



Appeal Decision

Site visit made on 21 May 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 16 August 2019

Appeal Ref: APP/Y9507/W/18/3217309

2 Foxhole Cottages, Bedlam Street, Hurstpierpoint BN6 9EL

- 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 P Melling against the decision of South Downs National Park Authority.
 - The application Ref SDNP/17/05638/FUL, dated 5 December 2017, was refused by notice dated 22 June 2019.
 - The development proposed is described as the change of use from agricultural to residential and retention of greenhouse and shed/workshop building. Retention of and alteration to wildlife pond and decked areas.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development in the banner heading has been taken from the appeal form. This is a more concise description than the one on the application form and was used by the South Downs National Park Authority (the Authority) in its decision and agreed with the appellant. I have used this description as the basis of my decision.
3. The appeal site is used in association with the residential use of 2 Foxhole Cottages, and the structures and pond shown on Drawing Number E01-B are in place. Since retention is not an act of development, I have treated the appeal scheme as seeking permission for change of use of the land and for the structures and pond, with some alterations, as shown on Drawing Number P01-B. The proposed drawing indicates that the freestanding area of decking would be removed, the deck around the outbuilding would be reduced in size, and one of the three areas of deck around the pond would be removed. Alterations to the pond are proposed to extend an area of reed bed. I have considered the appeal on the basis of the proposed drawings.
4. Subsequent to my site visit, the South Downs Local Plan has been adopted (2 July 2019). Since the evidence of the parties addressed the policies therein, there was no need to refer back to them on this matter.
5. The evidence before me suggests that the appeal site lies within the setting of a listed building. The application was not publicised as such as required by Regulation 5A of the Planning (Listed Buildings and Conservation Area) Regulations 1990. However, as I am dismissing the appeal, I am content that

the interests of the parties would not be prejudiced if I determine the appeal without the required publicity having taken place.

Main Issues

6. The main issues are:

- The effect of the proposal on the character and appearance of the landscape and natural beauty of the South Downs National Park (the National Park); and
- Whether the proposal would preserve the setting of Danny, a Grade I listed building.

Reasons

Character and Appearance

7. The appeal site is located in an area of open countryside at the foot of the steep scarp slope of the South Downs, where built development is sporadic and generally limited to a small number of dwellings and farms. The site is adjacent to a small cluster of dwellings including 2 Foxhole Cottages, but is otherwise surrounded by farmland and woodland, and the character of the area is rural. A public right of way runs adjacent to the site, connecting with the wider public rights of way network in the area and providing access to Wolstonbury Hill. The area displays the characteristics identified in the Adur to Ouse Scarp Footslopes Landscape Character Area¹, referred to in the Planning Officer's Report, with frequent small blocks of ancient woodland, an interlocking network of hedgerows, a mosaic of farmland and woodland, with impressive panoramic views from the adjacent scarp. Wolstonbury Hill is identified as a key representative viewpoint in the South Downs National Park Viewshed Study², and is a key landmark view in the National Park.
8. I saw on my site visit that the appeal site is visible from the adjacent public bridleway. It is also clearly visible from this bridleway as it ascends towards Wolstonbury Hill, and from the top of the hill. In terms of the physical appearance of the appeal site, the aerial photographs provided by the Council indicate that the land was previously free of any structure except for an outbuilding in use as an office and well-being centre³, and it appeared as a small field or paddock, that was wholly in keeping with the surrounding countryside. I appreciate that these photographs are only a snapshot in time, but I have seen no evidence that there were structures on the site prior to the development for which permission is now sought. I understand from the evidence that the outbuilding was originally built as a garage but was converted to an office and wellbeing centre. Although it encroaches into the site, it only affects a corner of the site closest to the dwelling, and does not significantly detract from the positive contribution the appeal site makes to the special characteristics of the National Park.
9. The other works that have been carried out on the site have resulted in a change in its appearance, with a proliferation of structures and features which are clearly domestic in nature. As a result, the site now has a suburban

¹ South Downs Integrated Landscape Character Assessment

² Referred to in the Authority's Landscape Officer comments.

³ Application ref SDNP/14/01922/HOUSE

appearance. This has added to the scatter of development in a manner that is not typical of the surrounding landscape, and significantly detracts from its character and natural beauty. This is readily apparent in views from close to the site and from the wider area, including in views from Wolstonbury Hill. The proposal to reduce the areas of decking would reduce the amount of clutter, but this would not be sufficient to outweigh the harm that is caused by the remaining structures, the domestic use, and the pond. The additional planting would screen some of the structures, but would not effectively mitigate the harmful effects of the residential use of the land on the character and appearance of the site.

10. Residential use of the site has the potential to bring other changes to its appearance, through the introduction of domestic paraphernalia such as washing, play equipment, garden furniture, etc. The result would be a harmful visual effect that would further detract from the landscape character of the area. I am not convinced that a planning condition seeking to prevent the introduction of such items would be enforceable or reasonable.

Heritage

11. Danny is a Grade I Listed three storey mansion dating from the C16, in red brick with a tile roof, which lies in its extensive parkland estate at the foot of Wolstonbury Hill, and is prominent in the key landmark views from the hill. Its special interest derives not only from its fine architecture and history, being connected with Armistice negotiations in 1918, but also its setting, since the house historically sat in a large rural estate, which included agricultural land and parkland.
12. Although the estate has become fragmented in ownership the appeal site, though some distance from the listed building itself, has historic and functional links to Danny. It also has a visual link in the views from the identified key landmark of Wolstonbury Hill and is seen within the same panoramic view of the countryside from this viewpoint that takes in Danny, its surrounding parkland and the appeal site. The previous appearance of the appeal site as a small field or paddock would have made a positive or neutral contribution to the rural setting of the listed building. However, the more domestic current appearance of the site has eroded its open and deeply rural character. As a result, it detracts from the setting of the listed building, and this is particularly apparent in the key view from Wolstonbury Hill, resulting in some, albeit limited harm to the special interest of the listed building.
13. For the reasons set out above, the proposal would not preserve the setting of Danny. In terms of the advice in the National Planning Policy Framework (the Framework), I would quantify the harm to the designated heritage asset to be 'less than substantial' due to its relatively small scale in the context of the heritage asset. Such harm is to be weighed against public benefits.
14. The development has resulted in some ecological enhancements and further benefits to biodiversity could be achieved through remedial work to the pond, replacement of the laurel hedge with native species and the planting of parkland trees. However, these are small scale benefits that do not outweigh the harm that the appeal scheme causes/would cause to the significance of the heritage asset that I have identified.

Other Matters

15. I recognise that the use has been carried on for some time and the appellant is of the opinion that it was in residential use prior to his purchasing the property, with a letter having been provided from the previous owners. I am also aware that the land has been in the same ownership as 2 Foxhole Cottages for some time. However, whether or not the use and the structures on the site are immune from enforcement due to the passage of time is not a matter that is before me and the retrospective nature of the application does not have any bearing on my decision. I have considered the appeal on its own merits and concluded that the proposal would be harmful.
16. The appellant has drawn my attention to a condition attached to the permission for the reuse of the garage building in 2014⁴ which restricted its occupation for purposes incidental to the enjoyment of 2 Foxhole Cottage. I have seen no evidence that this relates to the rest of the appeal site or indicates the acceptability of such a use for it.
17. I am also aware that dismissing the appeal would result in there being no residential land immediately surrounding the office and wellbeing building, but the dwelling already has a garden of an adequate size and I am not persuaded that there is an overriding need for the outbuilding to have its own curtilage.
18. The appellant has referred to a permission⁵ for Gretta Gate, Henfield Road, Hassocks for the change of use from agricultural land to residential curtilage and some details have been provided. I note in that case that the Planning Officer considered that the proposal would cause no harm to the rural character of the locality or the quality of the landscape. Accordingly, I do not find that it is comparable to the appeal proposal.
19. I recognise that a working chalk pit is located close to the site and is visible from Wolstonbury Hill. I am not aware of the circumstances or policy context that have led to permission being granted for an extension to it and it does not have any bearing on my decision.
20. I have had regard to the 'fallback position' put forward by the appellant, whereby the land would return to agricultural use, which could be intensive and include the use of polytunnels and solar panels. I have no substantive evidence before me to indicate that there is a significant probability that this would occur if the appeal is dismissed or that it would result in a more harmful effect on the character and appearance of the site. This limits the weight I can attach to it as a fallback position.

Planning Balance and Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations, which include the National Planning Policy Framework, indicate otherwise. There is no suggestion in this regard that the most important policies for determining this appeal are out of date.

⁴ Application ref SDNP/14/01922/HOUSE

⁵ Ref 16/2196

22. I have found that the development results/would result in material harm to the character and appearance of the landscape and natural beauty of the South Downs National Park. I have also found that the public benefits deriving from biodiversity gains do not outweigh the harm to the heritage significance of the listed building. There is conflict, in this regard with policies SD4, SD5, SD6 and SD25 of the South Downs Local Plan 2018, and policies Hurst C1 and Hurst C2 of the Hurstpierpoint and Sayers Common Neighbourhood Development Plan 2015. These policies seek, amongst other matters, to restrict development in the countryside, including the harmful incorporation of open land into residential curtilages, and to ensure that new development is landscape-led and conserves and enhances landscape character, including views from publicly accessible areas. In arriving at these conclusions, I have had regard to the conservation of cultural heritage of the South Downs National Park alongside the other purposes for which the National Park is designated, in accordance with section 11 of the National Parks and Access to the Countryside Act 1949 (as amended).
23. No material considerations have been identified that would warrant making a decision other than in accordance with policies in the development plan. Therefore, for the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR