

Report to **Planning Committee**  
Date **10 July 2019**  
By **Director of Planning and Environment**  
Local Authority **Chichester District Council**  
Application No. **SDNP/19/00893/MPO**  
Applicant **Mr Philippe Paul Chappatte**  
Application **Request to discharge the s.106 Unilateral Undertaking associated with planning permission SN/11/02662/DOMNP relating the use of a large outbuilding at The Croft, Bignor Road, Sutton.**  
Address **The Croft, Bignor Road, Sutton, Pulborough, West Sussex, RH20 1PL**

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**Recommendation: That the Planning Committee confirms that the Local Planning Authority will not seek to defend the appeal against the non-determination of the application.**

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**Reason for Committee referral: The applicant has lodged an appeal against the non-determination of the application for the removal of the obligations attached to planning permission SN/11/02662/DOMNP. A recommendation to discharge the obligations was to be made by Officers prior to the appeal being lodged and therefore the approval of Members' is now sought to not defend the appeal.**

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## **1.0 Background**

1.1 The Croft is a substantial detached dwelling sited on the south side of Bignor Road and just to the south east of Sutton village. The dwelling is set in extensive grounds encompassing formal and semi-formal areas along with several outbuildings, a tennis court and outdoor swimming pool.

1.2 One of the outbuildings is a substantial building sited in the extreme north west corner of the site, approximately 140 metres from the dwelling and serviced by its own dedicated driveway from the shared access off Bignor Road. On 22 November 2011, Chichester District Council granted planning permission for the retention and alteration of this outbuilding to be used for stabling, associated storage and ancillary accommodation in connection with occupation of The Croft. The planning permission was subject to a number of conditions, including conditions 3 and 4 which controlled the use and occupancy of the building.

1.3 Condition 3 states:

*“The accommodation hereby permitted shall be occupied for purposes ancillary to the use of The Croft as a dwelling and shall not be used as a single dwelling house or a house in multiple occupation or an independent unit of accommodation (including on a permanent basis for use by a family member).”*

*Reason: To preserve the amenities enjoyed by the neighbouring properties and to prevent the formation of a separate dwellinghouse in the rural area.”*

1.4 Condition 4 states:

*“The stables hereby permitted shall not be used other than in association with the use of The Croft as a dwelling and shall not be let out or used for commercial purposes or in connection with any form of riding school*

*Reason: In the interests of amenity and to enable the Local Planning Authority to regularise and control the development.”*

1.5 Given the retrospective nature of the application, the use/occupation restrictions imposed by the condition came into effect immediately.

1.6 In order to address third party concerns raised at the time of the 2011 application regarding the future use of the proposed accommodation, the applicant supplemented the planning permission with a signed Unilateral Undertaking (UU); the obligations as set out in the Schedule were twofold. These were:

1. *Not to use the building known as “The Stables” for any purpose other than as stabling for horses, hay store, and tack room, domestic storage and as additional living accommodation (such uses divided as shown on Plan 2 annexed hereto) all such uses being connected to and incidental to the use of the dwellinghouse known as The Croft.*

*2. Not to use the building known as “The Stables” as a single dwellinghouse or a house in multiple occupation or an independent unit of accommodation (including on a permanent basis for use by a member of the family”*

- 1.7 In February 2019, the applicant lodged an application (SDNP/19/00893/MPO) inviting the SDNPA to discharge the obligations contained within the UU. The applicant considered that in the light of similar restrictions on the use and occupation of the building set out as planning conditions, the UU was not necessary and no longer served a useful planning purpose.
- 1.8 The application was also subject to an objection from the Parish Council, meaning that, in accordance with the Council’s scheme of delegation, any recommendation to rescind the UU in its entirety would require Committee approval. However, the applicant was not prepared to agree an extension of time beyond the 8-week determination period to enable the application to meet the committee timetable and immediately lodged an appeal against its non-determination.
- 1.9 The purpose of this report is to seek Members’ approval to not defend the appeal against non-determination of the application.
- 1.10 Concurrent with this appeal is a further appeal against the refusal of planning permission to change the of use of this same outbuilding from ancillary residential accommodation, domestic storage and stabling to ancillary residential accommodation, guest accommodation, staff accommodation, holiday let, domestic garaging, hobby room. The application was refused on the basis that such a change of use would introduce a form of permanent residential accommodation that had not been justified or considered essential in this countryside location and which would result in an intensification of use, causing unacceptable harm the character and appearance of the National Park and adversely affect the amenities of the neighbouring property. A Hearing dealing with both appeals is currently scheduled for 6<sup>th</sup> November 2019.

## **2.0 Assessment**

- 2.1 The advice governing the use of planning obligations is set out in the National Planning Policy Framework (NPPF) and the associated National Planning Practice Guidance (NPPG). This advice suggests that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. This may equally be the case where an existing obligation is found, in essence, to repeat the planning conditions that formed part of a related planning permission as a form of 'belt and braces' safeguard. It is understood that at the time the 2011 planning application was considered, the UU was promoted by the applicant, not the planning authority.
- 2.2 The wording of the obligations and that of the relevant conditions of SN/11/02662/DOMNP as set out above vary slightly, with the obligations describing with some degree of preciseness the exact uses that may be undertaken in the building, whereas conditions 3 and 4 focus on the ancillary nature of the accommodation and the private use of the stables. However, both the planning conditions and the obligations do achieve the same objective, notwithstanding this minor variation in the wording. In other words, effective planning control over the use of the building is achieved through the planning conditions imposed upon SN/11/02662/DOMNP.
- 2.3 Legal advice has confirmed that the undertaking did not add further restrictions beyond that imposed by conditions 3 and 4 of the planning permission. Therefore in respect of the planning merits of the development approved under SN/11/02662/DOMNP, it is concluded that the UU doesn't add any additional restriction and therefore serves no useful purpose.
- 2.4 Consequently, the officer recommendation to Members would have been that the UU does not serve any useful purpose and its retention would not be in accordance with the advice given in the NPPF. In the light of the appeal that has been lodged, the decision on the application has now been taken out of the LPA's hands and will now be made by an Inspector appointed by the Planning Inspectorate.
- 2.5 Members agreement is now sought as to whether such a recommendation would have been accepted and if so, whether Officers should then advise the Planning Inspectorate that the Council, on behalf of the SDNPA, would not wish to defend this appeal.

### **3.0 Recommendation**

- 3.1 For the reasons given above it is recommended that Members confirm that the Council advises the Planning Inspectorate that it will not defend the appeal against the discharge of the UU.

Appendices

Appendix 1 - Site Location Map

