

Appeal Decision

Site visit made on 20 September 2016

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th October 2016

Appeal Ref: APP/Y9507/W/16/3148338

Danley Hill, Danley Lane, Linchmere, West Sussex GU27 3NF

- 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 Mrs I Overli against the decision of South Downs National Park Authority.
 - The application Ref SDNP/15/03433/FUL, dated 6 July 2015, was refused by notice dated 19 November 2015.
 - The development proposed is described as "*demolish fire damage dwelling and re-build as existing before fire damage (renewal of planning permission reference LM/09/03061/FUL)*".
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Decision

1. The appeal is allowed and planning permission is granted to demolish the fire damaged dwelling and re-build as existing before fire damage at Danley Hill, Danley Lane, Linchmere, West Sussex GU27 3NF in accordance with the terms of the application, Ref SDNP/15/03433/FUL, dated 6 July 2015, subject to the conditions in the schedule at the end of this decision.

Procedural Matter

2. The description of the proposed development in the banner heading was taken from the application form. However, in my decision above I have deleted the superfluous reference to the previous grant of planning permission.

Main Issues

3. The main issues are as follows:
 - Whether the proposal would conserve the landscape and scenic beauty of the South Downs National Park.
 - Whether, having regard to national policy and the Development Plan, the proposal amounts to a sustainable form of development in the countryside.

Reasons

4. Danley Hill is a large detached house stood in substantial, landscaped grounds. The Cottage is a detached one and a half storey building stood within the grounds, some distance to the north east of the main house. I am given to understand that the Cottage provided two-bedroom accommodation for staff working in the main house as well as three garages, but it was seriously damaged in a fire in 2007. This resulted in the loss of around half of the main
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roof structure. Although the garages appear to remain in use and the roof space over them remains largely intact, the rest of the Cottage is a derelict shell and I understand that it has been uninhabited since the fire.

Landscape and scenic beauty of the National Park

5. The appeal site is in an area of loose-knit residential development to the north-west of the hamlet of Linchmere, within the South Downs National Park (NP). In accordance with legislation and paragraph 115 of the Framework, I afford great weight to conserving the landscape and scenic beauty of the NP. The Cottage is open to limited views beyond the grounds of Danley Hill, mainly due to the mature trees and shrubs along the boundaries. It is glimpsed at points along the public footpaths which run adjacent to the eastern and northern boundaries, through occasional gaps in the boundary planting. Even so, due to its current semi-derelict condition the Cottage significantly erodes the scenic qualities of this part of the NP.
6. The proposal entails rebuilding the Cottage on its current L-shaped footprint. The proposed building would be very similar in terms of its size, overall height, form, general appearance and external materials to that which existed prior to the fire. It would be slightly larger than the original structure, due to the incorporation of a pitched roof over what was formerly a flat roofed extension at the rear. There would also be some other elevational changes, comprising an additional rear dormer and a rooflight.
7. The proposed building would therefore be materially different to that granted planning permission by the Council in 2009 for demolition and rebuilding of the Cottage¹. Nevertheless, the new structure would have a very similar appearance to that of the Cottage prior to the fire. In visual terms, the proposed building would therefore substantially improve the current poor condition of the appeal site.
8. The pitched roof section at the rear of the proposed building would be quite modest in size in comparison with the overall scale of the new structure. It would have a lower overall height than the main roof and it would be viewed as a subsidiary feature. Therefore, the new pitched roof section would not significantly increase the overall apparent scale of the proposed building when compared with that of the Cottage prior to the fire. As a result, the bulk and mass of the proposed building would not be a substantially more obvious feature in the surrounding landscape in comparison with the original structure.
9. Moreover, the new pitched roof section would be better integrated with the overall design of the proposed building compared with the flat roof treatment on that part of the original structure. The flat roof would be reinstated if the recent planning permission granted by the Council for repairs to the existing roof and a partial rebuild of the Cottage was implemented². In the event that this appeal was dismissed, I consider that there is a reasonable likelihood of the appellant implementing the recently permitted scheme. I have therefore given the 'fallback position' of that scheme substantial weight. Consequently, in my view the appeal scheme also offers an opportunity for a visual improvement, albeit modest, over the permitted scheme.

¹ Council reference LM/09/03061/FUL dated 9 October 2009.

² Council reference SDNP/16/00323/HOU dated 12 April 2016.

10. Overall therefore, I find that the proposal would accord with saved Policy BE11 of the adopted Chichester District Local Plan–First Review 1999 (LP), as it would not detract from its surroundings having regard to its effect on the local environment, the intrinsic merit of the design, scale, materials, siting and layout and its setting in the landscape. Also, the proposal would be consistent with LP Policy H12, as it would not detract from the rural character and appearance of the existing dwelling or the surrounding area by virtue of its scale and mass and design, and; it would not detrimentally increase the bulk of the building visible from public vantage points.
11. Further, in my view the visual benefits offered by the proposal would enhance the landscape and scenic qualities of the NP and it would therefore be consistent with paragraph 115 of the National Planning Policy Framework (the Framework) as well as being consistent with the purposes of the NP designation. Additionally, the proposal would be consistent with the core planning principle at paragraph 17 of the Framework of taking account of the different role and character of different areas and recognising the intrinsic character and beauty of the countryside. Moreover, the proposal would be consistent with paragraph 109 of the Framework as it would contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Sustainability

12. The appeal site is located in the countryside, well outside of any settlement boundary designated in the LP and consequently it is in the Rural Area for the purposes of LP Policy RE1. Both main parties agree that use of the Cottage as residential accommodation has ceased as a result of the fire and the long period without any residential occupation which followed. Therefore, even though the proposed building would replace a residential structure which had existed in a similar form for many years prior to the fire, it would amount to a new isolated home in the countryside as described in the Framework at paragraph 55.
13. In order to promote sustainable development in rural areas, the approach of paragraph 55 is that new isolated homes in the countryside should be avoided, unless there are special circumstances. There are four examples of special circumstances listed at paragraph 55. However, the list is not exhaustive. Consequently, it is not necessary for the proposal to fall within one of the listed examples in order for special circumstances to apply. Whether such circumstances exist in the case of this appeal is examined further below.
14. The proposed building would have a similar floor area in terms of the floorspace available for residential accommodation and for the garaging of cars associated with the main house, as the original structure. Whilst there is an additional area of floorspace proposed in a new pitched roof section at the rear, this area is comparatively modest in size and its proposed use has been described as storage. Given the limited available headroom in this part of the roofspace, which would be accessed through one of the bedrooms, its practical use for habitable purposes is likely to be limited. Consequently, the proposed building would not have a substantially greater area of habitable residential floorspace than that of the original structure prior to the fire.
15. Whilst the Council has expressed concerns regarding the ambiguity of its use, the appellant has clearly explained that the proposed building would be used

for purposes ancillary to the main house. In particular, the residential accommodation in the proposed building would be occupied by staff working at the main house. Currently, the staff appear to reside within the main house. However, I understand that this has been mainly in order to care for the current occupant, who is elderly and infirm. Given the size of the main house and its grounds, it is perhaps not unreasonable to anticipate that at some stage in the future, its occupiers might have a requirement for one or more employees, such as a housekeeper or gardener, to live on the site in a form of separate accommodation. Indeed, this appears to have been the function performed by the Cottage for many years prior to the fire. In any event, if the Cottage were to be repaired and partially rebuilt in accordance with the recently permitted scheme already referred to above, it could then be occupied by staff working at the main house.

16. The proposed building would be very similar in terms of its internal layout, the extent of habitable residential accommodation provided and the degree of physical and functional separation from the main house, to the recently permitted scheme. In this respect there are therefore limited material differences between the current proposal and that scheme, which as I have already referred to, represents a realistic 'fallback position'. Whilst I also note the Council's reference to an earlier application for a replacement building with a larger living area, I have to consider the appeal scheme on its individual merits.
17. A planning condition could be imposed to prevent the use of the proposed building as a dwelling independently from the main house, similar to that imposed by the Council on the recently permitted scheme and the 2009 permission. A condition could also be imposed limiting the extent of the residential accommodation within the proposed building by restricting the future use of the proposed garages as habitable floorspace. Together, these conditions would ensure that the proposed building maintained a functional relationship with the main house and that consequently, it would not be tantamount to the creation of a new dwelling separate from the main house.
18. On the 'red line' plan submitted with the application, an area of land around the Cottage is shown edged in red, excluding Danley Hill and the remainder of its grounds. However, it does not necessarily follow that the granting of permission in this case would create a physically or functionally separate plot from the main house. The proposal does not include any details of the creation of a separate curtilage, such as details of boundary fencing or enclosures. Creation of a separate residential curtilage could also be restricted by a condition. The main house and its grounds remain in the same ownership as the appeal site.
19. Overall therefore, I find that there are limited differences in terms of the extent of residential accommodation proposed in the appeal scheme and its degree of separation from the main house, compared with the fallback of the recently permitted scheme. Moreover, as already described above the appeal scheme offers the opportunity for visual enhancements to the NP in comparison with the recently permitted scheme and having regard to the current poor condition of the appeal site.
20. Accordingly, when these matters are all taken together in my view they would amount to special circumstances in which the proposed building, which would

otherwise be an isolated new home in the countryside, could be permitted without it being inconsistent with the objective of promoting sustainable development in rural areas set out at paragraph 55 of the Framework.

21. Furthermore, the proposal would not fail to accord with saved LP Policy H12, as it would not create a dwelling which is readily capable of conversion into more than one unit. Consequently, the proposal would also accord with LP Policy RE1 which otherwise restricts development in the Rural Area generally.

Planning Balance

22. The proposal would achieve the mutually dependent economic, social and environmental objectives of sustainable development as set out at paragraphs 7 and 8 of the Framework. In particular, the proposal would achieve the economic role, as it would create jobs in the construction sector albeit in the short term. The proposal would also achieve the social role, as it would contribute to the supply of housing in order to meet the needs of present and future generations and it would create a high quality built environment. The proposal would also achieve the environmental role, as it would contribute to protecting and enhancing the natural and built environment.
23. The benefits of the proposal are all small in scale. However, when applying the presumption in favour of development at paragraph 14 of the Framework there are no adverse impacts which would significantly outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole.

Conditions

24. As well as the standard commencement condition, I have imposed a condition specifying the approved plans in the interests of certainty. I have also imposed a condition requiring the external materials to match those of the existing structure, to ensure that the new building has a similar appearance in the interests of conserving the landscape and scenic beauty of the NP.
25. As described above, I have imposed conditions to restrict occupation of the new building to purposes ancillary to the residential use of the main house and to restrict the formation of a separate residential curtilage. This is in order to prevent a new dwelling separate and unrelated to the main house being created in the countryside. After seeking the views of both main parties, I have amended the condition suggested by the Council to include reference to the latter.
26. I have also imposed a condition removing 'permitted development' rights to enlarge or alter the building under the Town and Country Planning (General Permitted Development) (England) Order 2015. I am mindful that such conditions should only be imposed in exceptional circumstances. However, the condition is necessary in this case in order to prevent a new dwelling separate and unrelated to the main house being created in the countryside and to conserve the landscape and scenic beauty of the NP. After seeking the views of both main parties, I have also imposed a condition preventing use of the garages as habitable accommodation, also to prevent a new dwelling separate and unrelated to the main house being created in the countryside.
27. However, I have not imposed the Council's suggested condition regarding the submission of a scheme to deal with any contamination of the site and the

subsequent implementation of any recommended remediation measures. The Council has not explained why the suggested condition is required. In the absence of any firm evidence which suggested that there is a risk of contamination being present at the site, I am not convinced that such a condition is necessary.

Conclusion

28. The proposal would accord with the Development Plan and the Framework.

29. For the reasons given above I conclude that the appeal should be allowed.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 03, 1171 01 Rev P2, 1171 Rev P0.
- 3) The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building.
- 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Danley Hill, Danley Lane, Linchmere, West Sussex GU27 3NF. It shall not be used as a separate dwelling and no separate curtilage shall be created.
- 5) Notwithstanding the provisions of Part 1, Classes A, C, D and G of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the building hereby permitted shall not be enlarged, improved or otherwise altered without the prior written permission of the Local Planning Authority following the submission of a planning application.
- 6) No part of the garage shown on drawing no 1171 01 P2 shall be used as habitable accommodation without the prior written permission of the Local Planning Authority following the submission of a planning application.