



Appeal Decision

Site visit made on 21 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH August 2023

Appeal Ref: APP/Y9507/W/22/3304459

Land adjacent Ivy House, Ivy House Lane, Froxfield, Petersfield GU32 1EE

- 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 Shaw against the decision of South Downs National Park Authority.
 - The application Ref SDNP/20/04461/FUL, dated 12 October 2020, was refused by notice dated 8 March 2022.
 - The development proposed is described as 'A small jetty on the northern side of the pond. It is constructed of green oak, and extends approximately 5 metres into the pond. The majority of the length of the jetty is 1 metre wide, however, it widens at the end to 3 metres in width. The jetty sits just above the water line of the pond and is supported within the pond by recycled plastic lumber structures'.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of an existing jetty at land adjacent to Ivy House, Ivy House Lane, Froxfield, Petersfield GU32 1EE in accordance with the terms of the application, Ref SDNP/20/04461/FUL, dated 12 October 2020, and the plans submitted with it.

Preliminary Matters

2. It was evident from the appeal documents, and also my observations on site, that the appeal scheme is retrospective in nature.
3. The application site and description of development in the banner heading above is taken directly from the original planning application form. In the interest of brevity and accuracy I have amended the description of development to 'retention of an existing jetty'. It is on this basis that the appeal has been determined.
4. Since the determination of the original application, South Downs National Park Authority (the NPA) has adopted a Design Guide Supplementary Planning Document (adopted 2022) (the SPD), which it deems the appeal scheme to also conflict with. The appellant has had the opportunity through the appeal to comment on the SPD and therefore no party has been prejudiced by this change in circumstances.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the area, including the South Downs Area of Outstanding Natural Beauty.

Reasons

6. The appeal site is an area of open land that contains an existing natural pond, to which the appellant has added a wooden jetty. The site sits adjacent to Ivy House Lane, a quiet, narrow, rural highway. It also sits opposite the dwelling of Ivy House Farm, which is within the appellant's ownership, but the appeal site does not form part of its curtilage. There are few other dwellings or examples of built form nearby, while the surrounding area has a pleasant, verdant and tranquil quality, reflective of its location within the South Downs Area of Outstanding Natural Beauty (AONB).
7. The jetty has been constructed of green oak boards and comprises of a walkway approximately 1m in width by 3m in length before opening to a platform that measures approximately 3m in width by 2m in depth. Overall, the jetty projects approximately 5m into the pond and sits marginally above its maximum water level.
8. Since the appeal site is within the AONB, I have had regard to the duty under section 85(1) of the Countryside and Rights of Way Act 2000. This requires that decisions have regard to the purpose of conserving and enhancing the special qualities, distinctive character, and key features of the AONB.
9. At the time of my site visit, the land surrounding the pond and jetty was highly overgrown with grass, bramble and scrub. The jetty was therefore not visible from public vantage points. Additionally, even when on the appeal site it was difficult to locate and access the jetty, such was the nature of vegetation growth. From my observations, the pond and much of the appeal site seemed to have few special qualities in terms of its appearance and condition. Nevertheless, its largely open and vegetated state still contributes to the pleasing verdant, rural character of the area.
10. Even if the vegetation at the site was to be cut/die back and be maintained, the jetty would remain an inconspicuous form of development. This is due to its limited overall scale and low profile. Despite being located nearby to the highway (and a junction onto Ivy House Lane) public views of the proposal would be highly limited and are likely to be transient and fleeting in nature. Accordingly, I am satisfied that the development does not have any meaningful urbanising effect.
11. Overall, I find that the development does not harm the character or appearance of the area. I am also satisfied that the development conserves the natural beauty and tranquillity of the AONB. The development therefore accords with Policies SD4 and SD5 of the South Downs National Park Local Plan (adopted 2019). Together these policies, amongst other matters, seek for development to be of a suitable quality of design that respects local character and distinctiveness, including conserving the landscape character of the national park.
12. I also find no conflict with the aims of the SPD or the National Planning Policy Framework (the Framework) in respect of conserving the landscape and scenic beauty of the AONB.

Other Matters

13. The development is located within the setting of Ivy House, a Grade II listed building. The significance of the listed building appears to lie in its age,

architectural qualities, and historic associations with the area. Despite their close relationship, there is limited intervisibility between the appeal development and the listed building. The NPA does not object to the development based on any harm to the heritage asset and, given my above findings that the proposals would not cause harm to the character and appearance of the area, I am inclined to agree. The setting of the listed building is therefore to be preserved.

14. The NPA has also not raised concerns with regards to the impact of the development on ecology and there is no robust evidence before me to conclude differently.
15. I note the concerns of third parties, who consider that by allowing planning permission retrospectively it encourages further contempt or flouting of planning rules in the national park. However, the proposal has been considered on its own merits and does not set a precedent for the allowing of other retrospective planning permissions. Should other developments take place within the NPA area without planning permission they would be doing so at risk.

Conditions

16. The NPA has suggested draft conditions in the event that the appeal is allowed. I have considered the suggested conditions against the advice within the Planning Practice Guidance (PPG) and the Framework.
17. As the development has already been completed, it is not necessary to impose a standard time limit condition.
18. The NPA has suggested a condition that the on-going maintenance and management of the pond shall be in accordance with the appellant's submitted management strategy document. However, I am not convinced that this would meet the tests of conditions set out in the PPG, or paragraph 56 of the Framework, in that it would not be enforceable. Notably, the maintenance and management strategy does not include any specific requirements as to when/how frequently the identified measures would take place. I have therefore not attached such a condition.

Conclusion

19. For the reasons outlined above, having regard to the development plan as a whole and to all other material considerations, the appeal is allowed.

Lewis Condé

INSPECTOR