



Appeal Decision

Site visit made on 8 March 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2023

Appeal Ref: APP/Y9507/W/22/3301657

Greenhaven, Home Farm Road, Brighton BN1 9JS

- 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 K Gutteridge against the decision of the South Downs National Park Authority.
 - The application Ref SDNP/21/04099/FUL, dated 4 August 2021, was refused by notice dated 16 February 2022.
 - The development proposed is described as a replacement dwelling and associated landscaping.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs K Gutteridge against the South Downs National Park Authority. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would be appropriate having regard to the spatial strategy of the development plan;
 - The effect of the development on the landscape, natural beauty and cultural heritage of the South Downs National Park;
 - The effect of the development on biodiversity;
 - The effect of the development on climate change; and
 - The effect of the development on highway safety and access.

Reasons

Location

4. The appeal site falls within the South Downs National Park, located outside a settlement boundary. Policy SD25 of the South Downs Local Plan 2019 (the SDLP) states, amongst other things, that exceptionally, development will be permitted outside of settlement boundaries, where it complies with relevant policies in the Local Plan.

5. Policy SD30 of the SDLP indicates, amongst other things, that replacement residential dwellings outside settlement boundaries will be permitted where the structure, constituting all new and existing development, does not result in a net increase of more than approximately 30%, compared with the gross internal area of the existing dwelling.
6. Paragraphs 7.85 and 7.86 of the SDLP state that the term 'existing dwelling' refers to the residential unit that existed on 18 December 2002 and that outbuildings which were utilised for ancillary domestic purposes on 18 December 2002 and which would be rationalised to improve the appearance of the site may be considered in the assessment of whether the proposed replacement dwelling is materially larger than the existing dwelling.
7. It is common ground between the main parties that some residential accommodation existed at the site on 18 December 2002. I am referred to planning reference BH1999/02023/CL for the use of two mobile homes as residential accommodation and various outbuildings in connection with a small holding including livestock, horticultural and kennels.
8. However, what is less certain is whether the outbuildings were utilised for ancillary domestic purposes on 18 December 2002. There is no clear substantive evidence before me as to what uses these outbuildings were in, particularly as a small holding with livestock and horticulture uses was shown to exist at this site.
9. In the absence of convincing evidence, I cannot say which outbuildings were utilised for ancillary domestic purposes on 18 December 2002 and which had non-domestic uses. Therefore, the only clearly demonstrated uses would be the mobile homes.
10. I have considered paragraph 3.16 of the South Downs Local Plan Extensions and Replacement Dwellings Technical Advice Note 2021 (the TAN). While this provides examples of non-domestic uses, this is not a closed list and other uses, not listed here, could reasonably qualify as non-domestic.
11. The ancillary domestic outbuildings to be rationalised would need to satisfy all the criteria set out in paragraph 3.17 of the TAN. However, given their domestic use has not been proven, there is no need for me to further consider the other criteria.
12. The Authority state the residential unit is one of the existing mobile homes known as Building A. Building C, as the other mobile home, is a timber building with a flat roof and it was furnished with seats and other domestic furnishings during my site visit. This building also sits on a hard standing with timber piles and while it may be poorly insulated, it appeared watertight, habitable and of substantial construction. Additionally, the Authority have not robustly challenged its use in relation to this appeal.
13. On this basis I am satisfied that Buildings A and C were in a domestic use on 18 December 2002 and continue to be. Taking the figures advanced by the appellant, which are not challenged by the Authority, the total GIA of these buildings would be approximately 124 square metres (sqm).
14. While this would exceed the figure quoted as a small dwelling, it has not been clearly demonstrated that the 30% limit set in Policy SD30 of the SDLP falls away in these cases.

15. Both main parties agree that the proposed development would have an approximate total GIA of 245sqm. This increase would be significantly more than 30% of 124 sqm and consequently would conflict with Policy SD30 of the SDLP.
16. I note that reference has been made to the adjoining site known as Greycot. I have not been provided with the exact details of this site, however, it appears that the individual merits were different in this case particularly in regard to the floorspace uplift. Additionally, the Authority has confirmed that the SDLP was at an early stage of preparation and therefore carried no weight in this Greycot decision. Accordingly, this does not alter my findings on this main issue.
17. While I acknowledge the site is previously developed, for the above reasons, the appeal scheme would not be appropriate having regard to the spatial strategy of the development plan. It is therefore in conflict with the relevant provisions of Policies SD25 and SD30 of the SDLP, which, amongst other things, seek to ensure that development is appropriate outside of settlement areas.

Character and Appearance

18. The local area has a broadly remote and tranquil landscape, while a scattering of buildings exist, the landscape nature of the immediate area and wider landscape of rolling downland and woodland is of high quality. This makes a broadly positive contribution to the character and appearance of the area.
19. The appeal site sits within an elevated position of the South Downs National Park and as such contributes to panoramic views along this downland. While there is tree cover around the site, views into and out of the site are possible through both the gaps in the existing tree cover and the deciduous nature of some trees.
20. The National Planning Policy Framework (the Framework) at paragraph 176 ascribes great weight to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
21. The South Downs: Landscape Character Assessment 2020 identifies that local building materials are typically flint, red brick and clay tiles, with more modern materials used in farm buildings. While a departure from local materials may be appropriate, there is limited evidence-based analysis or appraisal which explains the selection process behind the proposed materials and how they sensitively conserve or enhance the natural beauty, wildlife, or the cultural heritage of the National Park.
22. In the absence of such analysis, I cannot be satisfied that the materials as proposed would be the most appropriate solution for this special landscape. Such analysis is fundamental to the earliest stages of the design process. On this basis, it would not be appropriate to agree these at a later stage via a condition.
23. The proposed development would feature two story sections, is of significant bulk and mass and would be substantially taller, wider, and deeper than the existing mobile homes. While there is reasonable tree cover across the site, I noted gaps in the cover and not all trees are evergreen. Given this layout and

the elevated nature of the site, the proposed development would be experienced from adjoining public vantage points and longer-range views.

24. Even if additional evergreen planting were incorporated, this would take time to establish and there is no mechanism before me to ensure proposed screening, or existing screening, would be retained in perpetuity or permanently protected from damage, disease, or death.
25. I also acknowledge the change in levels across the site and some parts of the development would appear as single storey. However, the two storey sections would be significant as would the visual impact of the overall development.
26. Therefore, while parts of the site would align with the contours of the site, this would not offset the significant increase in height, width, depth, length and form of the development proposal. There is also limited evidence-based analysis, appraisal or strategy associated with the proposed design approach in relation to conserving or enhancing the distinctive character, pattern and evolution of the National Park, its natural beauty or cultural heritage.
27. For all these reasons, this would unacceptably increase the presence of development in this elevated, sensitive, tranquil, and remote site, harmfully eroding the intrinsic value and visual integrity of the special landscape.
28. While the removal of the existing mobile homes and outbuildings across the site followed by the incorporation of a meadow garden, with further landscaping, would be of some benefit, this would not outweigh the unacceptable harm to the special qualities of the area as a National Park which attracts the highest status of protection.
29. Consequently, the proposed development would fail to conserve or enhance the landscape, natural beauty, and cultural heritage of the National Park. Accordingly, it would conflict with the relevant provisions of Policies SD1, SD4, SD5 and SD25 of the SDLP and the Framework. These seek to, amongst other things, respect the distinctive natural landscape and beauty of the National Park.

Ecology

30. Given the nature of the proposal, including demolition works, it is important that the development shows how it would conserve and enhance biodiversity including habitats.
31. The Ecosystem Service Statement, Preliminary Ecological Appraisal and Bat Survey originally submitted with the application did not identify any protected species on site. The reports also concluded that the site is of low-moderate ecological value and proportionate and effective mitigation would be available to protect against the risk of impacts.
32. Mitigation and further gains could be delivered, as set out in the reports, such as considered landscaping and after care / longer term management of the land which includes a meadow garden.
33. There is limited evidence before me to suggest that planning conditions would not deliver these gains or that such conditions would not secure updated bat surveys.

34. For the above reasons, and in the absence of evidence to the contrary, it has not been clearly demonstrated that there would be unacceptable harm regarding biodiversity, subject to planning conditions. The proposal would therefore accord with the relevant provisions of Policies SD2 and SD9 of the SDLP. These, amongst other things, seek to conserve and enhance biodiversity.

Climate Change

35. Policy SD48 of the SDLP sets the minimal standards required for climate change and sustainable use of resources. These include, energy efficiency carbon dioxide reductions, passive house design principles, EV charging and water efficiency.
36. These are important considerations and while the appeal submission does not precisely cover all the requirements of Policy SD48, there is limited evidence before me to suggest that these requirements could not be precisely achieved via a planning condition.
37. For the above reasons, and in the absence of evidence to the contrary, it has not been demonstrated that the development would have an unacceptable effect on climate change, subject to planning conditions. The proposal would therefore accord with the relevant provisions of Policy SD48 of the SDLP. This, amongst other things, seeks to encourage sustainable design features into new development.

Highway Safety and Access

38. The site location, condition of the access and visibility to the public highway is noted. However, the appeal site has an established residential use. The access is already in use and there would be no proposed residential net gain as part of this appeal.
39. On this basis there would be no material intensification should this appeal succeed. Conversely should this appeal fail, the site would remain in use by the existing lawful residential use with reasonably comparable vehicular and pedestrian movements.
40. There is no evidence to suggest traffic or pedestrian access would unacceptably increase as part of this appeal proposal and for all the reasons set out above, the proposed development would not introduce any new unacceptable or adverse highway safety hazards or severely affect the free flow of traffic over existing levels.
41. In absence of any demonstrable harm over and above the existing baseline situation, the proposal would not cause unacceptable conflict with the relevant provisions of Policy SD19 of the SDLP or the Framework. These, amongst other things, seek to avoid unacceptable impacts on highway safety and access.

Other Matters

42. I have found the issues of ecology, climate change and highway matters to be acceptable, subject to appropriately worded conditions. However, the absence of harm in these respects is a neutral matter which neither weighs for nor against the proposed development.

43. While there is some dispute over the availability of pre-application advice, I have considered this appeal on its own merits with the evidence provided as part of this appeal.
44. The appellant has also expressed concerns regarding the time taken to reach a decision by the Authority during the application process. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposal.

Conclusion

45. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR