
Appeal Decision

Site visit made on 21 June 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/Y9507/W/21/3282351

Bittlesfield, Ebernoe Road, Balls Cross, Ebernoe GU28 9JU

- 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 Robert Biart against South Downs National Park Authority.
 - The application Ref SDNP/20/05 011/FUL, is dated 5 November 2020.
 - The development proposed is the erection of a detached dwelling, detached garage, including access, driveway, parking and amenity space, following the demolition of the existing dwelling and outbuildings.
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Rebecca Smith against the Authority. This application is the subject of a separate Decision.

Main Issues:

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area, including the landscape character of the South Downs National Park;
 - the effect of the proposed development on the setting of the neighbouring listed building; and
 - the effect of the proposed development on the intrinsic qualities of the South Downs National Park Dark Night Skies.

Reasons

Character and Appearance

4. The appeal site is located within the Low Weald character area of the South Downs National Park. This is described¹ as comprising a gently undulating lowland vale landscape. Its features include, amongst other things, a deeply rural, tranquil and enclosed landscape peppered with parcels of common land and cut by enclosed tracks. Established building materials are typically timber, local sandstone, red brick and clay tiles.

¹ Within the Low Weald Landscape Character Area Assessment

5. The appeal site comprises a detached, two-storey property set within a reasonably sized plot. Access is via a private drive from Piper's Lane, an enclosed, verdant and historic rural lane. The driveway curves around an open, grassed area of common land which separates the property from the lane. A scattering of neighbouring cottages surround the site.
6. The appeal site and immediately surrounding area form a break in the dense tree cover further along the lane. However, a sense of rural and green character remains due to the landscaped nature of domestic gardens and the nearby ancient woodland forming a dominant backdrop to the site.
7. The existing appeal property is atypical in terms of its design and appears to have been altered and extended over time. Its design, consisting of single-storey elements and a catslide roof, is such that its overall bulk and massing is limited. Whilst visible from Piper's Lane, Bittlesfield is set back from the highway. This, together with the existence of a series of smaller intervening trees, is such that the property is barely perceptible within the wider landscape. It is not immediately obvious when viewed from public vantage points that the property is relatively modern in its construction, nor can its dilapidated condition be appreciated. To that end, I agree with the Authority's reference that it, at least when glimpsed, appears as a vernacular building set amongst the more historic properties to its south. The property is angled slightly away from the adjacent common land such that it is not particularly imposing in that regard.
8. The proposed development would result in the demolition of the existing property and its ancillary garage and domestic sheds, to be replaced with a larger two-storey property and garage building. This would roughly follow the position of the existing house, albeit it repositioned on the site slightly, and would be finished in stone, brick and tile. A larger replacement garage building is proposed on the site of the existing modern garage. The existing site access and driveway would be retained.
9. The South Downs National Park Local Plan 2014-33 (2019) (LP) takes a landscape-led approach to managing development, with conserving and enhancing natural beauty, wildlife and cultural heritage being a statutory purpose for which National Parks are established. Individual policies stem from that overarching approach. In summary, and amongst other things, LP policies SD1, SD4, SD5, SD6 and SD7 seek to ensure development conserves and enhances landscape character, integrates sympathetically in terms of design, safeguards views, and conserves the relative tranquillity of the National Park.
10. Paragraph 176 of the National Planning Policy Framework (the Framework) sets out that great weight should be given to conserving landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues.
11. The proposed development would appear, from the submitted comparison plans, to result in only a limited increase in footprint relative to the existing property. The appellant has set out comparison figures, confirming that the property would extend the current footprint from 133sqm to 172sqm, increasing the existing footprint by around 29%. Similarly, the overall floorspace of the building would increase by around 30% when compared with the existing property. Nevertheless, numerically, the scheme would fall within the upper limitations of LP Policy SD30.

12. Notwithstanding this, the design of the replacement dwelling would fundamentally alter the character of this site, currently occupied by a modest dwelling and associated buildings. Whilst the appeal property is unusual in its design and appearance, it is consistent with the prevailing character of the surrounding area in that it forms a modestly sized dwelling occupying a well landscaped garden plot. Its overall scale and position is such that the ancient woodland and common land can be appreciated from Piper's Lane.
13. I note that the eaves height of the proposed dwelling would be similar to the existing property, as would its ridge level, increasing only marginally above the existing. It is also apparent that the proposed development has taken some of its design cues from nearby buildings, particularly through the use of materials. From that perspective the proposed development would, to some degree, respond to and reflect the local vernacular.
14. Nevertheless, the scale of those features, and the property as a whole, is far in excess and out of proportion with the existing property and more traditional properties within the immediate area, including those identified by the appellant more generally. The roof profile of the proposed development, combined with its full length two-storey design and three projecting two-storey bays, would have a significant visual massing and would be prominent from the highway, dominating the common land and foreground of the woodland beyond. This impact would be exacerbated by the visually large replacement garage structure. There is little substantive evidence before me to show that the scheme has been designed on a truly landscape-led basis that considers a thorough analysis of the local area and vernacular.
15. I accept that the existing property is in a relatively poor state of repair and is of a fairly unusual design, with various additions and alterations having taken place over time. However, this does not fundamentally alter the character of the site or wider area. Moreover, there is no evidence before me to indicate that the improvement of the site's character or appearance would be inherently reliant on the proposed development or that an alternative, and less harmful, scheme could not achieve these aims.
16. I accept that views of the existing appeal property are fleeting and from certain vantage points are partially obscured by existing landscaping. Nevertheless, views of the proposed development from Piper's Lane would generally remain open and unrestricted across the area of common land and although a series of intervening trees and shrubs exist, planting cannot be relied on in perpetuity to give the same level of screening as at present.
17. Consequently, I conclude that the proposed development would harm the character and appearance of the wider area, including the prevailing pattern of development and landscape character. It would be in conflict with the relevant provisions of LP Policies SD1, SD4, SD5, SD6, SD7, SD11, SD12, SD13 and SD30. These policies, amongst other things, seek a high standard of design in development and the protection of landscape character. Similarly, the Framework seeks development sympathetic to local character, including landscape setting².

² Paragraph 130

Setting of listed buildings

18. The nearest property to the south of the site is grade II listed Ivy Cottage. The property is a two-storey eighteenth century cottage of stone and hung-tile construction. It forms a modest, attractive property which is most clearly viewed from the front and along the north approach along Piper's Lane. The property can be viewed within the context of the appeal site, set within an unspoilt, peaceful and rural setting. Insofar as this appeal is concerned, its significance lies in its traditional form, craftsmanship and rural setting. Those characteristics honestly attest to its historic origin and context in the present day.
19. I am required to have special regard to the desirability of preserving the setting of listed buildings³. Paragraph 199 of the Framework states 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.
20. The proposed development would be set some distance away from Ivy Cottage (around 35 metres). It would be behind the grassed area of common land. Nevertheless, the appeal site and Ivy Cottage are seen in conjunction from Piper's Lane. As such, the proposed development, increasing the presence and bulk of built form on the site, would mar the attractive and rural setting of the cottage. In contrast to present circumstances, where the rural context to Ivy Cottage contributes to significance, the scheme would result in a surrounding context which is almost suburban in character. Whilst I consider the proposal to be harmful in this respect, the harm would be 'less than substantial' within the terms of the Framework as only a part of its setting would be affected. Nevertheless, I must attach great weight to this identified harm. The Framework requires that where less than substantial harm is found, the harm must be weighed against any public benefits.
21. There are some benefits to the scheme, including rationalisation and improvement of an existing property in a poor state of repair, along with economic benefits during both construction and occupation of the new property. However, these would inevitably be limited by reason of the nature of the proposed development and the replacement of an existing single dwelling with another. I do not consider any public benefits provide clear and convincing justification for allowing the appeal within the terms of Framework paragraph 202.
22. Consequently, I conclude that the proposed development would fail to preserve the setting of Ivy Cottage, contrary to the clear expectations of statute and to the relevant provisions of LP Policies SD12 and SD13, and the relevant elements of the Framework referenced above.

Dark night skies

23. In respect of natural darkness, LP Policy SD8 seeks to conserve and enhance the intrinsic quality of dark night skies and requires that development proposals demonstrate that all opportunities to reduce light pollution have been taken.

³ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

24. The continued use of the site for domestic purposes would unlikely increase, to any significant degree, the comings and goings or intensively of use of the appeal site. In respect of the design of the replacement building, the appellant has set out a comparison of the amount of glazing that exists at present and that proposed. This confirms that the extent of glazing would be reduced relative to the present situation. Taking into account the existing conservatory extension and multiple large windows that exist, and reviewing the proposed plans, I do not disagree. In all likelihood, the effects in respect of light pollution would be improved by comparison. No proposals for external lighting have been provided. I consider it appropriate, were this appeal to be allowed, to add a condition seeking further details of lighting and levels of illumination in the form of a lighting assessment.
25. Consequently, I conclude that the proposed development would be acceptable in respect of Dark Night Skies, compliant with the objectives of LP Policy SD8, which seeks to conserve and enhance the intrinsic quality of dark night skies in the National Park.

Other Matters

26. I note the appellant's comments in respect of the living conditions of the occupants of neighbouring properties, and that the proposed development would have no unacceptable impact upon them. Particular reference is made to the proposed balcony which the appellant contends is questioned by the Authority. I consider this to be acceptable given its location to the rear of the property, set well away from any neighbouring properties. Nevertheless, neither this nor a modest benefit in terms of reducing light spill, nor benefits of an improved standard of accommodation given the current condition of the property, would outweigh the harm that I have identified above. There are no other material considerations sufficient to justify allowing the appeal.

Conclusion

27. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR