



Appeal Decision

Hearing Held on 16 August 2022

Site visit made on 16 August 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/Y9507/W/22/3296522

Land South of Kingsmead Close, Bramber BN44 3QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr N Quincey against the decision of South Downs National Park Authority.
 - The application Ref SDNP/21/02892/OUT, dated 21 May 2021, was refused by notice dated 8 October 2021.
 - The development proposed is the erection of 8 dwellings together with associated access, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application is for outline permission with details of layout, landscaping and access submitted for consideration and all other detailed matters reserved. The submitted elevation drawings are intended to be illustrative, and I shall treat them as such.

Application for costs

3. An application for costs was made by the South Downs National Park Authority against Mr N Quincey. This application is the subject of a separate Decision.

Main Issues

4. From all that I have read, heard and seen, the main issues in the appeal are:
 - i) the effect of the development on the character and appearance of the area, including its effect on trees and on the setting of the listed Maudlin Farm;
 - ii) its effects on biodiversity, including its effects on the priority woodland habitat, reptiles and on the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site; and
 - iii) whether or not the proposal makes adequate provision for affordable housing and necessary off-site mitigation measures.

Reasons

Planning Policy

5. Kingsmead Close is a residential cul-de-sac which forms part of the built up area of Steyning. The built-up area is defined by a settlement boundary in the Horsham District Planning Framework. The site is open land to the south of the cul-de-sac. It is outside the settlement boundary and within the administrative area of the South Downs National Park.
6. Policy SD25 of the Local Plan (LP)¹ sets out the plan's development strategy. This supports development within settlements that are listed in the policy, subject to stated criteria. Bramber is not within the plan area and is not one of those named settlements. The policy states that development will be permitted outside settlement boundaries in exceptional circumstances where it complies with policies in the Plan, responds to the context of the relevant broad area and accords with one of four criteria, which set out circumstances in which development in the countryside may be acceptable. There is agreement between the parties that the proposal does not fall within any of those categories and that it does not accord with Policy SD25.
7. Policy B1 of the Neighbourhood Development Plan (NDP)² does not support development outside the Built Up Area Boundary as defined in that Plan unless it is in accordance with LP policies. It is also a matter of agreement between the parties that the proposal does not accord with that policy.
8. It is common ground that the above policies are most important for determining the application and that they are not out-of-date. The Authority advised that it can demonstrate a housing land supply of 6.71 years. This figure is from the latest Authority Monitoring Report and is not in dispute. The appellant pointed out that water neutrality issues may affect the housing land supply going forward, but this is not the case at present.

Character and Appearance

9. The site is within the Arun to Adur Scarp Footslopes Landscape Character Area.³ This area is at the foot of the steep northern scarp of the South Downs which forms a dramatic backdrop. The footslopes form a transition between the scarp to the south and the Low Weald to the north. The key characteristics of this landscape include a mosaic of farmland and woodland comprising irregular fields of arable and pasture bounded by a network of hedgerows and woodland. Villages which are located on the springline, including Bramber and Steyning are typical. There are impressive panoramic views from the scarp and the South Downs Way runs along its ridge.
10. The site is wooded, although some trees have been cleared. The land levels slope down towards the south and towards Annington Road, which is a sunken lane adjacent to its eastern boundary. There are trees on the bank to that road and on adjacent land to the west of the site. There are some dwellings and business units along Annington Road to the south of the site, in a dispersed pattern but the character of the area to the south, east and west

¹ South Downs Local Plan (2019)

² Bramber Neighbourhood Development Plan (2020)

³ In the South Downs Landscape Character Assessment

of the site is clearly rural. The site forms part of the characteristic mosaic of fields and woodland. The grade II listed Maudlin Farm is to the east of the site on the opposite side of Annington Road.

11. The trees on the site are protected by a Tree Preservation Order (TPO).⁴ This protects trees within the woodland having a main trunk diameter of 300mm or more, measured at 1.5m above ground level, or multi-stemmed trees where the sum of the stem sizes exceeds 500mm. Smaller trees have been cleared and only those trees that are above these size thresholds remain on the site. Trees that were suffering from Ash die-back have also been removed and replacement planting has taken place. While there are gaps between the remaining trees the site still has a wooded appearance. If left undisturbed, natural regeneration would occur, so the site is properly described as woodland, irrespective of the tree removal that has taken place. Although the TPO does not protect all trees within the woodland, the protection that it does afford is clear evidence of the value of the woodland as a landscape feature.
12. The site was historically part of the garden to Kingsmead House. Some waste material arising from the construction of the dwellings on Kingsmead Close in the 1960s was deposited on the site, but I saw on my visit that these areas have become vegetated. Similarly, there are remains of former concrete bases for stables. I saw that the overall appearance and character of the site and its landscape value are not diminished by these deposits and remains which only occupy small parts of the site.
13. The appellant's Tree Survey and Arboricultural Assessment recorded 69 trees within the site boundary, one of which was dead. It is proposed to remove 19 trees and to plant over 50 new trees. Planting of suitable native species could be secured by a planning condition. In time, the new planting would more than compensate for the lost trees in terms of their numbers. The proposed development would, however, fully occupy the site with only small pockets of wooded areas remaining. For this reason, the development would irretrievably change the character of the site and its landscape value as a woodland would be lost.
14. Annington Road is part of an underhill lane which forms a characteristic historic feature of the landscape. This route also provides a gateway into the National Park from Steyning. The bank along the road and adjacent to the site is wooded. The low level of the lane relative to the site and the wooded bank provide a degree of separation that would maintain the rural character of the lane. However, I noted that there are gaps in the trees and that the development would be likely to be visible to some extent from that route.
15. There could also be some noise and light spill from the development which could be intrusive with respect to the tranquil rural quality of the road. The development would be more intensive than existing development further along the road which is dispersed in nature. For these reasons, the development would erode the landscape and amenity value and character of a historic rural road and in these respects would not accord with Policy SD21 of the LP.

⁴ Horsham District Council (Land South of Kingsmead Close, Bramber) Tree Preservation Order 2006

16. I saw on my visit that the landform of the scarp occludes views of the site from the South Downs Way to a large extent although it is likely to be quite prominent in the landscape when seen from private land. The appellant's Landscape and Visual Impact Assessment confirms that the site is just visible from part of the public right of way. The site is visible from other public footpaths in the area, including Monarch's Way to the west and a footpath to the east, although it is screened from view to a large extent from those routes by tree cover. Although the trees around the site boundaries would screen the development from view to some extent, it would still be seen in views across the landscape, particularly from the higher ground to the south.
17. While visibility of the site from public viewpoints may be limited, this does not mean that the development would not be harmful to the landscape. It forms a prominent part of the rural setting of Steyning and Bramber in the context of the scarp slope to the south and the wider landscape. The proposal would extend the urban area into an open landscape which is characteristic of the area and part of the National Park.
18. Policy SD4 of the LP requires development to conserve and enhance landscape character. The policy requires demonstration that proposals are informed by landscape character and that the design conserves and enhances landscape features which contribute to the distinctive character, pattern and evolution of the landscape.
19. The appellant and an interested party referred to the relatively young age of the woodland on the site, which has grown since the 1970s. This does not diminish its value as a landscape feature. I take into account the opportunity to provide a landscape management plan that would be more robust than the existing TPO. For the reasons given, however, the proposal would effectively remove the woodland which is a key landscape feature. It would not accord with Policy SD4 for these reasons.
20. Policy SD5 requires proposals to be landscape-led and to respect local character through sensitive and high quality design. The scale and appearance of the development are not matters for my consideration. Gabion structures would be used to enable the finished floor levels of the dwellings to be sensitive to the topography. These structures could become vegetated but nonetheless, together with the dwellings they would significantly alter the natural landform of the site.
21. Although existing and proposed trees would form part of the proposed layout, the proposed dwellings would be quite close to those trees. There could be future pressure to remove them because of their potential effects on shading and for falling branches. While the landscape design forms an integral part of the overall design of the scheme, for the reasons given, the character of the site and the area would be substantially altered. For these reasons the proposal would not respect local character and would not accord with Policy SD5 of the LP.
22. Policy SD6 requires preservation of the visual integrity, identity and scenic quality of the National Park. For the reasons given the proposal would not accord with that policy.

23. Policy SD11 of the LP only allows for the removal of protected trees in exceptional circumstances. No such exceptional circumstances have been demonstrated and the proposal would not accord with that policy.
24. In Figure 6.1 of the NDP, the site is within the Annington and Botolphs Character area. The NDP states that this area is important to the National Park in relation to the landscape, farming and tourism and that new housing will be restricted as a consequence. Policy B2 of the NDP requires that development conserves and where practicable enhances the character area in which it is located. Policy B3 requires development to respond and integrate well with its surroundings and to minimise impact on the natural environment. The proposal would not accord with those policies for the reasons given.
25. It is a statutory purpose of the National Park⁵ to conserve and enhance natural beauty. For the reasons given, the proposal would not accord with that purpose.

Heritage Asset

26. The grade II listed Maudlin Farm is to the east of the site, on the opposite side of Annington Road. I saw on my visit that there are outbuildings between the listed building and the road and that the listed building is set back from the road. There is also significant tree cover both along Annington Road and in the garden of Maudlin Farm which screen views of that building from the site to a large extent. However, it is likely that intervisibility between the proposed development and the listed building would be greater during winter months when the trees are not in leaf.
27. Impact on the setting of the listed building did not form a reason for refusal. The Authority has however expressed the view that the proposal would erode the open area around the building. While this would be the case, the setting of the listed building would remain predominantly open and the significance of the building as a historic farmhouse would not, in my view be harmed.
28. For these reasons there would be no harm to the heritage asset. However, for the reasons given above, the development would unacceptably harm the character and appearance of the area. Having regard to the importance of the landscape in terms of the statutory purpose of the National Park, I give great weight to this harm.

Effects on Biodiversity

Priority Habitat

29. The woodland within the appeal site is designated by Natural England as a deciduous woodland priority habitat. Although smaller trees can be removed under the terms of the TPO, this does not alter the status of the habitat because ultimately the woodland can regenerate. Because the site would no longer be a woodland, the development would result in the loss of the priority habitat. While the remaining trees would still have habitat value, this would be downgraded. The proposed new planting may aid biodiversity but would

⁵ As defined in the National Parks and Access to the Countryside Act 1949.

not compensate for the loss of the woodland habitat. It has not been demonstrated that there would be any net gain in biodiversity.

30. For these reasons the proposal would not accord with Policy SD2 of the LP which requires protection of and provision of more, better and joined up natural habitats. Neither would the proposal accord with Policy B5 of the NDP which requires no unacceptable loss of, or damage to, existing trees or woodlands.
31. The deciduous woodland on the site is identified in the NDP⁶ as green infrastructure in that it forms part of a wider network. The loss of the woodland would not accord with Policy SD45 of the LP or Policy B6 of the NDP which require maintenance or enhancement of green infrastructure assets.

Reptiles

32. The appellant has provided a reptile survey and mitigation strategy. The submitted plan⁷ indicates that a reptile receptor area would be provided along the western boundary of the site, extending onto adjacent land which is controlled by the appellant. The layout and landscaping of the development are matters that are submitted as part of the application and show residential gardens enclosed by hedges extending up to the western boundary, making no provision for the reptile receptor area shown on the submitted plan. The plans are not therefore consistent in this respect.
33. The Authority's Ecologist has raised concern about the adequacy of the size of the proposed reptile receptor area and its shading by trees which may not provide suitable habitat conditions. As well as the existing trees along the western boundary of the site it is proposed to plant trees along that boundary both within, and outside the boundary. This planting may further reduce the suitability of this area as reptile habitat.
34. While a detailed reptile mitigation strategy could be secured by a condition, there are significant doubts as to whether the proposed reptile receptor area would provide suitable habitat. Policy SD9 of the LP requires the submission of suitable ecological information prior to determination in order to ensure protection and enhancement of habitats and species. Because it has not been demonstrated beyond doubt that suitable provision would be made for reptiles, the proposal does not accord with that policy.

Water Neutrality

35. Natural England has advised the Authority⁸ that an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar from existing groundwater abstraction within the Sussex North Water Supply Zone cannot be excluded. In order to avoid any adverse effect on those sites arising from new development, water neutrality must be demonstrated, whereby the water use in the supply area after development has taken place is no higher than existing water use.

⁶ Figure 7.1

⁷ Figure No. 04 – Reptile Mitigation Plan LLD 2059-ECO-FIG-04

⁸ In its Position Statement (September 2021)

36. The appellant proposes to provide measures at Steyning Church of England Primary School to reduce water use in order to compensate for the water that would be used by the development. A draft planning obligation to secure such measures has been provided. However, because this has not been completed and signed, I cannot take it into account in my decision.
37. For these reasons the development would be likely to adversely affect the Arun Valley SAC, SPA and Ramsar. Because I am dismissing the appeal for other reasons, there is no need for me to consider the requirements of the Habitats Regulations⁹ further.
38. For the reasons given, the proposal would not accord with Policy SD9 of the LP which requires conservation and enhancement of biodiversity. It would not accord with the statutory purpose of the National Park to conserve and enhance wildlife. I conclude on this issue that the proposal would unacceptably harm biodiversity.

Affordable Housing and Mitigation Measures

39. The fifth reason for refusal refers to the absence of a completed legal agreement to secure affordable homes and off-site tree planting.
40. Policy SD29 of the LP requires provision of 100% affordable housing on rural exception sites. The appellant proposed 3 of the dwellings as affordable and the development would not accord with policy SD29 in this respect.
41. The submitted draft obligation would provide for a habitat mitigation site. However, because the planning obligation to secure this and the affordable housing has not been completed or signed it has no force. The proposal would therefore fail to secure any affordable housing or off-site mitigation measures.

Housing Need

42. As part of the preparation of the NDP a Housing Need Assessment was undertaken. This identified an unconstrained need for 60 dwellings in Bramber over the Plan period, of which 8 were identified for location within the National Park. The assessment was based on a 'fair share' principle of growth across Horsham and noted that constraints may make accommodation of this number of dwellings in Bramber unfeasible. It found that the policies of the Horsham Development Framework could deliver up to 21 affordable homes over the plan period in Bramber, which is a higher level than that identified in the Need Assessment.
43. Because the Housing Need Assessment does not take account of constraints such as the need to conserve natural beauty within the National Park, and because the site was considered and rejected for allocation in the NDP, I cannot give weight to its findings in terms of the numbers of homes identified for Bramber. The fact that the Parish Council approached the appellant regarding potential allocation of the site does not alter this conclusion.

⁹ The Conservation of Habitats and Species Regulations 2017

Planning Balance and Conclusion

44. It is a matter of agreement that the policies which are most important for determining the application are not out-of-date. Even if they were, paragraph 11(d) of the National Planning Policy Framework (the Framework) disappplies the 'tilted balance' in favour of granting permission if policies in the Framework that protect areas of particular importance provide a clear reason for refusal. Footnote 7 of the Framework states that those policies include those relating to National Parks.
45. The proposal does not accord with the development plan as a whole. Although there would be some social and economic benefits from provision of new housing, including its accessibility to the centre of Steyning, these benefits are not sufficient to outweigh the harms identified, to which I give great weight, or the conflict with planning policy. Because the benefits do not outweigh the harm, the proposal does not accord with Policy SD1 of the LP which states that permission will be refused for development that fails to conserve the landscape, natural beauty and wildlife unless, exceptionally, the benefits outweigh the great weight to be attached to those interests.
46. While the absence of completed and signed planning obligations in respect of water neutrality, affordable housing and off-site habitat provision contributes to my decision, the appeal would fail on the main issues that are not affected by the lack of planning obligations.
47. For these reasons I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jesse Chapman BA (Hons) Dip.TP MRTPI	Director, D&M Planning
Colin Goss	Partner, Dolwin & Gray
Joe Jackson BA (Hons) LA DipLA CMLI	Principal Landscape Architect, Lizard Landscape Design Limited
Stewart Nicholson RIBA	Stewart Nicholson architects
Nicholas Quincey	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Stella New MSc MRTPI	Development Management Lead, South Downs National Park Authority
Ruth Childs	Landscape Officer, South Downs National Park Authority
Mr Ainslie	Development Control Manager, South Downs National Park Authority

INTERESTED PARTIES:

Kirsty McLaren	Local resident
John Jermy	Local resident
Richard Maile	Local resident

DOCUMENTS SUBMITTED:

Extract from AECOM report, paragraphs 78 and 79

Amended costs application by South Downs National Park Authority

Closing Statement by South Downs National Park Authority