
Appeal Decision

Site visit made on 7 July 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Appeal Ref: APP/Y9507/W/20/3246808

Spindles, East Harting Street, East Harting, Petersfield GU31 5LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs I Moulton against the decision of South Downs National Park Authority.
 - The application Ref: SDNP/19/04930/CND, dated 10 October 2019, was refused by notice dated 6 December 2019.
 - The application sought planning permission for a two-storey dwelling to replace existing bungalow and garage without complying with a condition attached to planning permission Ref APP/Y9507/W/18/3208006, dated 1 July 2019.
 - The conditions in dispute is No.2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans. Drawings numbered: 01, 02, 12, 13, 14, 50A, 51A, 52A, 53A, 54A, 55A, 56, 57, 58, DH/311/01/11, Proposed tree planting drawing DH/311/01/03, DH/311/01/04 (document entitled "tree schedule").
 - The reasons given for the condition is in the interests of certainty.
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Decision

1. The appeal is dismissed.

Application for costs

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

Preliminary Matters

3. Planning permission was granted on appeal for a new dwelling to replace a house and garage which previously stood on this site. The development, which was subject to a number of planning conditions, included one requiring that the development was undertaken in accordance with approved plans. The appellants wish to vary that permission by the amendment of the layout plan (57b) and the inclusion of two additional plans (21b and 27). The effect of these changes would be the addition of an open fronted car port to accommodate two cars in the location where two car parking spaces were agreed in the appeal permission between the house and the road and forward of the dwellings either side.

4. The SDNPA's decision notice refers to the South Downs National Park Local Plan (the Local Plan) as dating from 2018 however their evidence shows that the plan was adopted in July 2019. I have dealt with this appeal on the basis that the Local Plan as adopted in July 2019 as the document pre-dates the Decision Notice and have taken it to be a typographical error.
5. A further amended plan has been referred to, DRWG 57b revises the proposed siting of the car port by positioning it 1.2 metres further away from the western boundary. This plan was submitted on the same day as the decision but was not considered by the SDNPA in reaching their decision, neither was it the subject of any consultation. That said, as it would move the car port away from the boundary with the neighbouring property, albeit by a small distance, I consider that no party would be disadvantaged by my inclusion of this plan within the appeal documents.
6. At the time of my visit construction on the dwelling was nearing completion and the building appeared occupied.

Main Issue

7. Having regard to the above context the main issue is the effect that varying the condition to incorporate the car port would have on the character and appearance of the area, and whether the scheme would preserve or enhance the East Harting Conservation Area (CA) or the landscape character of the South Downs National Park.

Reasons

8. East Harting is a rural hamlet surrounded by countryside. The site, within the East Harting CA, is elevated above East Harting Street such that the frontage of the site between the road and the house is prominent in the street scene when approaching from the west.
9. There is no character assessment for the CA however, like my colleague before me find that the CA is defined by attractive vernacular buildings generally set back from the roadside edge which are largely enclosed by trees and hedgerows but where gaps between buildings and vegetation afford views out to the surrounding countryside. Whilst these views are limited by the size of the gaps the views contribute positively to the significance of the CA.
10. The building under construction on the site was the subject of an appeal decision in 2019 where the Inspector concluded '*...the design approach is appropriate given that it sits in a group of predominantly modern buildings in terms of style. The use of timber cladding would complement the sylvan character of East Harting Street. The building has an appropriate set back from the road and its proportions are symmetrical. Consequently, the departure from the prevailing vernacular within the wider Conservation Area is on this occasion justified and there would be no harm. Overall, the additional set back from the road and greater consistency in terms of building height within the group means that there would be a slight enhancement to the character and appearance of the Conservation Area, when considered against the existing situation.*' The Inspector also highlighted the importance of well sized gaps between the building and the boundaries, concluding that there would be an enhancement which justified the proposal.

11. The introduction of the building proposed by this appeal would negate the enhancement which justified the earlier decision. The introduction of a significant built form in front of the dwelling would obstruct the view through to the surrounding down land and would undermine the justification for the dwelling allowed on appeal. Moreover, the Inspector exceptionally restricted permissions for future buildings for the reason: *"This is necessary as the building would be readily visible from the front, and to a lesser extent the rear, and also sits within in an important wider landscape vista from Harting Down. Given the sensitivity of this location, it is exceptionally necessary that potential future alterations to the building are approved by the local planning authority"*.
12. The appellants contend that the SDNPA took no account of the juxtaposition of the house and car port and the way the buildings would be read together. It is evident to me that the visibility of the site frontage was a particular concern of the previous Inspector in allowing the permission for the house given the inclusion of exceptional restrictions on future buildings as outlined above. Whilst the appellants argue that the car port would have less of an impact than the dwelling it is significant that the earlier appeal scheme recognised the enhancement to the CA which would be achieved by setting the dwelling back into the site and by the enhanced spacing between buildings. The position and bulk of the proposed car port would eradicate those enhancements and would dominate the space at the front of the dwelling.
13. Whilst there is vegetation at the front of the site which would provide an element of screening from the road the position of the proposed car port given its height and mass would be both visible and dominant when approaching from the west. That prominence would be emphasised as the land level is elevated around 1.5 metres above the road and by the size and height of the car port. Such prominence would lead to a dominant and inharmonious feature within the CA causing harm its established character in this location, though the harm would, in the words of the National Planning Policy Framework (The Framework), be less than substantial. Similarly, the addition of the car port would not contribute to 'better revealing the significance of the CA' as sought by the Framework. Additionally, it would impinge to a limited extent on the character of the National Park due to the obstruction of the visible gap between buildings.
14. The statutory duty to conserve and enhance natural beauty within the National Park is of importance. The appellants highlight that the Framework states the scale and extent of development within these areas should be limited and I have had regard to this interpretation. Additionally, The South Downs National Park Partnership Management Plan 2014-2019 (MP) is argued by the appellants to be out of date nevertheless it identifies the special qualities of the National Park and sets out policies which reflect the statutory duties of protecting National Parks. It has been subject to a process of stakeholder consultation and even though it is beyond its end date it remains a consideration that can be given moderate weight given its alignment with the Framework.
15. Taking all the above into account, the development would neither preserve nor enhance the character or appearance of the CA and would have an effect, albeit more limited, on the natural beauty of the National Park. Consequently, it would conflict with Policies SD12, and SD15 of the South Downs Local Plan 2014-2033, (2019) and to the aims of the Framework. These policies, amongst other things seek to: protect local character; protect the streetscape; ensure

heritage assets are conserved or enhanced; have regard to the local context; and ensure that important views within the CA are not harmed.

16. I have considered the content of Policy SD30 which relates to replacement dwellings though that policy is not of relevance to this proposal. I have also had regard to the detailed content of Policies SD4 and SD5 which relate to landscape character and the protection of landscape features. I consider the proposal would not undermine either of these policies given the localised impact of the appeal proposal though this does not diminish my findings in relation to the harm which would be caused to the CA.

Other matters

17. My attention has been drawn to the dispute between the SDNPA and the appellants as to the correct route to deal with revisions to the original permission. Having regard to Planning Practice Guidance (PPG) which states that where modifications are fundamental or substantial, a new planning application under section 70 of the Town and Country Planning Act 1990 will need to be submitted. Case law also clarifies that Section 73 may not be used to obtain a permission which would require a variation to the operative part of the planning permission. The change sought by the appellants involves a substantial separate structure and it could be legitimately argued that a fresh planning application should have been the most appropriate route and not a variation under Section 73. I have, nonetheless, dealt with the appeal on the same basis that the SDNPA accepted the original application.
18. The appellants suggest that the SDNPA ignored the fact that the appeal proposal sited the car port further back into the site than shown in pre-application advice and suggest that the additional set back into the site was not understood in the officer report, the date of which is erroneously referenced by SDNPA. Whilst the dispute over the precise positioning referred to are noted. I have dealt with the proposal solely on the merits of the appeal proposal and not in relation to any comparison with pre-application plans for the car port.
19. The appellants highlight that they consider the SDNPA pre-determined their view on the submission as it had previously advised it was not in favour of a garage. They also argue that the SDNPA did not appear to accept the Inspectors conclusion on the appeal for the dwelling. Whilst the appellants frustrations are noted I have dealt with the appeal based on the evidence before me and the merits of the proposal.
20. The appellants have cited examples of other dwellings in the hamlet where garages have been constructed between the house and the road however those which I did see were not comparable to this proposal in relation to their scale, mass or elevation above the road such as they are examples that would alter my judgement in relation to this appeal.
21. The appellants argue that the car port is an integral part of their self-build home though had it been pivotal to that scheme it would undoubtedly have been included within the earlier proposal for the house. I note references that this element was removed following discussions with the SDNPA. I also note the appellants contention that being able to park cars securely is a normal form of development though there would be a very limited difference to parking a vehicle in the open compared to within an open sided car port with regard to

security. I have explained above by assessment of the appeal proposal and these factors do not alter those findings.

Conclusion

22. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a heritage asset, in this case the East Harting CA, is a matter of considerable importance and weight. This is reinforced by Policies in the Local Plan which seek to protect the CA from development which fails to preserve or enhance it. The bulk and massing of the car port, in this particular location, would have a dominant effect and would result in an adverse effect on the CA.
23. Paragraph 193 of the Framework says great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the public benefit of a proposal. In this case no public benefit has been identified to outweigh that harm. Consequently, a decision other than in accordance with the development plan is not justified.
24. For the above reasons and having had regard to all other matters raised, I have concluded that the plans condition should be retained unaltered and the appeal does not therefore succeed.

Janet Wilson

INSPECTOR