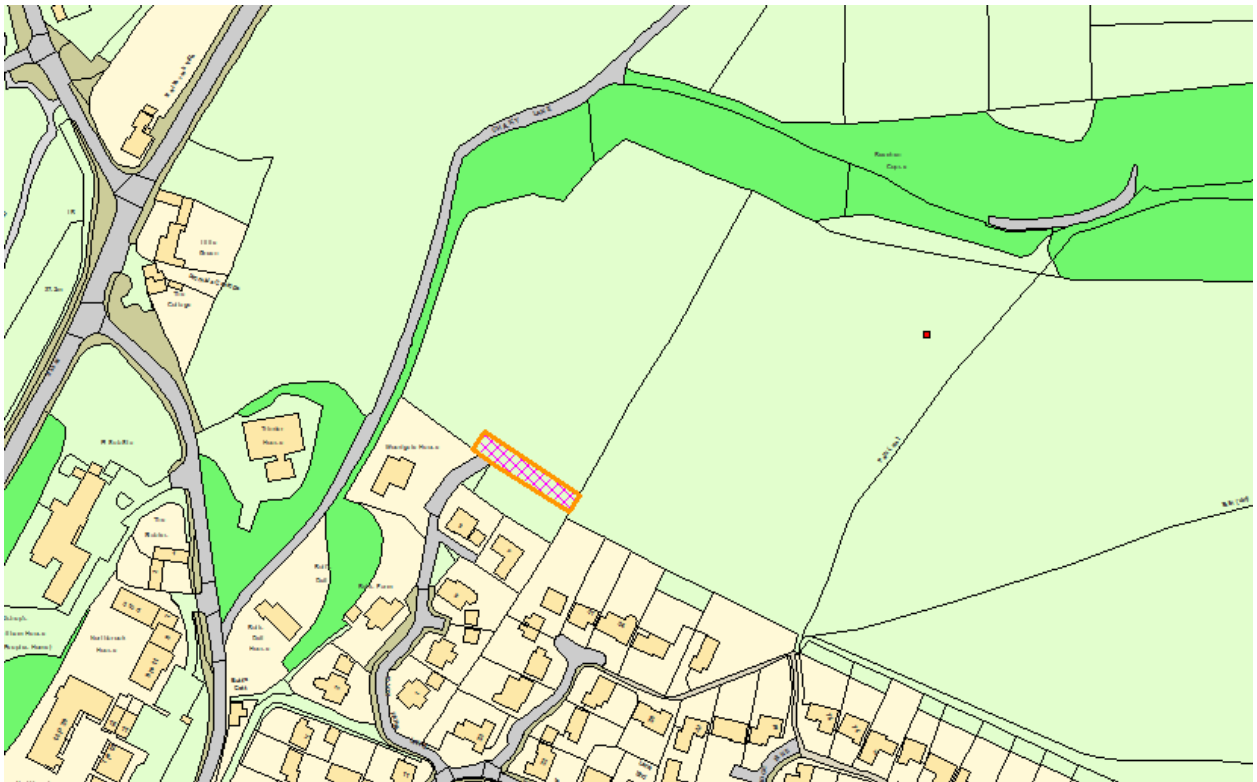


Case No: SDNP/19/00026/FUL
Proposal Description: Approximately 50m of stock proof fencing and gate on grassland off Butts Farm Lane
Address: Land at Butts Farm
Butts Farm Lane
Bishops Waltham
Hampshire
Parish, or Ward if within Winchester City: Bishops Waltham
Applicants Name: Messrs A,J & D Curtis
Case Officer: Ms Charlotte Fleming
Date Valid: 14 December 2018
Recommendation: Application Approved



General Comments

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

1 Site Description

The application site is within a rural location outside of the designated settlement boundary for Bishops Waltham, which has a rural character. The site is located just within the South Downs National Park, the boundary of which is located to the south of the site along the settlement edge for Bishops Waltham.

An Article 4 Direction was made on 18 April 2017, which took effect immediately, to remove permitted development rights for fences, gates, walls and other means of enclosure (as set out in Class A of Part 2 of the Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 from land to the south of Dundridge Lane. This relates to a large parcel of land (14.8 hectares), which incorporates the application site. It was considered that an immediate Article 4 Direction was justified in this case to prevent any further subdivisions of the field by fences or other means of enclosure.

The site is currently accessed by an access track that adjoins the southern side of the site, connecting the application site to Butts Farm Lane. A number of locked metal gates have been installed along the access track.

The existing site boundaries comprise of post and rail fencing, field gates and hedgerow. To the east of the site is a public right of way (PRoW), which runs from Colville Drive in a north-easterly direction and adjoins the eastern boundary of the wider fields.

2 Proposal

Approximately 50m of stock proof fencing and gate on grassland off Butts Farm Lane.

3 Relevant Planning History

SDNP/17/00522/FUL - Proposal for the change of use of land to equestrian, erection of stable building, new access track and underground water pipe and electricity cable.

Part retrospective (underground water pipe and electricity cable have already been installed)

STATUS: REF 26th July 2017.

SDNP/18/00221/PRE - Proposal for the change of use of land to equestrian, erection of stable building.

STATUS: PRE 25th May 2018.

SDNP/18/05870/FUL - Change of use of land from agricultural to the keeping of horses (Equestrian) for non-commercial use; erection of wooden doors to enclose two existing field shelters; erection of one metre post and rail fence (pursuant to Article IV direction on the land).

STATUS: Pending

4 Consultations

WCC - Landscape Open Spaces

This proposal is considered to be in keeping with the context and setting of the SDNP and would not give rise to harmful landscape or visual impacts.

Parish Council Consultee

No comments to make

5 Representations

8 neighbour objections have been received and are summarised below:

- Will set a fence precedent and a way to undermine Article 4
- Livestock hasn't been in the field for the last twenty years
- Current land use is hay production and silage
- No objection at face value - Suspicious of motives
- Application continues to sub-divide the land into paddocks - impacting the scenery and could mean the sale of land in small lots
- The boundary fence was repaired last year so why section it now?
- Why not fence the other 95% of the boundary - This application does not include an area around the agriculture barn on the land
- If track was not there then field would essentially be stock proof
- Application is under a different name yet linked to sale of other land under enforcement at the moment, should be considered in nature of entire site
- Applicants no longer live in Hampshire therefore difficult to understand how they will keep animals
- Already 12 gates in the area, often left open, no requirement for another one
- The track does not have planning permission - Trackway was mentioned in SDNP/17/00522/FUL which was refused and not yet removed
- Previous advice was that equestrian use is not supported by landscape officers
- If going to approve should condition the use of the land as grazing
- No site notice

6 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 Winchester District Local Plan Review (2006) and the following additional plan(s):

- Winchester District Local Plan Part 1 Joint Core Strategy (2013)
- South Downs National Park Local Plan - Submission 2018

The relevant policies 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 well being of the local community in pursuit of these purposes.

7 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:

- 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 Winchester District Local Plan Review (2006) are relevant to this application:

- DP3 - General Design Criteria
- DP4 - Landscape and the Built Environment

The following policies of the Winchester District Local Plan Part 1 Joint Core Strategy (2013) are relevant to this application:

- MTRA4 - Development in the countryside
- CP8 - Economic Growth and Diversification
- CP13 - High Quality Design
- CP19 - South Downs National Park
- CP20 - Heritage and Landscape Character

The following policies of the South Downs National Park Local Plan - Submission 2018 are relevant to this application:

- Core Policy SD1 - Sustainable Development
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD6 - Safeguarding Views
- Development Management Policy SD39 - Agriculture and Forestry
- Strategic Policy SD42 - Infrastructure

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
- Farming Policy 13

The Draft South Downs National Park Local Plan

The Pre-Submission version of the South Downs Local Plan (SDLP) was submitted to the Secretary of State for independent examination in April 2018. The Submission version of the Local Plan consists of the Pre-Submission Plan and the Schedule of Proposed Changes. It is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication. The Local Plan process is in its final stage before adoption with consultation on relatively minor Main Modifications from 1st February 2019 to 28th March 2019. Based on the very advanced stage of the examination the draft policies of the South Downs Local Plan can be afforded significant weight.

8 Planning Assessment

Principle of development

The trackway was mentioned in SDNP/17/00522/FUL which was refused. The use of the land where the fences are proposed remains agricultural; this

application is also submitted by a different applicant to the 2017 application. Access tracks for agricultural uses are allowed without requiring planning permission. This application is only seeking the erection of a fence.

The South Downs Local Plan (SDLP) has been through the Examination in Public in December 2018, and the Main Modifications have been published for public consultation, therefore SDNP Local Plan policies can be given very nearly full weight in the determination of planning applications.

Policy SD39 Agriculture and Forestry states that development for agricultural buildings or structures will be permitted where there is an agricultural need, the proposal reflects the local character, and the proposal is designed to minimise the impact on the special qualities of the Park, it is considered that the proposal complies with this policy.

Policy MTRA4 allows development in the countryside which has an operational need for such location such as agriculture, as long as the development does not cause harm to the character and landscape of the area or neighbouring uses or create inappropriate noise/light and traffic generation. It is considered that the proposal complies with this policy.

Policy SD4 sets out that new development is acceptable provided that it is appropriate in scale, design and does not have an adverse impact on the character of the area or on surrounding uses. It is considered that the proposed fence meets the criteria of this policy as the fence is in keeping with the existing agricultural character of the land use, and no concerns have been raised by the landscape officer about impact on the character of the area.

Design, scale and impact on the character of the area

The proposed addition of 50m of stock fence (1.2m high) and a gate to the existing field and track are considered modest in scale and will be completed in materials suitable for the agricultural setting. The proposed alterations are considered to be acceptable for the character of the site.

The 1.2m high stock fence is set back from the road behind residential properties and on the edge of a large field. The site is right on the National Park's boundary with Bishops Waltham settlement and given the design, scale and materials proposed, the development is not considered to result in a detrimental impact to the character of the area and would not conflict with the purposes of the South Downs National Park.

Impact on Neighbours

The fence alone does not cause any overbearing or overshadowing impacts to the neighbouring properties, so not thought to have any detrimental impact on their amenities.

Other matters

The ownership of the land is a civil matter and it is assumed that ownership certificates that have been submitted are accurate.

The potential future business speculations on the (wider) site, is not a material planning consideration.

The track is agricultural, there has been no mention of equestrian uses in the application, therefore planning permission for a track is not required. The wider use of the field is agricultural, and outside of the application boundary, therefore it cannot be conditioned that the land should be used for grazing only.

Adjoining neighbours were notified of the application (04/01/19); additionally a site notice was posted to the agent to be displayed.

9 Conclusion

The application is considered acceptable for the reasons outlined above and is recommended for approval.

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

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

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

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those listed in section 9 of the submitted application form.

Reason: To ensure a satisfactory visual relationship between the new development and the existing.

Informatives:

1. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Review (2006): DP3, DP4

Winchester District Local Plan Part 1 - Joint Core Strategy (2013): MTRA4, CP8, CP13, CP19, CP20

South Downs Local Plan Submission (2018): Policies SD1, SD4, SD5, SD6, SD39, SD42

3. In accordance with paragraphs 186 and 187 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;
 - offering a pre-application advice service and,
 - updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.
 - In this instance the application was considered acceptable as submitted so no further assistance was required.
4. Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.
5. During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

For further advice on this please refer the Construction Code of Practice <http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>

6. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

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

The application was considered acceptable as submitted so no further assistance was required.

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 -	LOCATION PLAN		04.01.2019	Approved
Plans -	PROPOSED FENCING		08.01.2019	Approved
Reports -	Design and Access Statement		04.01.2019	Approved

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