
Appeal Decision

Site visit made on 31 October 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 16 November 2016

Appeal Ref: APP/D3830/W/16/3150884

Rickstones, London Road, East Grinstead, West Sussex RH19 1PH

- 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 Mr Christopher Baron, Chailey Homes Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/16/0480, dated 3 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is the erection of two four bedroom detached houses each with an integral garage, formation of a new vehicular access from London Road and the re-alignment of the existing access to 'Rickstones' to link with the new access. The provision of car parking for both houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the setting of Rickstones, a Grade II listed building; and
 - whether the proposal would make adequate provision for habitat mitigation to offset any impact on the Ashdown Forest Special Protection Area/Special Area of Conservation (the Ashdown Forest SPA/SAC).

Reasons

Setting of Rickstones

3. The appeal site comprises the front portion of the substantial grounds of Rickstones, a Grade II listed building set at the rear of a narrow rectangular plot on the southern side of London Road. The proposal is to reposition the existing access to the centre of the frontage and to construct two detached houses on either side. The rear portion of the plot would be retained as a front garden and setting for Rickstones.
4. The proposed houses on the London Road frontage would be sited alongside a pair of semi-detached houses on one side and Ashdown Gate, a development of flats, on the other. There is no dispute that the siting, scale and design of the properties are acceptable in the context of the London Road street scene, however the Council argue that the proposal would harm the setting of the listed building and the context in which it is experienced.

5. Rickstones was originally a pair of early 17th century cottages, now converted into one and much restored, but still retaining its original character. As such, the building has significance as an example of the local Sussex vernacular. It is now surrounded by modern housing development on three sides, but the building itself is situated at one end of an undeveloped rectangular plot. The rear portion of the plot, closest to Rickstones, comprises an attractive country style cottage garden, and this forms the immediate setting of the building and the context in which it is seen. By contrast, the front portion of the plot where the two houses are proposed has become impenetrable and overgrown with tall bushes, and this blocks any view of Rickstones from London Road.
6. As a result, Rickstones is now only seen from the country garden in front of the house after reaching the property via a slightly curving drive along one side of the plot. The building is effectively situated in a private enclave screened from public view behind an overgrown frontage, and given the very substantial size of the plot it is unlikely that an extensive domestic garden use opening up views of the building will be reinstated.
7. However, the proposal, with its realigned central access, would open up views of Rickstones from London Road enabling the public to experience the building again. Whilst it would be seen between and to the rear of the two detached houses, it would retain a large front garden which would still provide a verdant setting within which it would be seen. Within its hedgerow boundaries, the building in its reduced but still substantial plot would retain the visual reminder of its past rural character. The rear boundaries of the new properties would also need to comprise soft hedges, but this could be secured by condition.
8. A previous proposal for a terrace of four houses across the width of the London Road frontage was dismissed on appeal in 1996¹. As now this would have only occupied the front portion of the plot but unlike the current proposal would have blocked off Rickstones from public view. The two storey terrace would have closed off the front of the site leaving Rickstones left isolated behind; the access to one side would not have allowed views of the building.
9. The Inspector at the time noted that Rickstones was glimpsed beyond the frontage hedge, with a gravel path laid in a direct line from a central front gate to a principal doorway of the house. Flanked by planting and with two arbours straddling the path, the formal linear garden led the eye to the listed building. However, these features are now gone and the overgrown front of the plot does not contribute to the setting of the building in the way it did then.
10. The statutory requirement is to have special regard to the desirability of preserving the building, or in this case, its setting. The proposal would reduce the length of undeveloped land in front of the building but would retain its garden setting and open the building up to public view, a benefit. Overall therefore, the proposal would preserve the setting of the building and the context in which it is experienced, thereby protecting its significance.
11. The proposal therefore complies with Policy B10 of the Mid Sussex Local Plan 2004 (the MSLP) which requires new proposals to have special regard to protecting the setting of a listed building². It also complies with the less

¹ T/APP/D3830/A/95/257198/P8

² also Policy DP32 of the emerging Mid Sussex District Plan which is very similar (the decision notice refers to Policy DP33 but this relates to conservation areas and is assumed to be an error)

onerous test in Policy EG4³ of the emerging East Grinstead Neighbourhood Plan (EGNP) that proposals should lead to less than substantial harm to the significance of a heritage asset and paragraph 132 of the National Planning Policy Framework (NPPF) which states that great weight should be given to the asset's conservation.

The Ashdown Forest SPA/SAC

12. The appeal site lies within 7 km of the Ashdown Forest SPA/SAC which has been identified for its importance as habitat supporting certain protected species. Within the 7 km zone of influence a Habitats Regulations Assessment has concluded that new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/SAC unless it is properly mitigated. Two parts to this mitigation have now been identified, an interim Strategic Access Management and Monitoring (SAMM) Strategy, and the provision of Suitable Alternative Natural Greenspace (SANG) to divert visitor pressure away from the Forest.
13. The SAMM strategy includes measures to manage visitor behaviour and species monitoring, and the Council is seeking £6,280 from the appellant as a contribution towards this, based on the housing proposed. In the case of SANG, the Council has developed a strategy for the East Court & Ashplats Wood site at East Grinstead as an alternative visitor destination closer to the appeal site. The Council is either seeking £4,066 from the appellant towards this, again based on the housing proposed, or alternatively a bespoke SANG.
14. A signed and dated unilateral undertaking has been submitted offering the SAMM contribution should I conclude that it is necessary and legitimate in this case. The Council has not raised any concerns that the terms of this are unacceptable. Without mitigation the visits generated by the occupiers of two additional houses in this location would be likely to have a detrimental impact on the Ashdown Forest SPA/SAC. The contribution would therefore be necessary, directly related to the development and fair and reasonable in scale and kind, the three tests in the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the NPPF.
15. In relation to SANG, no unilateral undertaking has been provided. The Council propose a negatively worded condition requiring the submission of a scheme either for a financial contribution towards East Court & Ashplats Wood or the provision of a bespoke SANG. As this mitigation is also required to avoid a detrimental impact on the Ashdown Forest SPA/SAC, such a condition would be necessary, relevant to the development and reasonable in all other respects.
16. However, the proposed condition would seem to require the parties to enter into a further agreement before development can proceed, contrary to Planning Practice Guidance (PPG)⁴ which advises against such conditions in the case of straightforward, non-strategic development such as this scheme. Although the appellant previously stated they have no objection to making the necessary financial contribution, they object to a negatively worded condition⁵ and do not suggest any alternative mechanism to deliver SANG. The two houses would

³ the decision notice refers to Policy EG5 but this relates to new housing and is assumed to be an error

⁴ Paragraph 10 Reference ID: 21a-010-20140306

⁵ although it was recently accepted by an Inspector in the case of APP/D3830W/16/3151808

have their own gardens, but this would not avoid likely additional visitor pressure on the Ashdown Forest SPA/SAC.

17. Without any mechanism to provide SANG the proposal would not make adequate provision for habitat mitigation to offset the anticipated impact of the proposal on the Ashdown Forest SPA/SAC. This would conflict with Policies DP15 of the emerging Mid Sussex District Plan and EG16 of the EGNP which require residential development within 7 km of the SPA/SAC to contribute towards the provision of SANG and the SAMM strategy⁶.

Conclusion

18. The proposal would preserve the setting of the listed building and protect its significance. The provision of two houses would also help reduce the shortage of housing land in the district and have important social and economic benefits for the area. However, without the provision of SANG, the proposal, in combination with other schemes, is likely to have a significant detrimental effect on the Ashdown Forest SPA/SAC and would therefore not be sustainable development. Consequently, unless such provision is made, the proposal should not go ahead.

19. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

⁶ Policy C5 of the Mid Sussex Local Plan 2004 mentioned in the decision notice is less specific.