyning Lane shall only be used for the purpose of forestry activities on site.
- 15) Prior to any activity, as specified in condition 3, taking place, the approved car park and passing bay shall have been completed in accordance with the approved plans and brought into use. The parking shall thereafter be used and retained exclusively for its designated purpose at all times.
- 16) Visibility splays of 2.4m x 50m to the west and 2.4m x 64m to the east at the Dangstein Lane access, shall be provided in accordance with approved Plan no.4999 and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level.
- 17) Prior to any activity, as specified in condition 3, taking place, the applicant shall submit for the written approval of the Local Planning Authority a Travel Plan Statement in accordance with the aims and



objectives the National Planning Policy Framework and West Sussex County Council guidance on Travel Plans. The Applicant shall then implement the approved Travel Plan Statement and thereafter maintain and develop the Statement in a manner to be agreed by the Local Planning Authority.

- 18) The development and activities hereby approved shall be undertaken strictly in accordance with the lighting details in the Lighting Assessment.
- 19) The existing composting toilet, communal shelter and its ancillary structures shall be demolished and cleared from the land prior to the approved structures being brought into use.

