



Appeal Decisions

Site visit made on 27 January 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal A Ref: APP/Y9507/C/19/3237773

Land at Abbots Worthy House, Abbots Worthy, Winchester SO21 1DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Mr Kulwant Singh Lakhpuri against an enforcement notice issued by the South Downs National Park Authority.
- The enforcement notice, numbered SDNP/19/00084/ENNOT, was issued on 22 August 2019.
- The breach of planning control as alleged in the notice is the failure to comply with Condition 2 of planning permission SDNP/18/00679/FUL by failing to carry out the development in accordance with the approved plans by: Increasing the height of the roof; Relocating and resizing of the second floor windows to the north elevation; Inserting a window to the second floor east elevation and extending the roof; Relocation of the skylights; The relocation and resizing of the second floor windows to the south elevation; and Insertion of doors to the main dormer to south elevation.
- The requirements of the notice are to carry out the development so that the parts of the development described in section 3 above are implemented in accordance with the approved plans as listed in the planning permission (SDNPA18/00679/FUL) dated 18 April 2018 including the following approved plans:
 - Proposed north elevation – 2188/05 dated 05.02.18
 - Proposed south elevation – 2188/06 dated 05.02.18
 - Proposed east and west elevation – 2188/07 dated 05.02.18.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary decision: The appeal is allowed and the notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/Y9507/W/19/3232344

Abbots Worthy House, Abbots Worthy, Winchester SO21 1DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A 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 Kulwant Singh Lakhpuri against the decision of the South Downs National Park Authority.
- The application Ref SDNP/19/01331/CND, dated 18.03.19, was refused by notice dated 29 May 2019.
- The application sought planning permission for the partial change of nursery (Use Class D1) at Abbots Worthy House back to residential dwelling (Use Class C3) and extension to roof to create additional habitable accommodation, without complying with condition 2 attached to planning permission Ref SDNP/18/00679/FUL, dated 18 April 2018.

- The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".
- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.

Summary decision: The appeal is allowed in the terms of the Formal Decision.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 25 June 2020.

Decisions

Appeal A

1. The appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition No 2 attached to the planning permission dated 18 April 2018, ref is discharged and the following new condition is substituted:

1) The development hereby permitted shall be carried out in accordance with the following approved plans: As Built Roof Plan Rev 2 A3/AWH/01 received 08.05.2019; South Elevation Rev 2 A3/AWH/02 received 08.05.2019; As Built North Elevation Rev 2 A3/AWH/03 received 08.05.2019; As Built West Elevation Rev 2 A3/AWH/04 received 08.05.2019; As Built East Elevation Rev 2 A3/AWH/05 received 08.05.2019; Proposed Floor Plan Rev 2 A3/AWH/06 received 08.05.2019; Second Floor Section Plan Rev 2 A3/AWH/07 received 08.05.2019; Location Plan 2188/01 received 19.03.2019; Building Regulations Drawing- Section and Details 030618/3 received 08.05.2019.

Appeal B

2. The appeal is allowed and planning permission is granted for partial change of nursery (Use class D1) at Abbots Worthy House back to residential dwelling (Use class C3) and extension to roof to create habitable accommodation at Abbots Worthy House, Abbots Worthy, Winchester SO21 1DR in accordance with the application Ref SDNP/19/01331/CND, made on the 18 March 2019, without complying with condition No 1 set out in planning permission No SDNP/18/00679/FUL granted on 18 April 2018 by the South Downs National Park Authority, but otherwise subject to the conditions set out in the schedule attached to this Decision.

Procedural matters

3. Both appeals relate to the South Downs National Park Authority (SDNPA). I have been provided with evidence to confirm that Winchester City Council are contracted to deal with such matters on behalf of SDNPA.
4. The planning application sought various changes to the approved development, and these are summarised in the Council's report to Committee. In summary, amended plans were submitted on 8 May 2019, during the course of the application, to address various concerns of the Council. As these amended plans formed part of the Council's consideration of the application and subsequent decision, I shall take these into account in these appeals. As both appeals relate to the same scheme, and to avoid duplication, I shall deal with them together.

5. The address of the site was altered from that appearing on the original planning application form. This change was addressed during the course of the application and the corrected address is reflected in the Council's decision and enforcement notices, which I have used above. The description of the development applied for was also amended for precision and I have adopted it.

Appeals A and B - Main Issue

6. In these combined Appeals, the common main issue is the effect of the development on the architectural character of the existing building.

Reasons

7. The site is located some two miles from the city of Winchester and to the south west of the village of Abbots Worthy. The site comprises a large Victorian building set in substantial grounds. Access to the property is through gates and a private access drive from the main road. The property is located well back from the A3047 and is set at a significantly lower level than the road. There is a large bank with existing mature mixed species trees and shrubs, and a high, Grade II listed wall which marks the front boundary with the highway. The site is located within the Abbots Worthy Conservation Area (AWCA) and the South Downs National Park (SDNP). The site is located on a corner plot between the A33 and the B3047, behind a Grade II listed wall. The Council does not object to the amended development in terms of its impact upon the AWCA, the objectives of the SDNP, or the setting of the GII listed wall. The building is clearly in need of repair and has been undergoing extensive renovation works. Although, at the time of my visit the works seemed to have stopped.
8. It is agreed by the parties that the roof has been increased in height by some 0.4 metres. The evidence indicates that this resulted from structural alterations that were required to provide a steel framework, rather than timber beams to support the enlarged roof. These changes resulted in an increase in both the height of the roof and the roof pitch, to allow adequate headroom below. It was clear from my site visit that this increased height results in the building being slightly more visible from outside the site.
9. I was able to view the new roof from the rear garden of Well Cottage which is located to the north of the A3047 and opposite the site. However, Well Cottage is some 40 m away, and whilst it was possible to see the new roof through the trees, my visit was carried out in January, where the existing screening would be least effective. It is likely therefore that there will be additional screening when the trees come back into leaf.
10. The overall design of the roof remains similar to that previously approved. The additional height and pitch is different, but the roof is set back behind a low parapet wall and roof walkway, which reduces the overall scale and visual impact of the roof. When viewed in the context of the scale and design of the existing building, the roof as built, remains subservient to the building as a whole. Consequently, the small increase in the pitch and height of the roof, does not cause any discernible visual harm to the proportions and architectural design of the existing building.
11. The windows to the front north elevation have been slightly re-positioned. These minor changes to the positioning of these windows result in greater balance to this elevation. Similarly, the dormer window has been enlarged and

repositioned and is now located above the main door and the existing large window on the first floor. It seems to me that overall these changes enhance the symmetry of this elevation.

12. With regard to the other minor changes in fenestration detail, the additional dormer window to the east elevation is to be fitted with obscure glass to overcome any potential overlooking. I consider that this should be controlled through a suitably worded condition. The omission of the dormer on the west elevation, reduction from four to three rooflights and the repositioning and re-sizing of the remaining rooflights, have no adverse impact on the original building, when viewed as a whole.
13. For the above reasons I find that the various changes, either when taken individually or in combination, are respectful of the design proportions and architectural character of the host building. Accordingly, I do not find that there is conflict with policies CP13 of the Winchester District Local Plan Joint Core Strategy (2013) and policy SD5 (f) of the South Downs Local Plan (2019). These policies seek to ensure that development meets high standards of design, with design that responds positively to the local context.

Other matters and conditions

14. My attention has been drawn to concerns that the building works were not carried out in strict accordance with the originally approved plans, and that works did not cease immediately once those changes were identified. It is not uncommon however, for there to be amendments to a previously approved scheme during the course of building works. Indeed, planning legislation allows for retrospective applications. Having regard to the merits of the altered scheme, the development is acceptable.
15. The guidance in Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73A should also repeat the relevant conditions from the original planning permission. I shall therefore impose those conditions I still consider to be relevant and necessary.
16. The PPG also indicates that a grant of permission under section 73 should not extend the time period for implementation. At the time of my site visit some development had taken place on the site, including the works to the roof. From the evidence I have before me, I am satisfied that the original permission has been implemented. Therefore, a condition to limit the time for commencement is not required.
17. In the interests of providing certainty, I have changed the plan numbers in the new plan condition No 1 to reflect this decision. I have had regard to the other conditions suggested by the Council. Whilst in some instances they differ from those imposed by the original permission, I am satisfied that the appellant has had the opportunity to see them and comment upon them. The amended conditions reflect the various changes proposed by the regularising application. Therefore, where appropriate I have imposed these amended conditions in the interests of protecting the character and appearance of the area and the host building.
18. The originally proposed change of materials from timber windows, fascia and soffits to UPVC has been addressed through the amended plans submitted during the application. Nonetheless, I consider that conditions to ensure the

use of appropriate materials are required in the interests of protecting the character and appearance of the building and Conservation Area. Conditions No 3 and No 4 are required in the interests of protecting the living conditions of existing residents. Condition No 6 is required to protect the South Downs National Park from light spillage.

Conclusions – Appeal A and B

19. For the reasons given above, I conclude that Appeal A should succeed on ground (a) and the enforcement notice should be quashed.
20. I shall discharge the condition which is subject to the notice, and grant planning permission on the application deemed to have been made for the operations previously permitted without complying with the condition enforced against, but subject to a new condition as described above and for the avoidance of doubt is set out in full in the schedule below.
21. Further conclude that Appeal B should succeed subject to the attached schedule of conditions below.

Hilary Orr

INSPECTOR

Schedule of conditions.

1. The development hereby permitted shall be carried out in accordance with the following approved plans: As Built Roof Plan Rev 2 A3/AWH/01 received 08.05.2019; South Elevation Rev 2 A3/AWH/02 received 08.05.2019; As Built North Elevation Rev 2 A3/AWH/03 received 08.05.2019; As Built West Elevation Rev 2 A3/AWH/04 received 08.05.2019; As Built East Elevation Rev 2 A3/AWH/05 received 08.05.2019; Proposed Floor Plan Rev 2 A3/AWH/06 received 08.05.2019; Second Floor Section Plan Rev 2 A3/AWH/07 received 08.05.2019; Location Plan 2188/01 received 19.03.2019; Building Regulations Drawing- Section and Details 030618/3 received 08.05.2019.
2. Prior to occupation of the extension hereby approved, all new window and joinery shall be painted timber in accordance with plan No A3/AWH/03 Rev 2.
3. Prior to occupation of the extension hereby approved, the dormer window in the east facing roof slope shall be fitted with obscure glass which achieves an obscurity level at least equivalent to Pilkington Obscure Glass Privacy level 4. The window will be fixed shut and non-opening, unless otherwise agreed in writing by the local planning authority, and once installed the obscure glazing shall be retained thereafter.
4. Prior to the occupation of the extension hereby approved, the bathroom and en-suite windows on the second floor on the north elevation of the development hereby permitted shall be fitted with obscure glass which achieves an obscurity level at least equivalent to Pilkington Obscure Glass Privacy level 4 and once installed the obscure glazing shall be retained thereafter.

5. All new external rainwater goods and soil pipes on the visible elevations shall be of cast iron, painted black unless previously otherwise approved in writing by the Local Planning Authority.
6. The extension hereby approved shall not be occupied until details of the measures to be taken to reduce light spillage from the proposed roof lights (low transmittance glass) have been submitted to and approved in writing by the Local Planning Authority. The measures shall be installed prior to occupation in accordance with the approved details and once installed the approved measures shall retained thereafter.

End of schedule.