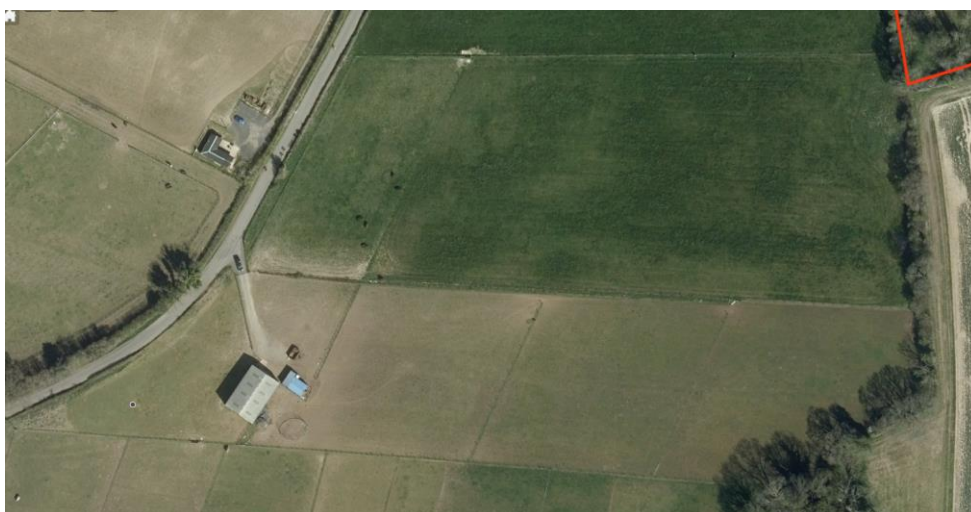


Case No: SDNP/20/04015/FUL
Proposal Description: Construction of detached 3 bedroom chalet dwelling with office space and laboratory for owner/operator of Dadkhah stud
Address: Dadkhah Stud, Park Lane, Upper Swanmore, SO32 2QQ
Parish, or Ward if within Winchester City: Droxford Parish Council
Central Meon Valley Ward
Applicants Name: Mr Nass Dadkhah
Case Officer: Miss Hannah Harrison
Date Valid: 22 September 2020
Recommendation: Refusal
Pre Application Advice: No



Reasons for Recommendation

The development is recommended for refusal as it is considered that the application is contrary to Paragraph 79 of the NPPF and contrary to Policies SD4 and SD5 of the South Downs Local Plan.

General Comments

This application is reported to the Planning Committee due to the number of representations that have been received contrary to the Officer's recommendation.

Amendments to Plans Negotiated

None

Site Description

Previously known as and was once a part of Swanmore Barn Farm; Dadkhah Stud is a 5.5 hectare site located in the rural countryside of Upper Swanmore, within the South Downs National Park. A Public Right of Way (Droxford: 7a) is located along the far north and north east boundaries.

The site is divided into three sections. Access is via a gated entrance, leading to a gravel driveway leading up to a barn, portable toilet and shipping container.

Proposal

This planning application seeks to Construction of detached 3 bedroom chalet dwelling with office space and laboratory for owner/operator of Dadkhah stud

Relevant Planning History

- 12/02313/SPREDP - Use of land for equestrian purposes to include barn and stables – PRE-APPLICATION ADVICE GIVEN
- SDNP/13/04899/APNB - New agricultural storage barn – REFUSED
- SDNP/13/06063/AGA - New agricultural storage barn – REFUSED / APPEAL ALLOWED
- SDNP/14/05887/DCOND - Discharge of Condition 3 on Application Number: SDNP/13/06063/AGA – APPROVED
- SDNP/17/04520/LDE - Change of use of land from agricultural to equestrian. – APPROVED

Consultations

Parish Council Consultee - Droxford

At the PC meeting held 15 October the Council noted two options proposed for the build.

Option 1 which is located on high ground and Option 2 located on lower ground. In line with reservations held by the Council concerning residential creep on previously open farmland. The Council strongly OBJECTS to Option 1.

The build would change the character of the existing landscape and impact on the visual amenity of the area. The proposal appears not been thought through in that establishment of a working stud is of secondary consideration to building a dwelling with no reference to vernacular architecture in a prominent position with a view of the

surrounding fields. No consideration has been given to landscaping relative to the existing barn, the road or screening from the view of footpaths crossing surrounding countryside in Option 2.

The planning authority are urged to uphold its own values set out in Core Policy SD1 particularly SD 4.5 (SDNPA) shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area”.

In conjunction with SD4.7 “It is important to consider the impact of cumulative development in the National Park. Cumulative impacts can be defined as the additional changes caused by a proposed development in conjunction with other similar developments or as the combined effect of a set of developments.

Bruton Knowles

For ease of reference the appraisal refers to the relevant clause of paragraph 79 of the NPPF split down into subsections.

‘The essential need....’

A duty of care exists towards all animals. However, this does not mean that a residential presence is required in every circumstance where livestock are present. The nature of the stock in question and their number will impact on the whether incidents will occur that may require a prompt response and these factors will also directly influence the frequency that such events may occur in.

The Applicant has provided examples of incidents arising where prompt intervention has been required for horse and foal welfare and projections have been provided based on 12 liveries of varying types in addition to owned horses.

It is noted that foaling activity has essential need requirements, together with the additional monitoring and care of mares pre and post foaling and the care of young foals who can be vulnerable to illness and also prone to injury either when housed or at pasture. Rehabilitation livery can result in higher levels of care, subject to the nature of the injury/illness. It is appreciated that individuals placing horses in foaling, rehabilitation, full or part livery will often expect an onsite residential presence. It is also noted that a residential presence would aid security given nature of stock onsite.

The business activity however has yet to develop as proposed and the planning status of the property brings into question whether it will be able to. It is therefore considered that the essential need for a residential presence either on site or in close proximity to the site has not been proven.

‘...for a rural worker, including those taking majority control of a farm business...’

The NPPF sets out policy in respect of the rural economy and for the sustainable growth and development of rural enterprises. In the context of paragraph 79 it infers that a rural worker is employed for the benefit of a rural enterprise.

It has been indicated that a full time and part time worker would be required for the proposed enterprise based on a combined total of 27 hours per week, with an

additional two full time workers envisaged if the stallion stands at stud. We have reviewed labour requirements with reference to the Equine Business Guide 6th Edition and would note that a full time worker is assumed to work 2,250 per annum. We consider that if the business develops as proposed there would be a requirement for at least a full time worker.

‘...to live permanently....’

Within the NPPF it is implicit that if a dwelling is consented in the countryside it must be envisaged that the need will be permanent (not seasonal, or only for a limited term) and hence based on a sustainable and viable business.

It is noted that the July 2019 guidance referred to in 5.2, indicates that consideration may be given to a temporary dwelling for a trial period, which potentially enables the essential needs and financial viability of a business to be established, but in this case a permanent dwelling is sought.

It is understood that the Applicant and his wife have been developing the stud over the last 7 years on a private basis, investing in the property and broodmares, with some progeny successfully competing and a young stallion with potential to stand at stud. It is understood that one of their horses has been sold and another is attracting interest. It is understood that the stud is now in a position to develop further offering a foaling service for visiting mares, weaned foal care, AI and potentially a stallion standing at stud, together with other livery including rehabilitation livery.

Financial projections have been made in respect of the proposed business activity in terms of proposed horse numbers and livery types, excluding projections for the stallion standing at stud and sales of progeny. It is appreciated that these two additional income streams will potentially improve the viability of the business. It is noted however that the cost projections do not appear to include all costs that it is anticipated would arise for such a business.

No financial accounts have been provided for the existing activity. It is noted that reference is made to rehabilitation livery and other livery activity already being undertaken, with two visiting mares and two weanlings booked for 2021. Whilst it is noted that some of the owned horses are kept off site, it is not clear from the proposal how both owned and livery horses will be accommodated on site, and how this may impact on viability. The planning status of the property brings into question the viability of the existing and proposed business activity.

It is considered that it has not been proven that the existing and proposed activity is viable and sustainable.

‘...at or near his/her place of work...’

It is understood that there is no existing dwelling on the property and the Applicant and his wife live some 13 miles away.

A search of Rightmove website has been undertaken for properties to rent and buy in close proximity to the site. It is not considered that there are any properties which may

be considered suitable for an equine worker, were an essential need for a residential presence on site or in close proximity to the site to be confirmed.

Whilst paragraph 79 of the NPPF and associated guidance, does not make reference to dwelling size, it is noted that the South Downs National Park Local Plan does make specific reference to dwelling size in policy SD32 in respect of dwellings for agricultural and equestrian workers, namely '*....a total habitable floor space not exceeding 120m² (gross internal area)....*'. It will however be for the LPA to consider this and all other relevant planning policy and associated matters.

Taking account of the evidence submitted, it is considered that it has not been proven that there is the justification for a permanent dwelling on site for the operator of the Dadkhah Stud.

Service Lead: Operations – Landscape Officer

Observations:

- Well within the South Downs National Park perimeter.
- Wayfarers Walk PRoW (Droxford 8) to the east. Droxford 7a & 7b to the north and west.
- SDNP Landscape Character Assessment – D: Downland Mosaic (Enclosed)
- Specific sensitivities relevant to this character area: The secondary escarpment running between Twyford and Droxford with its chalk grassland and hanger woodland.
- Maintain skylines / Maintain clear, undeveloped ridges and skylines.
- Conserve and manage the intact hedgerow network with hedgerow trees.
- Maintain the external fabric, appearance and setting of farm buildings and promote use of local building materials.
- Consider views across the landscape and towards adjacent landscapes, afforded from the prominent hills along the ridge.
- Consider effects of any development beyond this landscape and its impact on views from this landscape.

No landscape plan to show landscaping was provided with the application. The only drawing shows elevations and internal plan of the house and a sketch showing two options for the location of the building. Comments are therefore confined to the information presented and the general proposal of building a house in the location shown.

The site is within open pasture, separated by low hedges and areas of more mature woodland, but the character is predominantly open. This gives longer views within a shallow valley, itself on higher ground. Views from Park Lane (in lower part of valley) are mostly confined to the valley itself with long views to the north in particular. The LCA recognises the importance of views in this character area and highlights the escarpment between Twyford and Droxford on which the site is located.

Policies SD4 Landscape Character and SD5 Design aim to ensure that development is sympathetic to the context and integrates in to the landscape and policy SD6 is particularly concerned with safeguarding views. Given the open nature of the

location, the long views and the sensitivities outlined in the LCA it is not possible to see how the proposal might enhance or integrate with this type of landscape as it will be easily visible. Whilst no landscape plan has been submitted it should be noted that 5.13 of the Local Plan states “Good design should avoid the need for screening which could appear incongruous in the landscape.” The proposed building does not appear to reflect vernacular design or have any characteristics that particularly aim to integrate it in to the surroundings (see LCA) and screening would be at odds with the openness of the area and therefore contrary to the Local Plan. The existing barn / stable is itself highly visible and somewhat incongruous, and a further building will add to the suburbanisation of the area.

In landscape terms this would not be possible to support in its current format.

Should the planning officer, when considering all planning objectives, be minded to approve this application, the location at Option 2 would be preferable to Option 1, given that it is lower in the valley and therefore less visible from a distance or on ridgelines. A landscape plan would also be recommended.

Natural England

As submitted, the application could have potential significant effects on the Solent Internationally designated sites. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- A Nitrogen budget calculation
- A Habitats Regulations Assessment

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Representations

The application has received 7 objections and 7 supporting representations.

The objection comments note the following material planning reasons:

- Affecting road safety
- Increase in local traffic
- Agricultural dwelling does not refer to equestrian use
- Set a precedent for allow development in the rural countryside
- Appear to be in contravention of the ‘private recreational purposes’ consent
- Lacking details of what is proposed in regards to details for the dwelling such as materials, appearance, dimensions

The supporting comments note the following material planning reasons:

- Easier living arrangements for vet and farrier visit
- Easier living arrangements for emergencies
- Safe guarding the future of the business
- Easier living arrangements in regards to security for the site
- Dwelling will benefit the care and supervision of the horses

The application has received the following comments from **Parish Council**
Consultee – Swanmore:

- Swanmore Parish Council SUPPORTS this application but only on the basis that the dwelling has an equestrian tie restricting occupation to those with a connection to the equestrian industry.

Planning Policy Context

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the **South Downs National Park Local Plan Adopted 2 July 2019 (2014-33)** and any relevant minerals and waste plans.

The development plan policies and other material considerations considered relevant to this application are set out in section 7, below.

National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage,
- 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 wellbeing of the local community in pursuit of these purposes.

Planning Policy

Relevant Government Planning Policy and Guidance

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 on 24 July 2018. 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 and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

National Planning Policy Framework (NPPF)

The following National Planning Policy Framework documents have been considered in the assessment of this application:

- NPPF 5 – Delivering a sufficient supply of homes
- NPPF11 – Making effective use of land
- NPPF12 - Achieving well-designed places
- NPPF15 - Conserving and enhancing the natural environment

Paragraph 2 states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

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

The following policies of the **South Downs National Park Local Plan Adopted 2 July 2019 (2014-33)** are relevant to this application:

- Core Policy SD2 - Ecosystems Services
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 – Design
- Strategic Policy SD6 – Safeguarding Views
- Strategic Policy SD7 – Relative Tranquillity
- Strategic Policy SD8 - Dark Night Skies
- Strategic Policy SD9 – Biodiversity and Geodiversity
- Development Management Policy SD20 – Walking, Cycling and Equestrian Routes
- Development Management Policy SD24 – Equestrian Uses
- Strategic Policy SD25 – Development Strategy

Partnership Management Plan

The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

The following Policies and Outcomes are of particular relevance to this case:

- General Policy 1
- General Policy 3
- General Policy 13

Planning Assessment

Principle of development

Should the land had been known as agricultural, Policy SD32 of the South Downs Local Plan would have applied. The purpose of this policy is to address an essential need for agricultural or forestry workers to live either permanently or temporarily at, or closely sited to, their place of work.

Paragraph 79 of the NPPF states:

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”

Policies SD4 and SD5 apply. The purpose of these policies is to ensure that all development is of the highest possible design quality which reflects and respects the

exceptional quality of the natural, agricultural and built environment of the National Park. Proposals should adopt a landscape-led design approach and seek to enhance local character and distinctiveness of the area.

Use of Land

It has been noted in numerous objection comments that the site in question has not been granted equestrian use as a whole, but has been granted on one section of the 5.5 hectares.

Upon assessing the history of the site, an LDE (Lawful Development Certificate – Existing) application was granted and notes the site has been sectioned off into three parts and only 2 of the 3 sections have been granted equestrian use. The sections granted are noted to be for the keeping of horses for private recreational purposes. It is also noted within the document that the barn located within the approved area would be excluded from the equestrian use.

As it stands, no planning history can be located to clarify when the land was granted the permission to use the site as an equestrian business or / as well as the keeping of horses for private recreational purposes.

Upon further inspection, no history can be found as to whether the use of the barn has been changed to equestrian and therefore the use remains to be for agricultural storage as granted in 2013 (SDNP/13/06063/AGA) via an appeal.

When visiting the site, the barn was accessed by the officer and it was noted the keeping of horses was present. 8 stable cubicles have been installed inside of the barn, with one used for storage of equestrian paraphernalia. As it stands, the barn is currently in use contrary to planning permission SDNP/13/06063/AGA.

Impact on the character and appearance of the area

The application has been in discussions for a considerable amount of time to warrant the justification of the application proposal. Meetings have been held to gather further information of the site, such as economic viability of the enterprise, length of time the site has been used as a business instead of personal use, as well as horse identification. Additional information has been submitted following these discussions but the case remains to be unacceptable and justification remains to be unmet.

As the permanent aspect of the application remained to be unacceptable, negotiations lead to requesting the proposed dwelling to be altered to a temporary structure, by means of a motor home or caravan. This recommendation was suggested due to the length of time the business has been in use. The land has been in the applicant's ownership for at least 11 years but the business use timeframe remains to be uncertain as does the planning permission to use the land for business. The applicant did not wish to apply for temporary permission as requested and wished to carry on the application with the permanent scheme.

Upon visiting the site, this area of Upper Swanmore appears to be renowned for equestrian uses, with multiple stables seen within close proximity to the site towards the south and north. Located towards the south of the site also lies the original farm plot, once linked to Dadkhah Stud, which is home to several barns, stables and a

modest dwelling. The dwelling in particular is set behind the agricultural barns and structures and cannot be seen until you enter the site from the main road. According to planning history, the dwelling is known to be present since at least 1980.

In comparison, the location of the application proposal is placed within a highly visible position, with no residential structures close by other than the existing barn and a shipping container. The submitted plans propose a two storey dwelling, with decorative dormers upon a cat slide roof form, a laboratory, tack room and office. The dwelling will home 3 bedrooms on the first floor and open plan living leading onto the tack room and office on the ground floor. The proposed dwelling is calculated to be a substantial size, exceeding 120sqm, a size of which is deemed a small / medium dwelling within the South Downs National Park. Should this application had been for an agricultural dwelling upon agricultural land, the size alone is not acceptable and would be refused based on Policy SD32.

The case has been discussed with numerous consultees but in particular Bruton Knowles. It is in the opinion of Bruton Knowles that the case evidence remains to be insufficient and cannot be supported due to lack of details, financial evidence, and overall justification to have a permanent dwelling on the site. They have submitted their comments to refuse the application based on these findings and state they cannot support the case.

Nitrates

The application has also been assessed by Natural England. The application required to be submitted with a Nitrogen budget calculation and a Habitats Regulations Assessment. These documents were requested by NE via their consultation comments. The applicant was made aware of the requirements from NE but upon their assessment, and they note the Nitrogen budget calculation would not be applicable to their proposal due to:

- a) Proposed dwelling will not be connected to the main drainage/Sewer system so no leak into Solent water
- b) Proposed dwelling will not generate waste water over night
- c) Proposed dwelling will not discharge waste water into Solent water.

Nevertheless, the applicant has submitted the calculations for NE but the requirements remain unmet. The proposal for a permanent residential dwelling for an equestrian worker within the Solent Catchment Area, will result in additional nitrates being deposited into the SPA's. Therefore, in the absence of any mitigation, the proposal is contrary to Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 and Policy CP16 of Local Plan Part 1 as it is considered that the proposal will have likely significant effect on a European protected site though an increase in nitrate input.

The Habitats Regulations Assessment remains to be submitted but the officer notes this is due to the ongoing discussions with Bruton Knowles, this information was discounted and no longer required once the final decision for the case was confirmed.

Neighbouring amenity

The site does not lie within close proximity to any residential properties to warrant an impact on privacy, over shadowing or over bearing.

Conclusion

The application fails to provide sustainable evidence and justification to warrant a permanent dwelling on the equestrian site. The proposed dwelling does not appear to enhance nor maintain the natural rural setting set within the South Downs National Park. The application is contrary to paragraph 79 of the NPPF and policies SD4 and SD5 of the South Downs National Park, is therefore recommended for refusal.

Reason for Recommendation and Conditions

It is recommended that the application be Approved for the reasons and subject to the conditions set out below.

1. The application fails to provide sustainable evidence and justification to warrant a permanent dwelling on the equestrian site. The proposed dwelling does not appear to enhance nor maintain the natural rural setting set within the South Downs National Park. The application is contrary to paragraph 79 of the NPPF and policies SD4 and SD5 of the South Downs National Park, is therefore recommended for refusal.

Informatives

N/A

11. Crime and Disorder Implications

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

12. Human Rights Implications

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

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

Discussion regarding issues occurred with the applicant, however in this case the issues were unable to be resolved.

Plans Referred to in Consideration of this Application

The application has been assessed and recommendation is made on the basis of the following plans and documents submitted:

Plan Type	Reference	Version	Date on Plan	Status
Plans - 3D VIEW			28.02.2022	Refused
Plans - FRONT PERSPECTIVE			28.02.2022	Refused
Plans - FULL SITE LOCATION PLAN			28.02.2022	Refused
Plans - LOCATION PLAN			28.02.2022	Refused
Plans - LOCATION PLAN WITH FLOOR PLAN			28.02.2022	Refused
Plans - LOCATION PLAN WITH PERSPECTIVE			28.02.2022	Refused
Plans - REAR PERSPECTIVE			28.02.2022	Refused
Plans - SITE LOCATION PLAN			28.02.2022	Refused
Plans - AMENDED GROUND FLOOR PLAN	1		28.02.2022	Refused
Plans - AMENDED FIRST FLOOR PLAN	2		28.02.2022	Refused

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