



Appeal Decision

Site visit made on 6 June 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/Y9507/W/22/3310647

**Southbrook Lodge, Southbrook Road, West Ashling, West Sussex,
PO18 8DN**

- 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 Mrs Nikki Miller against the decision of South Downs National Park Authority.
 - The application Ref SDNP/22/02406/FUL, dated 18 May 2022, was refused by notice dated 23 August 2022.
 - The development proposed is one dwelling in the side garden of Southbrook Lodge.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Nikki Miller. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - a) Whether the site is suitably located for the proposed development with regard to local and national planning policy, and
 - b) The effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The appeal site is in a rural area away from the built up area of West Ashling, which is to the north. Policy SD25 of the South Downs Local Plan 2014-33 (LP) establishes that development outside of settlement boundaries will only be permitted if certain criteria can be satisfied. The proposal would not satisfy criteria a) to c).
5. Criteria d) refers to previously developed sites. The appellant is of the view that the site should be considered previously developed land (PDL). The National Planning Policy Framework (Framework) glossary refers to PDL as land which is occupied by a permanent structure, including the curtilage of the developed land but excluding residential gardens in built-up areas. The appeal site is a residential garden. It is close to a very small number of other dwellings in an area that cannot be characterised as built-up.

6. The Framework is however silent on whether residential gardens within rural areas should be considered PDL. Therefore, whilst such land is not specifically excluded from the PDL definition as clarified by the Dartford decision¹, it is not clear that such land should automatically be considered PDL.
7. The appeal site does not have a developed appearance. The South Downs National Park Authority (NPA) does not dispute its status as part of the extensive residential curtilage of the existing dwelling. However, it is set away from that dwelling and separated from it by the existing driveway. The area of land that surrounds the existing dwelling has the appearance of a typical domestic garden. It includes areas of lawn, planted borders, patios, outbuildings, and a swimming pool. In contrast, the more remote area of the appeal site reads as an additional area of land that has a different appearance and association with the existing dwelling and is more akin to an adjoining meadow or paddock.
8. On this basis, even if I take the view that the appeal site should be considered PDL, I find that the sentence within the Framework glossary that 'it should not be assumed that the whole of the curtilage should be developed' to be highly relevant. The proposed dwelling would be a considerable distance from the existing dwelling. It would not replace an existing structure and would stand on land that has a different appearance to the primary domestic curtilage that surrounds the existing dwelling to the north of the driveway.
9. Furthermore, part 2 d) of Policy SD25 of the LP states that development outside of settlement boundaries can be accepted where it is an appropriate reuse of a previously developed site. In terms of whether the proposal would constitute an appropriate reuse, the proposed dwelling would be sited in a rural area, away from existing developed areas and thus remote from a range of local services and facilities that could support day to day life without reliance on the private car. I am thus not satisfied that the proposal should be considered an appropriate reuse of a previously developed site. The Policy also seeks to avoid such exceptions to the NPA's development strategy on land that is a residential garden.
10. The appellant refers to the site as an infill proposal, between two existing dwellings. Infill development in a rural location such as this outside of an existing settlement is not a development type that is supported by the LP or the Framework other than development within a Green Belt, which the proposal would not be. This matter does not therefore weigh in favour of the proposal.
11. In summary, the site is not suitably located for the proposed development. The proposal is contrary to Policies SD1 and SD25 of the LP, which set out the NPA's development strategy to manage growth in the National Park.

Character and appearance

12. Existing built form near to the site is limited to a small number of dwellings. They stand in extensive grounds and are widely spaced. Their low density, informal siting, extent of mature intervening vegetation and distance from one another mean that the rural character and appearance of the surrounding area prevails. The area could not be accurately described as developed or built up.

¹ Dartford BC v SSCLG [2016] EWHC 635 (Admin)

13. The proposed dwelling would intensify built form in the area. It would be sited parallel with the road whereby, owing to the raised ground level of the site relative to the road, it would be prominent to view when passing by the site in either direction. In such views it would be seen to connect up the existing dwellings to the north and south, and in doing so would result in a row of three dwellings parallel with the road that would lessen the area's strong rural character and appearance.
14. This adverse impact would be exacerbated by the bulky form of the proposed dwelling, that would include large and prominent road facing dormers and a substantial linear footprint. Whilst I acknowledge that the proposal incorporates an external palette of traditional local materials, the overall form of the dwelling would not relate positively to the traditional design and proportions of the existing dwellings to either side.
15. Harmful impacts would also arise from light spill at night in an area that is characterised by its dark skies. I accept that a suitably worded condition would limit such impacts, but the introduction of a new dwelling in an area that is currently dark and not lit by streetlights or any other form of lighting would still have an impact on this important local characteristic.
16. Additionally, the main external domestic activity of the existing dwelling is concentrated in the areas of garden closer to the dwelling. Intensifying the domestic use of the site by introducing a further dwelling would have a modest additional impact owing to the addition of domestic paraphernalia and activity.
17. In summary, the proposal would have a harmful impact on the character and appearance of the area. It would be contrary to Policies SD1, SD4, SD5, SD8 and SD25 of the LP, which together seek to ensure that development proposals conserve landscape character including the natural beauty of the National Park, utilise architectural design which is appropriate and sympathetic to its setting, and conserve the intrinsic quality of dark night skies.

Other Matters

18. The site is within the 5.6km zone of influence upon the Chichester and Langstone Harbours Special Protection Area. The addition of a dwelling within this area has the potential to have an adverse impact on its features of importance as a result of the recreational impact arising from the future occupiers of the dwelling. Additional impacts may also occur from the contribution of the development to the eutrophication of water in the protected area. These matters form the basis of the NPA's third and fourth refusal reasons. However, as I am dismissing the appeal for other reasons, these impacts will not occur in any event, and these matters do not therefore need to be considered further.
19. The proposal would deliver a new dwelling, which would boost housing supply locally and therefore is a matter that weighs in favour of the proposal. It is suggested that the addition of a dwelling would benefit the vitality of the local community as future occupiers make use of local services and facilities, however this matter is unsubstantiated insofar as there is nothing before me to suggest that such services and facilities are currently at risk. Furthermore, the dwelling does not immediately relate to an existing settlement and the provision of a single dwelling could have only a very modest benefit in any case.

20. These matters are not sufficient to outweigh the development plan position regarding the principle of the dwelling and the harmful impact of the proposal on the character and appearance of the area, particularly when I account for the Framework requirement to give great weight to conserving and enhancing landscape and scenic beauty in National Parks.

Conclusion

21. The proposal would conflict with the development plan and there are no other considerations, including national planning policy, that outweigh that conflict. Therefore, the appeal should be dismissed.

A Tucker

INSPECTOR