

SOUTH DOWNS NATIONAL PARK AUTHORITY

PLANNING COMMITTEE

Held at: 10.00am on 14 September 2023 at The Memorial Hall, South Downs Centre.

Present: Heather Baker (Chair), Alun Alesbury, Janet Duncton, John Hyland, Stephen McAuliffe, Robert Mocatta and Andrew Shaxson.

Officers: Tim Slaney (Director of Planning), Rebecca Moutrey (Senior Solicitor), Robert Ainslie (Development Manager), Mike Hughes (Major Planning Projects and Performance Manager), Richard Ferguson (Development Management Lead (West)), Stella New (Development Management Lead), Richard Fryer (Senior Governance Officer) and Jane Roberts (Governance Officer).

OPENING REMARKS

33. The Chair welcomed Members to the meeting and informed those present that South Downs National Park Authority (SDNPA) Members had a primary responsibility for ensuring that the Authority furthered the National Park Purposes and Duty. That Members regarded themselves first and foremost as Members of the Authority and would act in the best interests of the National Park as a whole, rather than as representatives of their appointing body or any interest groups.

ITEM 1: APOLOGIES FOR ABSENCE

34. There were apologies for absence from John Cross, Debbie Curnow-Ford, Gary Marsh, William Meyer and Daniel Stewart-Roberts.

ITEM 2: DECLARATION OF INTERESTS

35. The following declaration was made:
- Alun Alesbury declared a personal interest in Agenda Item 6, as the applicants Mr & Mrs Le May were known to his brother-in-law. He had no direct connection with the applicants and would participate in the agenda item.

ITEM 3: MINUTES OF PREVIOUS MEETING HELD ON 8 JUNE 2023

36. The minutes of the previous meeting held on 13 July 2023 were agreed as a correct record and signed by the Chair.

ITEM 4: UPDATES ON PREVIOUS COMMITTEE DECISIONS

37. SDNP/23/00746/REM, Buckmore Farm, Petersfield (July 2023 Committee) had now been approved.
38. SDNP/21/02342/FUL, Exceat Bridge, Exceat (December 2022 Committee) had now been approved.
39. SDNP/22/03525/FUL, Gravel Pit, Clapham (December 2022 Committee) had gone to appeal, the hearing would be heard on the 26 September 2023.
40. SDNP/22/02466/FUL, The Grange Development Site, Bepton Road, Midhurst (October 2022 Committee) had gone to appeal and would be considered by written representation.
41. SDNP/22/02247/FUL, Blind Veterans UK, Brighton (December 2022 Committee) had now been approved. Following negotiations the affordable housing contribution had been increased from a cap of £1m to £3.5m which included an up-front sum and claw back mechanism.

ITEM 5: URGENT ITEMS

42. Amendment 247 to the Levelling Up and Regeneration Bill was defeated in the House of Lords on 13 September 2023. This amendment proposed to remove nitrate neutrality as a consideration for the planning system.

ITEM 6: SDNP/23/01969/FUL – NEWLYNS FARM, UPHAM

43. The Officer presented the application and reminded Members of the report (Report PC23/24-05) and the update sheet.
44. The following speakers addressed the committee against the application:
 - Councillor Gwyn Halsall, speaking on behalf of Upham Parish Council.
 - Freya Green, speaking as a member of the public.
 - Richard Green, speaking as a member of the public.
 - Jerry Pett, speaking as an SDNPA Member.
45. The following speakers addressed the committee in support of the application:
 - Sarah Le May, speaking as the applicant.
 - Mark Passmore, speaking on behalf of the Countryside Stewardship Scheme.
 - Genevieve Jacobs, speaking as the agent.
46. The Committee considered the report by the Director of Planning (Report PC23/24-06), the updates and the public speaker comments and commented as follows:
 - The Chair reminded Members that they should consider the scheme before them, not possible future developments.
 - The National Park has many agricultural buildings in a similar condition.
 - Local residents concerned about a future residential use of the buildings. Would the use of the site and the impact of the development be monitored?
 - Concern over the viability of the scheme with regard to cost-income analysis.
 - If the current permitted use of pig farming was resumed, what would be the impact on nitrate neutrality?
 - The development not breaking the tree line when viewed from the Monarch's Way was an important attribute, as was the opening of the views from within the conservation area towards the countryside.
 - The materials proposed suited the character of the area. The scale of the proposed development matched the existing buildings. The proposal enhanced the local conservation area of Upham.
 - The current buildings were non-descript and the proposed scheme, if well implemented, would fit well within its setting in the South Downs National Park (SDNP).
 - It was good to hear from the representative from the Countryside Stewardship Scheme, who historically have not attended committee meetings.
 - SDNPA consultees (design, landscape, conservation) supported the scheme.
 - In accordance with SDI5, these proposals would enhance the local conservation area in Upham.
 - Mention was made of the proposed padel court use.
 - The Chair commented that the development would be an improvement on the current site and would fit well within the conservation area. The use of materials are appropriate to the setting.
47. Members were advised:
 - Conditions 3 and 5 controlled the use of the site. Any unlawful use in the future would be a breach of those conditions and any immunity of this would be 10 years. Future

monitoring would be done on a periodic basis in regard to the ongoing enforcement duties of the Authority.

- There was currently extant permission for the barns to be used as a pig farm. As per Natural England guidance the base line nitrate assessment for the site would not be assessed as a working pig farm as it had not been used for that purpose for the last few years. It may be that off-site credits would need to be purchased if on site mitigation could not be secured in order for the scheme to be 'nitrate neutral.'

48. RESOLVED:

1. That planning permission be granted subject to:

- i) Resolution of the issue of nitrates from foul water, the consideration of which is delegated to the Director of Planning.
- ii) The conditions at paragraph 9.2 of this report and the update sheet.

2. That authority be delegated to the Director of Planning to refuse Planning Permission, with appropriate reasons, if within 6 months of the 14 September 2023 Planning Committee meeting the impact from nitrates has not been satisfactorily addressed.

ITEM 7: SDNP/23/02048/FUL – COUNTY STABLES, LEWES

49. The Officer presented the application and reminded Members of the report (Report PC23/24-06) and the update sheet.

50. The following speakers addressed the committee against the application:

- Suzanne Asher, speaking on behalf of Residents of the Old Racecourse.
- Jane Gordy, speaking in a personal capacity as a resident.

51. The following speaker addressed the committee in support of the application:

- James Oliver, speaking as the applicant.

52. The Committee considered the report by the Director of Planning (Report PC23/24-06), the updates and the public speaker comments and commented as follows:

- The National Park's status with regard to the Section 52 agreement, which had been set up by Lewes District Council (LDC) was queried. Did LDC have any comment, or retain any further interest?
- The application provided small scale tourist accommodation, which was greatly needed within the SDNP, and there would be no harm to the surrounding countryside.
- The tourism accommodation was intended to serve walkers. Would this be suitable for prolonged stays, and did the lack of parking effect the viability of the scheme?
- Noted the provision of a bicycle store, allowing people to access the site via bicycle.
- The issue of infrastructure cost sharing was not a material planning consideration as it was a civil matter.
- Was there any concern that not enforcing the Section 52 agreement would create a precedent for any future Section 106 agreements?

53. Members were advised:

- The Section 52 agreement was made between LDC as the Local Planning Authority and the Landowner. The South Downs National Park Authority (SDNPA) was the successor Local Planning Authority, and as such LDC held no further interest albeit they had been consulted.
- Section 106 agreements can be varied by the Local Planning Authority, however the legislation that pertains to Section 52 agreements only provide for their discharge where there is agreement by all relevant parties, including successors in title. These are a

particular set of circumstances specific to this location and therefore do not transpose across to other agreements.

54. RESOLVED:

- I. That authority be delegated to the Director of Planning to grant planning permission subject to:
 - i) Appropriate notice being given to the landowner(s) of the private access road and consideration of any issues that are raised as a result of the notification process;
 - ii) The conditions set out in paragraph 10.1 of the report and the update sheet; and
 - iii) A legal agreement, the final form of which is delegated to the Director of Planning, to agree that the application land will not be used for any development which is contrary to the existing section 52 agreement, other than that development proposed through this application. It is also proposed that the Authority will agree not to enforce the requirement in the section 52 agreement associated with a single equestrian use in respect of the development permitted.
2. That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the legal agreement is not completed, or sufficient progress has not been made, within 6 months of the Planning Committee meeting of 14 September 2023.

55. The Committee adjourned for a short break at 11:38

56. Vanessa Rowlands joined the meeting at 11.43am

ITEM 8: SUMMARY OF APPEAL DECISIONS

57. The Officer reminded Members of the report (PC23/24-07).

58. The Committee considered the report by the Director of Planning (Report PC23/24-07) and commented as follows:

- Disappointing results at first glance for the last six months but the details reveal some benefits were achieved from the appeals.
- A six-month period in isolation is too short a period to identify trends in appeal decisions. Harting Parish recently had an appeal allowed which took six months for a hearing decision to be published. Was the overworking of PINS an issue?
- The Buriton Interchange decision appeared to suggest that the special qualities of the National Park were not the same throughout the SDNP. The Authority has always argued that the characteristics applied to every part of the National Park. Did the inspectors wording open the way for future applications to argue in this way?.
- Was there any written advice from the KC on requesting a Judicial Review (JR) over the Buriton decision?
- Disappointing to see that time had run out for three appeals.
- The Buriton development did not have the outcome the Authority had desired as the inspector took the decision that the net-zero element trumped everything else. With an understanding of this, could the Authority have negotiated a better development?

59. Members were advised:

- The special qualities were picked up with the Kings Counsel who represented the Authority in the appeal. The KC argued that the Inspectors comments on the special qualities did not justify a Judicial Review.
- The KC's advice was verbal, not written.

- If the emerging appeal trend continued it would need to be addressed, and the host Authorities had been alerted to this. Appeals were time and resource intensive.
- If an extension of time was required and it could be negotiated it would be, but it was not always possible.
- Each case must be viewed on its own merits, and in the Buriton case the inspector took the view that the net zero benefits outweighed the landscape impact but in other circumstances that may not apply. The highways and Biodiversity Net Gain objections were satisfactorily resolved through the appeal process via the submission of extra information from the appellant.

60. RESOLVED:

The Committee noted the outcome of appeal decisions.

ITEM 9: ENFORCEMENT UPDATE

61. The Officer reminded Members of the report (PC23/24-08).
62. The Committee considered the report by the Director of Planning (Report PC23/24-08) and commented as follows:
- Could the figure of unsolved enforcement cases be published? This could help identify trends and performance.
 - What was the process of oversight of Host Authorities?
 - The Chair of the Authority and Planning Committee thanked the Officers for their work.
63. Members were advised:
- Officers would look at adding the unsolved enforcement cases to the report going forward. There were circa 650 enforcement cases in the SDNP last year. The SDNPA do not always have the initial information on cases if they came via the Host Authorities.
 - The vacant Monitoring and Compliance Officer post had been filled, with the candidate starting in October 2023.
 - There was a quarterly review of Host Authority enforcement cases that were currently on the books and over 6 months old.
 - There was regular communication with the Host Authorities through the Link Officers, providing oversight and advice.
 - The number of enforcement cases outstanding went up in 2020 and has gone down significantly since. The Authority used a proxy figure of the number of cases in and resolved each year, which was reported annually to the SDNPA Policy and Resources Committee. There can sometimes be a wait of over 18 months for a decision from the Planning Inspectorate, and in such circumstances the enforcement case is left open.

64. RESOLVED:

The Committee noted the update on enforcement action.

ITEM 10: ONE APP VALIDATION LIST

65. The Officer reminded Members of the report (PC23/24-09).
66. The Committee considered the report by the Director of Planning (Report PC23/24-09) and commented as follows:
- Could Members have clarity on the enforcement regime around Biodiversity Net Gain (BNG) with the 30-year commitment. Who would be funding it and how would it be monitored and enforced?

Agenda Item 3

- Could the full pre-application documentation be included online alongside the planning application? Can it be very difficult to find and often only includes the final advice letter.
- Should pre-application advice remain as distinct advice and not attached to an application? Applicants may not understand the planning system and may need freedom to explore what is possible.
- Who benefits from knowing the content of the pre-application?

67. Members were advised:

- The Authority has employed a Chartered Institute of Ecology and Environmental Management (CIEEM) qualified ecologist to monitor BNG sites. Payment comes from the developer via offset contribution and all local planning authorities have also received some funding from Government. The implementation of the BNG policy was being staged starting in November 2023. The extent of the workload would not be known until the policy was implemented but the Technical Advice Note (TAN) was being drafted and would be kept under review for at least a year after implementation.
- The Planning Director thanked the Validation Team for their efforts in registering applications.
- The Authority aimed to be transparent in the planning process and offered advice without prejudice.
- Pre-applications are confidential until the point an application is received, at which point the advice is made available online alongside the application. Officers would check whether this included the originally submitted plans and forms. This was done in-house, rather than as a requirement by the applicant as part of the Validation List.
- A separate discussion would be had by Members on pre-application advice to discuss if a fully completed pre-application form should be attached to a full planning application, and what benefit, if any, it would serve. There was a balance to be struck between transparency and operational efficiency.

68. **RESOLVED:**

The Committee approved for publication the revised local list of requirements for validating planning applications and related consents for adoption.

69. The Chair closed the meeting at 12.33pm

CHAIR

Signed: _____