



Appeal Decision

Hearing Held on 10 August 2021

Site visit made on 11 August 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Appeal Ref: APP/Y9507/W/21/3270640

Ashurst, Lickfold Road, Fernhurst GU27 3JB

- 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 and Mrs P Fitzsimons against the decision of South Downs National Park Authority.
 - The application Ref SDNP/20/02881/FUL, dated 14 July 2020, was refused by notice dated 2 October 2020.
 - The development proposed is the demolition of the existing detached two-storey dwelling house and its replacement with a new detached two-storey dwelling house, the reinstatement of the missing walled garden, together with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity, at the hearing, to address this matter, and I have taken this into account where relevant to my decision.
3. At the hearing, the Council confirmed that, in refusing the application, the reference to Policy SD30: Replacement Dwellings of the *South Downs Local Plan* (2019) (the Local Plan) refers the requirement, as stated in the supporting text to the Policy, for proposals for replacement dwellings to be of a high standard of design in accordance with Local Plan Policies SD4:Landscape Character and SD5:Design. I have dealt with the appeal accordingly.
4. The site has been the subject of a dismissed appeal decision¹ (the previous appeal). Notwithstanding the replacement of the former *Chichester Local Plan First Review 1999* with the current Local Plan since that decision, given the similarities between the two appeal proposals and the thrust of the relevant development plan policies, this decision is a material consideration to which I afford weight.
5. At the hearing, both main parties agreed that Policies 1 and 9 of the *South Downs National Park Partnership Management Plan* (2013) (the PMP) which

¹ Ref APP/Y9507/W/17/3169527

were relevant to the determination of the previously refused planning application² and the previous appeal, remain relevant to the determination of the current appeal proposal. The Council confirmed that the PMP was updated in 2020 and that Policies 1 and 9 remain unaltered.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area, with particular reference to the impact on the non-designated heritage asset of the existing building, the designated heritage asset of the Fernhurst Conservation Area (FCA), and the cultural heritage of the South Downs National Park (SDNP).

Reasons

7. The appeal site is located in open countryside outside the designated settlement boundary, on the outskirts of Fernhurst. Ashurst is a substantial two-storey detached dwelling, positioned at the end of a lane which runs from Lickfold Road. The site forms part of a large domestic curtilage, including a formally laid out rear garden, which looks out towards open countryside beyond, informal woodland and ponds to one side of the house, and various domestic outbuildings and structures associated with the residential use of the site to the other side.
8. The approach to the dwelling includes a large parking area immediately in front of the house, with a detached car barn to its side, and a large area of lawn in front. The appeal site also includes a group of single storey buildings before the front lawn, which comprise the site of a former walled garden. The site is located within the FCA and the SDNP, and is bounded by open countryside, including fields/pasture, hedgerow and woodland.
9. The significance of the FCA is set out in the *Fernhurst Conservation Area Character Appraisal and Management Plan* (2016) (the CACAMP). The FCA includes a village core with a diffuse building group around a green and parish church, and a more linear pattern of development surrounding it. The CACAMP confirms that the setting of Fernhurst, in its rural surroundings, is a crucial component of its character, and that the close proximity of open countryside bestows a rural feel to the historic village, so that the dispersed siting of buildings, landscape topography and trees, contributes to a distinctively rural quality of the FCA. Together with the richness of construction materials, the rural, historic and architectural qualities form the defining characteristics of the FCA. These characteristics are of significance and value, and are of special interest to the FCA.
10. More specifically, the site lies within an area to the southeast of the Green based around Lickfold Road and Ropes Lane, which was added to the FCA in 2016 and, according to the CACAMP, includes a series of fine, later 19th Century or early 20th Century cottages, villas and houses, inserted into an intricate landscape and adding much to its interest. This area includes the dwelling at Ashurst, together with a number of buildings and dwellings sited along its access lane, which collectively form the Ashurst Estate. This is specifically referred to within the CACAMP, which notes that it survives as a

² Ref SDNP/16/05784/FUL

well-preserved Edwardian small-scale country estate, not just a house, but a lodge, staff cottages and early motor house as well.

11. The original half-timbered Arts and Craft style dwelling at Ashurst dates back to the early 20th Century. It is not statutorily or locally listed and has been notably changed as a result of demolition, alteration and extension works, so that many of its original Edwardian architectural features have been lost. The changes include the replacement of part of the building with a flat-roofed chalet style extension, and the removal of a side balcony/veranda feature and three-storey front and rear gabled elements. The original roughcast finish of the house and half-timbering, which is still evident on the nearby Garage and Stable Cottages buildings, has generally been replaced with smooth render and upper floor tile hanging. There are also brick chimneys which are tile clad with corbelled tops instead of the original simple roughcast chimneys with simple clay pots. Original corner buttresses have also been removed/alterd and, where retained, capped with clay tiles, and bay windows have been added/extended.
12. However, notwithstanding the alterations that have taken place, the house at Ashurst is specifically acknowledged within the CACAMP as making a positive contribution to the character of the FCA alongside other buildings within the 2016 FCA extension.
13. Moreover, I concur with the views of the previous appeal Inspector that the existing building has a considerable landmark quality reflecting its former function as a country house within an Edwardian estate. This is due in part to its size and its position at the end of a long drive and within a landscaped setting, including a formally laid out residential garden, former walled kitchen garden, and at the head of a side-positioned access drive to a historic forecourt dropping off area at the front of the house. The positioning of the house in relationship to its surroundings aids an understanding of how the Ashurst estate was developed and how it functions.
14. Although the building design has evolved over time, much of the original detailing remains discernible, such as a double row of pitched roofs and side gables, front porch feature, original window design, and window and door surrounds. Although the finish of the building has changed, including upper floor tile hanging, this is not out of keeping with the richness of materials used within the Conservation Area, and the current feature chimneys are not an unattractive addition to the building.
15. Having regard to the above, I consider the existing dwelling to comprise a non-designated heritage asset for the purposes of determining this appeal. The appeal site exhibits characteristics which are intrinsic to the character and appearance of the FCA, and the dwelling and its surrounds make a positive contribution to the significance of the conservation area. This weighs heavily in favour of the retention of the existing building. Having regard to Paragraph 203 of the Framework, as a non-designated heritage asset, there would be an adverse loss of significance by reason of the proposed total loss of the existing dwelling. This is in addition to the erosion of the significance of the designated heritage asset of the FCA arising from the proposed replacement of the dwelling.
16. The current proposal would have a less harmful impact on the character and appearance of the site than that of the earlier appeal scheme, due to the

omission of previously proposed alterations to the driveway, forecourt and former walled garden, which would have resulted in an adverse effect on the significance of Ashurst as an Edwardian country house, having regard to the historical significance of the access drive layout and the walled garden. In this respect, the current proposal addresses one of the key concerns of the previous appeal Inspector.

17. The detailed design of the replacement dwelling would be the same as that previously proposed. As such, design benefits acknowledged by the previous appeal Inspector are still applicable, including a reflection of the Edwardian architecture and materials of the original building through a three-storey front gabled feature, double-pitched roof form to the side, roughcast rendering, and buttresses and chimneys. I noted during my site inspection that some of these features would be in keeping with other unaltered properties within the Ashurst Estate.
18. My attention has been drawn to an extant permission³ for a two-storey extension to the dwelling. This was in place at the time of the previous appeal decision, and was acknowledged by the previous appeal Inspector as being incorporated into the design of the replacement dwelling. The extension has not been constructed but, since the date of the previous decision, a Certificate of Lawfulness⁴ in respect of the extension has been granted, confirming that work commenced prior to the expiration of the permission. As such, on the basis of the evidence before me, and with no cogent evidence to the contrary, I find that this extension appears to have a real prospect of taking place in the alternative to the appeal scheme, should the appeal fail, and I afford weight to this permission in reaching my decision.
19. There is a difference of opinion between the main parties as to the scope of works approved under the extant permission. In addition to the approved extension, apart from changes to the chimneys, I am not persuaded, on the basis of the evidence before me, that the extant permission included alterations to the remainder of the building, such as the replacement of existing windows, or a change of materials.
20. I have not been provided with details of information submitted/approved in respect of the discharge of conditions attached to the extant permission regarding materials, finishes and fenestration. Neither is the determination of what alterations to the building could potentially be carried out under permitted development rights a matter for me to decide within the context of an appeal made under Section 78 of the Act. To that end it is open to the appellants to apply for a determination under sections 191/192 of the Act, and my determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.
21. Whilst the extant scheme would allow for the replacement of a large part of the existing building, the approved '*two storey side and rear extension*' would limit the element of building replacement to that of the existing flat-roofed chalet-style side extension. This, to my mind, comprises the part of the dwelling which has been most unsympathetically altered and extended. The completion of the approved scheme would enable a majority of the Edwardian design style elements of the current appeal proposal to be carried out, whilst retaining a

³ Ref SDNP/16/01854/HOUS

⁴ Ref SDNP/19/03084/LDE

- substantial part of the existing building. This would enable the retention of the part of the historic building fabric which I find has been least harmed by previous alterations and extensions, and from which the original building design is still distinctly recognisable and where changes which have been made are more readily reversible. As such, I am not persuaded that the extant permission justifies the complete replacement of the existing building as is now proposed.
22. The previous appeal Inspector did not discount the potential of an alternative re-build scheme. I consider that this could potentially be achieved through the completion of the extant scheme, which would secure the existence of a large Edwardian-style country house within the surrounding estate, providing benefits to the existing dwelling design, without losing a substantial amount of historic significance in respect of the presence of historic building fabric which has evolved through time and bears the evidence of ageing over time.
23. This historic building patina and the appearance of a building which has aged and evolved over more than a century, would be very difficult to achieve through a replica replacement building, and I share the concern of the previous appeal Inspector, that there is no guarantee that, despite imposing planning conditions, an exact re-creation of Ashurst in its original Edwardian form and architecture could be ensured, due to the use of modern materials and current legislative requirements.
24. Furthermore, since the proposed overall design scheme would be the same in both proposals, there would be no significant design improvements in the appeal scheme which would weigh in its favour compared to the extant permission, such as, for example the reinstatement of significant positive features of the original building comprising a balcony/verandah feature on the west elevation, and upper floor timber detailing, which could potentially be achieved through an alternative re-build scheme.
25. For the above reasons, I therefore conclude that the proposed development would fail to preserve or enhance the character or appearance of the designated heritage asset of the FCA, as a result of the total removal and replacement of Ashurst, a non-designated heritage asset, which makes a positive contribution to the special character and appearance and significance of the conservation area. As such, the proposal would fail to accord with Local Plan Policies SD12 and SD15, which amongst other things seek to ensure the safeguarding of heritage assets and their setting, having regard to the significance of the asset, that development proposals within a conservation area, preserve or enhance the special architectural or historic interest, character or appearance of the conservation area, and that development proposals which involve the total loss or substantial demolition of buildings within a conservation area will only be permitted where it is sufficiently demonstrated that the current building makes no positive contribution to the special architectural or historic interest, character or appearance of the conservation area and the replacement would make an equal or greater contribution to the character and appearance of the conservation area.
26. The proposal would also be contrary to Local Plan Policies SD1, SD4 and SD5 and Policies 1 and 9 of the SDPMP, which, collectively, and amongst other matters, seek to conserve and enhance landscape character, including historic landscape character and the cultural heritage of the South Downs National

- Park, including protecting the significance of the historic environment from harm.
27. For similar reasons, the proposed development would also be contrary to Policies of the Framework which seek to conserve and enhance the historic environment as set out in Chapter 16, and Paragraph 176 which confirms that the conservation and enhancement of cultural heritage are important considerations and should be given great weight in National Parks.
28. I am required, under Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended (the Act), with respect to development affecting buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Moreover, Paragraph 199 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
29. In terms of the advice in Paragraph 202 of the Framework, the harm to the designated heritage asset of the FCA would be no greater than "less than substantial". Less than substantial harm does not equate to less than substantial planning objection, and the Framework sets out the need to address the "less than substantial harm" against the public benefits of the scheme.
30. The planning application drawings indicate that the proposal would include the partial restoration of the former walled kitchen garden through the re-instatement of the original garden wall. This would amount to an enhancement to the grounds of the Ashurst estate, which would not be secured as part of the extant permission. In such terms, though in the broad scheme of things a modest contribution, this factor can and should weigh modestly in favour of the proposals and can be considered within the context of Paragraph 202 of the Framework, a public benefit. However, this benefit is significantly and demonstrably outweighed by the aforementioned harm the development would cause to the character and appearance of the FCA. Furthermore, as noted by the previous appeal Inspector, when discussing previously proposed enhancement works within the grounds of the appeal site, no reasons have been put forward to demonstrate that these works could not still take place with an alternative re-build scheme.
31. There would be a public benefit resulting from the implementation of modern energy technology which would reduce greenhouse emissions and carbon dioxide emissions compared to the use of the existing dwelling. However, this would be largely off-set by the loss of carbon within the existing building and emissions that would result from the new construction, notwithstanding the appellants' intention to reuse as much of the existing building fabric as possible. As such, I find that the less than substantial harm, identified under the Framework would not be outweighed by any public benefits.
32. I have had regard to the economic, social and environmental sustainable development objectives of the Framework. Having regard to the small-scale nature of the proposal, it would result in modest economic benefits through the construction of the new dwelling and social benefits for future generations as a result of a new dwelling which is built to modern day housing standards.

However, there would be an adverse impact on the FCA, and such environmental harm would outweigh the economic and social benefits, so that the development would not be sustainable.

Conclusion

33. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

John Saunders	Development Manager (National Park)
Owen Broadway	Principal Conservation and Design Officer
Louise Kent	Case Officer

FOR THE APPELLANTS:

Sati Panesar	DHA Planning and Development
Adrian Parry	Heritage Collective
Paul Fitzsimons	Appellant
Mark Van Oss	Observer

INTERESTED PARTIES:

Ruth Paine	Observer
Neil Rawlings	Observer