

# Appeal Decision

Site visit made on 20 March 2023

**by S Harley BSc(Hons) M.Phil MRTPI ARICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 March 2023**

**Appeal Ref: APP/Y9507/W/22/3297292**

**Part of the Totalisator Building, The Motor Road, Old Racecourse, Lewes, BN7 1UR**

- 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 Mr Ryder against the decision of South Downs National Park Authority.
- The application Ref SDNP/21/02850/FUL, dated 19 May 2021, was refused by notice dated 10 December 2021.
- The development proposed is change of use of part of an empty and redundant stable block from equestrian use to storage use.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Rhyllstone reference on the planning application form has been explained by the appellant as generated by the planning portal. This Decision relates only to part of the Totalisator Building as described on the plans and to no other property. For the avoidance of doubt this is reflected in the address in the banner heading above. The building may also have been known as County Stables. From the plans and my observations at my site visit I am satisfied that I have correctly identified the appeal site.

## Main Issues

3. The site lies within the South Downs National Park (the National Park). The development plan includes the South Downs Local Plan 2014-2033 (the LP) and the most relevant Policies for the purposes of this appeal are those cited in the reasons for refusal. The main issues are whether the site is an appropriate location for the proposed storage use in terms of the development strategy; whether the proposal conserves or enhances the natural beauty, wildlife and cultural heritage of the National Park; and whether satisfactory parking and loading/unloading facilities would be available.

## Reasons

### *The development strategy*

4. The Totalisator Building is on the outer edge of a complex of buildings some distance from any settlement boundary. It is in the countryside for the purposes of the development strategy. This is set out in Policy SD25 of the LP and, exceptionally, allows for development outside a settlement boundary in certain circumstances.

5. A storage use does not have an essential need for a countryside location so there would be conflict with Policy SD25(2)(b). The proposal would help safeguard the future of the building by bringing an income to the owner and using part of the building. However, this would not in itself amount to exceptional circumstances sufficient to justify the proposed development outside the settlement boundary as there could be other uses more appropriate to a countryside location that could also achieve this. The future of the building would not appear to be in jeopardy given the current renovations taking place. Occupation would improve the general security of the area, but this would be true of all uses.
6. The proposal would not promote or protect businesses linked to the National Park's key economic sectors of farming, forestry and tourism as identified in Policy SD34 of the LP. Whilst it would provide some flexibility for the existing business in Brighton town this could also be achieved in other more policy compliant locations.
7. The re-use and reclamation of wooden furniture would be a sustainable use of timber in particular. This would amount to a positive impact on the provisions sector of ecosystem services as envisaged by SD34(b). However, there is little assurance that any future business occupier would have any green or ecosystem services credentials or that the business model might not change.
8. The proposal does not appear to form part of a Whole Estate Plan and there are other proposals for changes of use at the complex. Whilst not determinative allowing this appeal could make it more difficult for the Council to resist other proposals that have no essential need for a countryside location and that do not support the key economic sectors of the National Park.
9. The appeal site is some distance from Lewes and Brighton. It is probable that the private vehicle would be relied on for most trips associated with the current business so the proposal would conflict with Policy SD19. This is probably the case for most storage uses, and it adds to the concerns about whether the site is an appropriate one for storage use.
10. For the reasons set out above I conclude that the location would not be appropriate for the storage use in general, or furniture storage in particular, in terms of the development strategy for the area. Accordingly, the proposal would not amount to an appropriate re-use of previously developed land in this particular location. It would conflict with those parts of Policies SD25(2), SD34 and SD19 that seek to direct development to the most sustainable locations, to minimise the need to travel and to foster the economic and social well-being of the local community in pursuit of the National Park purposes.

#### *Effect on the National Park*

11. The two statutory purposes of the National Park designation are to conserve and enhance their natural beauty, wildlife and cultural heritage; and to promote opportunities for the public understanding and enjoyment of the special qualities of their areas. The National Planning Policy Framework (the Framework) advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues and to the conservation and enhancement of wildlife and cultural heritage.

12. This part of the National Park is characterised by open fields in a large scale open elevated landscape of rolling chalk downland, with dry valleys and scarp slopes, sparse settlement with occasional isolated farm and barns. Blocks of modern farm buildings punctuate the open landscape with some urban development apparent in views from the wider landscape.
13. Equestrian activities are strongly linked with the understanding and enjoyment of the National Park through their significant role in shaping the National Park's landscape and their role in recreation and sport. They are part of the local cultural heritage. The appeal site is at the Lewes Old Racecourse, which was redeveloped in the 1980s as an equestrian and residential complex. It is part of the building formerly used as a totalisator betting hall and offices, which were closely associated with the Old Racecourse, and subsequently used as stables. Furniture storage would have no relation to the historic equestrian or agricultural character of the area.
14. The main elevation of the Totalisator Building has high level windows and stable doors set back beneath an overhang. During my visit I was able to see that the stable stalls, which were not part of the original building, have been removed and the appeal site was full of furniture and stored items. There would be no alterations to the exterior of the building and no views into it from public vantage points. As a result, I find no harm to the landscape context and appearance of the area from the storage of items within the building.
15. However, the site is highly visible from nearby rights of way. The amenity and experience of people using these high-quality routes would be harmed by vehicle movements; parking particularly of any high sided vehicles often associated with storage uses; loading and unloading of bulky items; and any security lighting; all of which would disrupt the sense of remoteness and tranquillity which is a characteristic of the National Park. Although, as indicated by the Noise Impact Assessment, there would be no mechanical plant or other sources of noise in the daily operations and relatively few additional traffic movements, there would be noise and disturbance arising from these activities.
16. The totality of this harm, and any harm to views, would be limited by the small scale of the proposal. It could also be mitigated to some extent by conditions to restrict hours of operation, limit outside storage and control external lighting. Nevertheless, the harm, albeit limited, would be real and enduring.
17. I acknowledge there would be likely to be vehicles, noise and disturbance associated with equine and racing uses. However, they would be an intrinsic part of the countryside and National Park character rather than associated with an activity such as furniture storage that does not need to be in the countryside. The proposal would also replace a countryside activity with one generally more suited to a built-up area and disrupt the link with equine related activities which is one of the historic cultural activities associated with this part of the National Park.
18. The Council considers the installation of bird or bat boxes, or planting would provide environmental net gain and could be achieved by way of condition. I see no reason to disagree.
19. For the reasons set out above I conclude the proposal would have a limited harmful effect National Park. It would not enhance or conserve the natural beauty and cultural heritage or how these are appreciated by users of the

National Park and the countryside. Accordingly, there would be some conflict with Policies SD25(2), SD4, SD5 and SD6 of the LP and those principles of the Framework that seek to protect the character and appearance of the countryside and the National Park.

### *Parking and loading/unloading*

20. The site is accessed from the highway by a long private drive, much of which is also Bridleway. The red line of the planning application site is restricted to part of the Totalisator Building only and no parking or loading/unloading areas were indicated. That part of the Bridleway outside the site is relatively narrow and could easily be blocked by vehicles, particularly larger vehicles of the sort likely to be used for the loading and unloading of furniture. This would interfere with the quiet and safe enjoyment of the Bridleway by walkers, horse riders and cyclists. The effect would be exacerbated as the proposed hours are primarily on Saturdays, Sundays and Bank Holidays which are times when the Bridleway is most likely to be used by others.
21. The appellant submitted Aerial View 3 with the appeal. This shows an area edged red stated as available for parking for the proposed storage use. However, most of this appears to serve another part of the building. As a result, I cannot be confident that sufficient space would be available for parking and loading/unloading associated with the proposed storage use and the use of the rest of the Building or that the nearby Bridleway would not be impeded.
22. The Appellant advises there are on average two visits to the site per week, and that associated traffic movements are therefore insignificant. However, this could change, and a different business occupant could operate a storage and distribution business with different vehicular movements. Nevertheless, it seems unlikely that the extent of vehicle movements associated with the use of some 140 sqm of storage and distribution space would harm the use of the public highway, particularly given the extent of movements historically generated by the Racecourse.
23. For the reasons set out above I cannot confidently conclude that satisfactory parking and loading/unloading facilities would be available or that the proposal would not interfere with the quiet and safe enjoyment of the Bridleway by walkers, horse riders and cyclists. Accordingly, I find conflict with Policy SD22 in seeking to ensure appropriate levels of parking.

### **Other Matters**

24. There are legal agreements<sup>1</sup> which relate to land at the Old Racecourse, and which limit the number of business units and types of uses. Given my findings on the main issues I need consider these no further.
25. The submitted evidence does not specifically address the effect of the proposal, if any, on the historic Lewes Battlefield, a designated heritage asset, or the setting in which it is experienced. Has my findings on the main issues been otherwise I would have sought more information on this matter.
26. Reference is made to other uses which may be unauthorised in parts of the Old Racecourse. However, these are not matters for this appeal.

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<sup>1</sup> s52 Agreement dated 23 April 1982 and s106 Agreement dated 20 August 1992

27. The appellant considers that many of the LP Policies are directed at new developments and not relevant. However, change of a material change of use is, by definition, development<sup>2</sup> and the relevant Policies apply.
28. None of the Decisions reached by colleague Inspectors on other appeals<sup>3</sup> which have been drawn to my attention lead me to any different conclusions in relation to the appeal before me. This is because the stables and alterations to a Bridleway and a surfaced track were deemed to be acceptable as they met the appropriate respective Policy criteria. The brick storage proposal was dismissed. Similarly, it appears that barns elsewhere have been converted to storage and other uses, but I understand these generally form part of farm diversification projects that support the main agricultural business, broad support for which is provided for in the LP.
29. There is an Article 4 Direction in operation controlling the erection of enclosures to protect this characteristically open downland landscape. The appellant considers this means that the stable block has "no available alternative use," and that the equestrian use is implied to be no longer sustainable due to "a lack of fenced grazing, increasing incidents of trespass and rising rent values." However, the Article 4 Direction does not prohibit fencing but enables the Authority to control its extent. No evidence has been provided to show there is no demand for Policy compliant uses, so I give this matter no weight in the context of this appeal.

### **Planning Balance and Conclusion**

30. I have found that the appeal site is not appropriate location for the proposed storage use in terms of the development strategy. There would be harm, albeit limited, to the natural beauty and cultural heritage of the National Park and the countryside and how these are appreciated by users. I have been unable to confidently conclude that satisfactory parking and loading/unloading facilities would be available.
31. On the other hand, the proposal would provide minor economic benefit in terms of providing storage for an existing business elsewhere; providing stock for the antique furniture businesses in the locality; re-using an existing building and providing an income to the landowner. However, these benefits could be achieved in other ways. The impact upon dark skies and the delivery of net biodiversity gain could be managed by way of conditions but would be expected of all proposals and are neutral factors.
32. The above benefits would not outweigh the harms identified. In failing to fully comply with Policies SD4, SD5, SD6, SD19, SD22, SD25 and SD34 the proposal cannot be said to comply with the development plan as a whole. I have found insufficient material considerations to justify a Decision other than in accordance with the development plan. The appeal should be dismissed.

*S Harley*

INSPECTOR

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<sup>2</sup> The Town and Country Planning Act 1990 as amended

<sup>3</sup> APP/Y9507/W/18/3209923; APP/Y9507/C/19/3226910 & APP/Y9507/C/18/3217097 and APP/Y9507/C/22/3302386

