

Appeal Decision

Site visit made on 26 January 2017

by **R J Maile BSc FRICS**

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

Decision date: 9th February 2017

Appeal Ref: APP/Y9507/D/16/3160050

Pond Cottage, Back Lane, Milton Street, Polegate, East Sussex, BN26 5RN.

- 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 Roger Fitton and Mr Angus Duncan against the decision of the South Downs National Park Authority.
 - The application, ref: SDNP/16/02508/HOUS, dated 18 May 2016, was refused by notice dated 29 July 2016.
 - The development proposed is: "The widening of existing garage, the removal of the existing ancillary accommodation (wooden outbuildings to the rear of the garage) and the erection of a single storey ancillary residential annexe with associated landscaping."
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Decision

1. The appeal is allowed and planning permission is granted for the widening of existing garage, the removal of the existing ancillary accommodation (wooden outbuildings to the rear of the garage) and the erection of a single storey ancillary residential annexe with associated landscaping at Pond Cottage, Back Lane, Milton Street, Polegate, East Sussex, BN26 5RN, in accordance with the terms of the application, ref: SDNP/16/02508/HOUS, dated 18 May 2016, subject to the conditions set out in Annex A to this decision.

Main Issue

2. The main issue in this case is the effect of the proposed annexe building upon the character and appearance of Pond Cottage and that of the surrounding landscape, both of which form part of the South Downs National Park.

Reasons

3. Pond Cottage comprises a Grade II listed building located within an extensive curtilage beyond any defined settlement boundary. To the rear there is open farmland, which rises towards the steep escarpment of the South Downs to the south.
 4. Milton Street comprises an eclectic mix of detached dwellings fronting the street. These include purpose-built houses and former agricultural buildings that have been converted to residential use.
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5. There are a number of outbuildings within the curtilage, including a garage of very modest proportions that is constructed of brick and flint with a tiled roof. There are also some modern timber annexe buildings which have mineral felt covered roofs. The north flank wall of the garage leans out of true and is in poor condition, whilst the annexe buildings are generally dilapidated.
6. The appeal site is within the South Downs National Park and an Archaeological Notification Area.
7. The proposed annexe building would be sited upon the approximate footprint of the existing timber structures and would be set into the ground adjacent to the enlarged garage, with a small sunken courtyard to the rear.
8. Listed Building consent for the proposal was granted by the Local Planning Authority ('the LPA'), subject to conditions, on 29 July 2016 under ref: SDNP/16/02509/LIS. I have been provided with a copy of that permission.
9. The LPA has referred to a number of policies and to the importance of having regard to the first purpose of National Park designation, which is to conserve and enhance the natural beauty, wildlife and cultural heritage of such areas. In pursuance of the policy objectives of designation there is a duty to foster the economic and social wellbeing of the local community. Paragraph 55 of the Framework¹ likewise seeks to promote sustainable development in rural areas.
10. The LPA's refusal notice quotes "saved" Policies DC17 and DC19 of the adopted Wealden Local Plan (1998). Policy DC19 sets out a total of four criteria against which proposals for ancillary buildings within existing residential curtilages should be considered. I have taken particular note of that policy and of its supporting text in my consideration of this appeal.
11. I have also been referred to the South Downs National Park Preferred Options Local Plan. This document is in the early stages of preparation and I can afford its policies only limited weight. Nevertheless, in general terms those policies to which my attention has been directed accord with the thrust of national policy and those of the adopted Local Plan.
12. The Officer's Report refers to the fact that the proposed annexe would have a floor area of approximately 82m² as compared to the footprint of Pond Cottage (86m²). However, the cottage is a two storey dwelling, such that the floor area is some 172m². Furthermore, the figure of 86m² does not take account of a single storey extension that has recently been permitted, which would increase the footprint to 115m² (refs: SDNP/16/02503/HOUS and SDNP/16/02504/LIS).
13. On behalf of the appellants it is argued that the internal size of the habitable rooms of the proposed annexe would only equate to some 54m². I am also reminded that the prescribed minimum internal space standards for a one bedroom studio unit is approximately 40m². The additional 14m² in this case would cater for the needs of a disabled occupant.
14. Criterion (4) of Policy DC19 states that in the case of an annexe, the proposal should normally be physically attached to the dwelling and not lend itself to future subdivision to form a new dwelling.

¹ The National Planning Policy Framework.

15. My decision in this case has been greatly influenced by the fact that the annexe would replace dilapidated and unsightly structures which, given the topography of the appeal site, are highly visible from the South Downs. They are also damaging to the setting of the listed building, which is a heritage asset.
16. By contrast the annexe would be set into the slope of the garden and screened in views from the open Downland to the rear by dedicated landscaping. The garage will serve to screen the proposal from Pond Cottage, whilst views of the annexe from the street would be filtered by mature hedging. The design of the annexe is innovative and the enlargement to the garage building will enable it to serve its intended function as a garage for modern vehicles.
17. The Local Planning Authority has acknowledged that self-contained detached annexes can be considered ancillary, provided that they do not result in the formation of a new planning unit. In this case the LPA has put forward two conditions, which I shall impose, that would prevent any such sub-division.
18. In further support of my decision to allow this appeal, I am concerned that the simple characteristics of the listed building and its siting away from the garage and outbuildings would be compromised by a physically connected annexe.
19. In visual terms, the current scheme would be separated from Pond Cottage by the garage building. The sunken design of the new structure will ensure that the character and appearance of the host building and that of the South Downs National Park are conserved and enhanced, as required by the objectives of National Park designation, national policy in the Framework and the Development Plan policies to which my attention has been directed.
20. It is also of relevance that the provision of ancillary accommodation for an elderly relative accords with the thrust of national policy at paragraph 50 of the Framework to deliver a wide choice of high quality houses to address the needs of different groups in the community such as older people and people with disabilities.
21. Accordingly, I have found upon the main issue that development as proposed would not bring about any adverse impact upon the character and appearance of Pond Cottage or that of the surrounding landscape, which forms part of the South Downs National Park, as required by the national policy at Chapters 11² and 12³ of the Framework and "saved" Policies DC17 and DC19 of the adopted Local Plan.

Conditions

22. The Council has suggested a total of thirteen conditions should I be minded to allow the appeal, which I have considered against the tests of the Framework and advice provided by the Government's Planning Practice Guidance issued on 6 March 2014. I find all to be reasonable and necessary in the circumstances of this case although I have amended their wording where required, or have separated others, in the interests of clarity.
23. My reasons for the conditions are:

² Conserving and enhancing the natural environment.

³ Conserving and enhancing the historic environment.

24. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Conditions 2, 3, 4, 5, 6 and 7 will ensure a satisfactory appearance to the completed development in the interests of safeguarding the character and appearance of the area and the setting of the listed Pond Cottage.
25. Conditions 8 and 9 will ensure that the annexe building remains ancillary to the residential use of Pond Cottage and that it is not occupied as a separate residential unit in the interests of the character and appearance of the area and the setting of the listed building. Condition 10 will prevent over-development of the site, which again would be harmful to the setting of the listed building.
26. Conditions 11 and 12 will safeguard the archaeological and historical interest of the site and will mitigate against the loss of historic fabric, while Condition 13 is necessary in order to avoid harm to protected species.
27. Condition 14, which requires the development to be carried out in accordance with the approved plans, provides certainty.

Conclusion

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

R. J. Maile

INSPECTOR

Schedule of Conditions

Annex A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) the development hereby permitted shall not be subsequently enlarged; nor shall the exterior be clad with stone, artificial stone, pebbledash, render, timber, plastic or tiles; nor shall any additional windows be added into any part of the roof or in the west or south elevations.
- 3) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. These details shall include roofing materials (including the green roof), walling materials (including timberwork, brickwork, flintwork and mortar specifications), glazing and fenestration and rainwater goods. Development shall be carried out in accordance with the approved details and samples.
- 4) No development shall take place until full details of the proposed window and door joinery have been submitted to and approved in writing by the Local Planning Authority. Such details shall include drawings and sections at a scale of 1:1, 1:5, 1:10 and/or 1:20 as required to clearly show the construction of the joinery and its finished relationship to jambs, cills and heads of the wall, including details of the final finish and colour. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until sample panels of all new facing brickwork and flintwork measuring at least 1 metre x 1 metre have been prepared on site for inspection and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved sample panels, which shall be retained on site until the work is completed.
- 6) No development shall take place until full details of a scheme of hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials; longitudinal and latitudinal sections demonstrating any differences in land levels between the existing and the proposed site; planting plans; schedules of plants noting species, plant sizes and proposed numbers/densities, where appropriate, and an implementation programme.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority; and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written approval to any variation.
- 8) The annexe building hereby permitted shall not be occupied other than for purposes ancillary to the residential use of Pond Cottage, Back Lane, Milton Street, Polegate, East Sussex, BN26 5RN. In particular, it shall not at any time be severed and occupied as an independent residential unit.

- 9) No separate enclosed garden shall be created around or adjacent to any part of the annexe building hereby permitted (with the exception of the sunken courtyard annotated on Drawing no. 9857/37) and it shall not be separated from the curtilage of Pond Cottage, Back Lane, Milton Street, Polegate, East Sussex, BN26 5RN.
- 10) The annexe building hereby permitted shall not be occupied until the existing outbuildings shown for removal on Drawing no. 9857/35 (including the summerhouse, existing annexe and shed) have been demolished and all arisings removed from the site.
- 11) No development shall take place until the implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation that shall first have been submitted to and approved in writing by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report has first been agreed in writing by the Local Planning Authority.
- 12) No development shall take place until a full photographic buildings survey of the existing garage building has been submitted to and approved in writing by the Local Planning Authority. The survey shall include photographs to clearly indicate the external elevations of the building and its interior.
- 13) The development hereby permitted shall be carried out strictly in accordance with the mitigation and enhancement measures set out in the submitted Ecological Report prepared by The Ecology Partnership and dated 7 July 2016.
- 14) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. 9857/30:	Site Location and Existing Block Plan – scales 1:1250 and 1:500.
Drawing no. 9857/31:	Existing Roof Plan – scale 1:100.
Drawing no. 9857/32:	Existing Floor Plans – scale 1:100.
Drawing no. 9857/33:	Existing Elevations 1 – scale 1:100.
Drawing no. 9857/34:	Existing Elevations 2 – scale 1:100.
Drawing no. 9857/35:	Proposed Site Block Plan – scale 1:500.
Drawing no. 9857/36:	Proposed Roof Plan – scale 1:100.
Drawing no. 9857/37:	Proposed Ground Floor Plan – scale 1:100.
Drawing no. 9857/38:	Proposed Elevations 1 – scale 1:100.
Drawing no. 9857/39:	Proposed Elevations 2 – scale 1:100.
Drawing no. 9857/40:	Proposed Sections – scale 1:100.
Drawing no. 9857/44:	Comparison Roof Plan – scale 1:200.
Drawing no. 9857/45:	Comparison Roof Plan – scale 1:200.