

Appeal Decision

Site visit made on 3 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 18 July 2017

Appeal Ref: APP/Y9507/W/17/3167066

Hollow Farm, The Street, Bury RH20 1PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Joe Godfrey against South Downs National Park Authority.
 - The application Ref SDNP/16/05456/HOUS, dated 31 October 2016.
 - The development proposed is construction of outdoor swimming pool and associated changing room building.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Joe Godfrey against South Downs National Park Authority. This application is the subject of a separate Decision.

Procedural Matter

3. The Council submission outlines that had it been in a position to determine the application, it would have refused planning permission for reasons relating to (i) the effect of the development on the landscape character of the area and the setting of the adjacent Grade II listed Hollow Farm and (ii) the impact of the proposed spoil heap located on land outside the application site to the north of the listed building, on the wider landscape character of the South Downs National Park.

Main Issues

4. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the area including the setting of the adjacent Grade II listed Hollow Farm; and
 - (ii) The impact of the proposed spoil heap, to be located on land outside the appeal site to the north of Hollow Farm, on the landscape character of the South Downs National Park (SDNP).
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Reasons

Character and appearance of the area

5. The appeal site forms part of the garden area at the side of Hollow Farm, a detached two storey Grade II listed dwellinghouse, with outbuildings at the rear of the property. It is set within an open rural location on the edge of the village of Bury just outside the Bury Conservation Area (CA). The appeal site consists of a mature spacious landscaped garden area that slopes towards and is positioned above the dwellinghouse and the road at the front. It is set back from the road behind a mature landscape boundary and low fence which is further enhanced by the presence of mature landscaping and established trees within the surrounding open countryside, that adds to the verdant rural character and appearance of the area.
6. The proposal would involve the construction of an outdoor swimming pool, associated hardstanding area and changing room building at the bottom of the side garden. The pool and hard landscaping would be formed by engineering works to excavate and grade the levels of the site and the proposed timber clad building would measure about 4.6m (width) by 6m (length) with a dual pitched roof with a ridge height of about 3.4m.
7. A core principle of the National Planning Policy Framework (the Framework) is to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework makes it clear that, among other things, valued landscapes should be protected and enhanced. Paragraph 115 of the Framework states great weight should be given to conserving the landscape and scenic beauty in National Parks, which have the highest status of protection. Saved Policies BE11 and BE14 of the Chichester District Local Plan First Review 1999 (LP), although somewhat dated, are broadly consistent with the Framework and seek to ensure that new development does not impact on the landscape and detract from its surroundings.
8. I have considered the appellant's arguments in the appeal statement and the supporting documentation that the proposal would have limited visual and landscape impacts on the area including the views from the sunken lane at the front of the site and the wider landscape. The appellant outlines that the proposed development would be largely obscured by the proposal's design, site levels, landform and mature vegetation.
9. However, I have viewed the appeal site and I am not persuaded by the appellant's arguments. Whilst these features would reduce the impact of the proposal on the wider landscape, I consider on a local level the proposed excavation and regrading to provide a level area for the pool and associated hardstanding area would be entirely different in scale and form to the existing gently sloping garden and would be very much at odds with the verdant character of the area. These shortcomings would be exacerbated by the elevated nature of the site, combined with the proposed siting and design of the changing room building and hardstanding area in close proximity to the adjacent dwelling which would impact on the local landscaped setting of the listed building.
10. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed development on the street scene. In any case,

the purpose of the designation of the SDNP is to safeguard the character and appearance as a whole and I do not consider that the proposed engineering work and the re-profiling of the site would either conserve or enhance this part of the SDNP. As such, I consider the development, by virtue of its siting and design would result in an incongruous and out-of-keeping addition that would adversely harm the rural character and appearance of the area and would fail to preserve or enhance the landscape and scenic beauty of the SDNP.

11. I recognise that the appeal site has a lawful use as a garden area and that the proposal for the appellant's private use would not result in a significant intensification nor change in the relative tranquillity of the appeal site, given its existing use. I also note the appellant's comments regarding the mitigation measures identified in the appellant's landscape and visual impact assessment that proposes additional planting along the eastern boundary of the appeal site. Whilst these features would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above and the additional landscaping would take some years to grow before the positive benefits were fully effective.
12. I note the appellant's comments that the garden area might be re-profiled to achieve the landform required for the proposal as permitted development under the Town and Country Planning (General Permitted Development) Order (England) 2015 (GPDO). Whilst I note the dispute between the main parties as to whether or not the appeal site falls within the residential curtilage and permitted development applies, this in any event, does not set a precedent for such an inappropriate development in this location.
13. The proposed development would be visible from the rooms at the side and rear of the adjacent Grade II listed Hollow Farm. Given the elevated nature of the appeal site and the limited separation distance between the appeal site and the listed building, the proposal would have negative impact on the setting of the listed building. The setting would therefore not be preserved. However, given the modest scale of the development, the separation distance and the woodland area between the appeal site and the CA, the proposal would have neutral impact on the setting of the CA. The setting of the CA would therefore be preserved.
14. Given the modest scale of the development, the harm to the listed building would be less than substantial but in accordance with paragraphs 134 of the Framework, that harm should be weighed against any public benefits to the proposal. I note the appellant's intention to use the proposal for his family's private use. However, I find insufficient public benefit arising from this proposal to offset the identified harm to which I attach significant weight.
15. Consequently, I conclude that the development would adversely harm the character and appearance of the area and as such would conflict with Saved Policies RE1, BE4, BE11 and BE14 of the LP, which I consider relevant in this case. These policies seek, amongst other things, to ensure that the design, scale, materials, siting and layout of new development does not impact on the landscape, detract from its surroundings and protects and preserves listed buildings and their settings.
16. In addition, it would not accord with the aims of the Framework that development should seek to secure a high quality of design and conserve heritage assets in an appropriate manner (paragraph 17); that should integrate

into the natural and historic environment (paragraph 61); protects and enhances valued landscapes (paragraph 109); conserves the landscape and scenic beauty in National Parks (paragraph 115) and take into account the desirability of new development making a positive contribution to local character and distinctiveness in conserving and enhancing the historic environment (paragraph 131).

The impact of the proposed spoil heap on the landscape character

17. The proposal involves the disposal of the excavated material from the proposed development about 150m to the north of Hollow Farm on part of a field outside the appeal site within the appellant's ownership. The appellant outlines that the proposal would involve the limited stripping and burying of the subsoil from the appeal site on the field and the subsequent covering and blending of the topsoil over the area measuring approximately 35 by 50m to an average depth of about 200mm.
18. The appellant argues that given the scale of the proposed works, the volumes involved and the depth of the depositions, the proposal would not be identifiable as a spoil heap once completed. In visual terms, given the enclosed nature and the gently sloping topography of the site and immediate surroundings, the proposed disposal site would have limited harm on the character of the wider landscape.
19. Nevertheless, on a more local level, the Council have identified that the proposed disposal site is characterised by a Brook innings which is a rare landscape type in the County. The supporting information submitted by the appellant does not demonstrate the potential impacts on this rare landscape type nor include a detailed method statement for the proposed works and subsequent landscaping. Whilst I recognise the potential benefits arising from the disposal of the excavated materials within close proximity to the appeal site, the adverse harm of the appeal scheme as outlined above in this sensitive rural landscape would outweigh the potential benefits. As such, I consider the proposed development would fail to preserve or enhance the landscape and scenic beauty of the SDNP.
20. I note the appellant's comments that the disposal proposed might be considered an agricultural operation and permitted development under the GPDO and would be de minimis in scale. However, the proposal is not related to an agricultural operation and the Council does not support that this proposed work would be de minimis and I have no reason to form a contrary view on this matter.
21. Consequently, I conclude that the development would adversely harm the landscape character of the SDNP and as such would conflict with Saved Policies BE11 and BE14 of the LP, which I consider relevant in this case. These policies seek, amongst other things, to ensure that new development does not impact on the landscape and its surroundings. In addition, it would not accord with the aims of the Framework that development should seek to secure a high quality of design that conserves and enhances the natural environment (paragraph 17); protects and enhances valued landscapes (paragraph 109) and conserves the landscape and scenic beauty in National Parks (paragraph 115).

Other Matters

22. I note the other developments in the area drawn to my attention by the appellant. However, the existing properties with swimming pools in Bury village and the examples of swimming pools granted elsewhere in Chichester District have different development and locational characteristics to the appeal scheme and the examples provided elsewhere are located outside the SDNP. In any event, based on the limited evidence provided, I am unaware of the full circumstances associated with these other developments. I therefore accord them limited weight as precedents in this case.
23. I have noted the support from Bury Parish Council regarding the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on this matter.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR