



Appeal Decision

Site visit made on 20 March 2023

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 3 April 2023

Appeal Ref: APP/Y9507/W/22/3291439

Former Cricket Pavilion, The Old Coach House, Hawkhurst Court, Kirdford, RH14 0HS

- 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 William Griffiths and Gerald Hunt against the decision of South Downs National Park Authority.
 - The application Ref SDNP/21/04858/FUL, dated 22 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is retrospective planning application for the conversion of a former cricket pavilion into a holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellants were unaware planning permission was required and the conversion took place some years ago. However, the appellants state that, since they became aware permission was required, the property has been removed from the Airbnb listing.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the area; and the effect on biodiversity taking particular account of whether or not water neutrality has been demonstrated.

Reasons

Character and appearance

4. The appeal site lies within the South Downs National Park (the National Park). It is outside any settlement identified in Policy SD25 of the South Downs Local Plan 2019 (the LP). This in certain circumstances allows for development outside a settlement boundary including for sustainable tourism as defined in Policy SD23.
5. The two statutory purposes of the National Park designation are to conserve and enhance their natural beauty, wildlife and cultural heritage; and to promote opportunities for the public understanding and enjoyment of the special qualities of their areas. The National Planning Policy Framework (the Framework) advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the

- highest status of protection in relation to these issues and to the conservation and enhancement of wildlife and cultural heritage.
6. The site is in Landscape Character Type P Low Weald, an intricate mosaic of arable/pasture farmland and deciduous woodland with areas of park land and common land and large, wooded commons at The Mens and Ebernoe Common. The landscape results in the special qualities of the National Park, including its views, tranquil and unspoilt places.
 7. Hawkhurst Court, described as a small secondary cluster in the Kirdford Parish Neighbourhood Development Plan 2014 (the NP), was formerly a country house within a private circular single-track drive. It was then used as a school before being adapted to multiple private residential use in the nineteen eighties. Most of the dwellings are within the circular drive but the Old Coach House, and other properties on the further side, are outside it. There is no remaining evidence of the former school cricket pitch and the land is now amenity land with horses and sheep. The former pavilion was used as domestic storage and as an office/studio in conjunction with the Old Coach House until the conversion took place.
 8. Historic photographs show the pavilion has a shallow-pitched roof, dark timber clad walls and a covered veranda to the rear. The exterior wall cladding, roof shingles, and windows have been replaced using similar materials and two new windows and insulation has been installed. None of these works individually or collectively have a significant impact on the character and appearance of the building and most likely would not require planning permission.
 9. The enclosure of the veranda has removed a feature historically associated with the previous sports pitches and reduced the cultural connection with its former functionality. However, there are no longer any pitches for the pavilion to relate to and neither the enclosure of the veranda, nor the additional small cycle store added to the rear of the building, are particularly intrusive.
 10. The field gate and fencing are characteristic of countryside locations and could be installed without permission. A predominantly laurel hedge has been planted alongside the fence. Such a hedge is not a feature often found alongside fields. Nevertheless, there are other species included, and a hedge of any species can usually be planted without the need for planning permission. Moreover, the planted hedge is not unduly different to some other hedges at Hawkhurst Court.
 11. The hard standing for vehicle parking, gravel seating area, swing and fire pit are indicative of domestic use and have a suburbanising effect. However, this is relatively slight; the sport pitches use would have had structures and hard standings associated with them; and a condition could control any further enclosure of the curtilage.
 12. The historical photographs show a flood light on the pavilion which would have been used in conjunction with the sports pitches and could have been used by the occupants of the Old Coach House. Taking this into account, and provided the measures proposed in the Lighting Strategy are implemented, I consider the development would be acceptable in the Dark Night Sky Zones E1b: Transition Zone, outside the core area and its buffer. There would be some vehicle movements associated with the holiday let but this is small scale and in the context of vehicles associated with the houses at Hawkhurst Court.

13. The woodland adjacent to the site is registered as open access land and there is a bridleway along part of the Hawkhurst Court drive. Accordingly, the site is well located in terms of access to rights of way and there are many tourist attractions in the locality. This a highly accessible landscape and staying in the holiday let would enable tourists to enjoy the special qualities of the National Park, helps foster health and well-being and adds spend to the local economy.
14. For the reasons set out above I conclude the development does not have a harmful effect on the character and appearance of the area. Accordingly, I find no material conflict with those parts of Policies SD1, SD4, SD5, SD6, SD7, SD8 or SD23 of the LP; Policy R.4 of the NP or those principles of the Framework that seek to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

Biodiversity

15. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') require me, as competent authority, to consider the likely effect of the development on protected sites, alone or in-combination with other plans or projects.
16. The appeal site is about 60m from The Mens Special Area of Conservation (SAC) which is also designated as a site of special scientific interest (SSSI) and as an Ancient Woodland. It is an extensive area of mature beech woodland rich in lichens, bryophytes, fungi, saproxylic invertebrates and bird and bat habitats. The site is part of a of Bat Movement Network and in the buffer zone for Common Pheasant and Red-legged Partridge. The Ebernoe Common SCA is some 6500 metres away and is also an important woodland with similar habitats.
17. The woodland is registered as open access land and has a number of footpaths and bridleways. The additional visits which might arise from the small-scale tourist accommodation would not have a noticeable effect on the nature conservation interests.
18. It is likely birds and bats use the woodland edge and surrounding hedgerows and that the site and surroundings support a variety of species. There is potential for disturbance of birds and bats from lighting and general human activity. However, it is clear from historical photographs that there was a large flood light on the building. This is likely to have been used with the former sports pitches and would have caused substantial disruption. The use of the small-scale holiday let is unlikely to cause more disturbance than the former recreational use. Moreover, the building was in danger of collapse which would have removed potential roosting points.
19. The Upper Arun SSSI is a 13km length of river which supports an outstanding assemblage of dragonflies. The Hawkhurst Court complex separates the appeal site from this SSSI. The use as a holiday let would have no discernible effect on the nature conservation interests of this SSSI.
20. I conclude that the development does not have likely significant adverse impacts on species at The Mens, the Ebernoe Common or the Upper Arun Valley statutorily protected nature conservation sites. This accords with the findings of Natural England (NE) who raised no objection to the development

on these grounds. In addition, conditions could be imposed that would secure the delivery of a wildflower meadow and other planting as recommended in the Bat Scoping Report and Preliminary Ecological Appraisal; appropriate mitigation as proposed in the Lighting Strategy; and to limit the number of nights of occupation.

21. The appeal site is in the Sussex North Water Supply Zone. In September 2021 NE published a "Position Statement for Applications" (the Statement) which set out an interim approach to ensure that developments within the Supply Zone do not add to the impact of water abstraction on the integrity of the Arun Valley Special Protection Area, SAC and Ramsar Sites.
22. Further guidance¹ in the "Arun Valley and Water Neutrality - Frequently asked questions (FAQs) - Developers March 2022" explains that the Statement applies to all new development² that requires water from Southern Water's Sussex North water supply zone. It explains that a neutrality statement is required and this should include a water budget and should demonstrate how overall neutrality would be achieved so as not to add to the existing risk of adverse effect. This should be through a combination of minimising water use within the development and offsetting of residual water. Any scheme will also need to be sufficiently certain to meet the tests in the Habitats Regulations.
23. The appellants submitted with the appeal a "Harvesting rainwater proposal to offset water use at the Pavilion" (the off-setting proposal). This proposes that rainwater from the roof of the stables owned by the appellants, but at some distance from the appeal site, would be harvested and used to provide water to their horses, vegetable and amenity gardens and this is to be welcomed.
24. However, the off-setting proposal does not indicate any means for limiting the usage of water during actual periods of occupation of the building, whether or not this is limited to 50 nights per year, and does not meet the requirements for a neutrality statement as set out in the FAQs. In particular there is a need for more complete existing and proposed water budgets (including some evidence of existing water useage and/or generic values where these have been agreed by Local Planning Authorities in a strategic solution); evidence that the water currently used for horses, vegetable and amenity gardens comes from the Southern Water's Sussex North water supply zone; and a mechanism for ensuring that off-setting measures are implemented, deliverable and can be retained until long-term water supply alternatives are available.
25. I acknowledge that NE have not objected to the development. However, the letter dated 18 November 2021 does not refer to water neutrality and it is not clear to me that NE have taken this fully into account or assessed whether the proposed off-setting would be sufficient to avoid adding to the existing risk of adverse effect on the Arun Valley protected sites.
26. I have considered whether the matter could be dealt with by way of the imposition of a condition. However, given the above uncertainty I do not consider that it would be appropriate to impose a planning condition.
27. For the above reasons, as competent authority, I cannot confidently conclude that water neutrality has been demonstrated or that the existing risk of adverse effect on the Arun Valley protected sites would not be added to.

¹ [Water Neutrality - West Sussex County Council](#) includes links to NE advice including the FAQs

² Development includes a material change of use s55 Town and Country Planning Act 1990 as amended

Accordingly, I find conflict with Policies SD1(2), SD2(c) SD9(d) and SD17 of the LP and the Habitats Regulations in terms of conserving water resources and the effect on the protected habitats of the Arun Valley.

Other Matters

28. The appellants have expressed dissatisfaction with how the Council handled the planning application. They feel let down by the process and it is clear that the relationship between the appellants and some of the neighbours is strained. Whilst unfortunate, this does not lead me to any different conclusions in respect of the main issues.
29. I acknowledge that the former pavilion is closer to other houses and that occupiers of those properties would be more aware of visitors to it than occupiers of the Old Coach House. Nevertheless, the pavilion is some distance from the nearest houses, is below the level of the drive, the scale is relatively low key, and safeguarding conditions would ameliorate any potentially harmful effects. The Authority has raised no objections in terms of the effect on the living conditions of occupiers of adjacent properties and I see no reason to come to a different view.
30. The policies in the development plan do not preclude the commercial letting of buildings and the indications are that commercial activity takes place elsewhere at Hawkhurst Court. Any covenants fall to be resolved outside of the planning regime. It is for the appellants to ensure that satisfactory drainage is available. None of these matters leads me to any different conclusion on the main issues.

Planning Balance and Conclusion

31. The development is small in scale; makes use of an existing building in a highly accessible landscape; encourages overnight visitors and increases visitor spend. There has been a loss of cultural connection by the enclosing of the veranda and a suburbanising effect by the placing of domestic paraphernalia. However, these effects are relatively slight. Overall, I have concluded the effect on the character and appearance of the National Park is acceptable.
32. I have also found the effect on The Mens woodland, the Ebernoe Common and the Upper Arun Valley statutorily protected nature conservation sites to be acceptable. However, I cannot confidently conclude that water neutrality has been satisfactorily demonstrated or that the existing risk of adverse effect on the Arun Valley protected sites would not be added to. In failing to fully comply with Policies SD1(2), SD2(c) SD9(d) and SD17 of the LP the development cannot be said to accord with the development plan as a whole.
33. I have found insufficient material considerations to indicate a decision other than in accordance with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR