



Appeal Decision

Site visit made on 3 January 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/Y9507/W/23/3320917

Stane Lodge, Bury Gate, Bury RH20 1HA

- 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 Ben Burrows against the decision of South Downs National Park Authority.
- The application Ref SDNP/21/04688/FUL, dated 13 September 2021, was refused by notice dated 4 November 2022.
- The development proposed is demolition and rebuild of the existing house and garage with tennis court (identical to proposal approved under reference SDNP/15/01953/FUL).

Decision

1. The appeal is allowed and planning permission is granted for demolition and rebuild of the existing house and garage with tennis court (identical to proposal approved under reference SDNP/15/01953/FUL) at Stane Lodge, Bury Gate, Bury RH20 1HA in accordance with the terms of the application, Ref SDNP/21/04688/FUL, dated 13 September 2021, subject to the conditions contained within the attached Schedule.

Applications for Costs

2. An application for costs was made by Mr Ben Burrows against the decision of South Downs National Park Authority. This application is the subject of a separate decision.

Preliminary Matters

3. During the appeal, the National Planning Policy Framework (the Framework) was revised by government. Its content in respect of the main issues has not been materially altered. Therefore, in this instance it has not been necessary to consult the parties on the revisions to the Framework.

Main Issues

4. Having regard to the above, the main issues in this appeal are:
 - The effect of the proposal on character and appearance of the area;
 - The effect of the proposal on natural environment and resources;
 - The effects of the proposal on trees; and
 - Whether the proposal would achieve energy and water efficiency.

Reasons

Character and appearance

5. The appeal property is a detached, two-storey dwelling, set within a large curtilage. A detached, single-storey outbuilding is situated to the east of the dwelling. The dwelling was constructed in the 1930's with render at ground floor level and tile hanging above. There is a catslide roof at the front elevation, with two large gable features at the rear elevation. Through its form and features, the dwelling has a traditional appearance.
6. The proposal seeks to demolish the existing dwelling and outbuilding and erect a replacement dwelling, garage and tennis court. The proposed dwelling and garage would include sections of pitched roof, projecting gables, chimneys, pitched roof dormers and storm porches. Therefore, the appearance of the proposed dwelling would be consistent with the traditional character of the existing dwelling.
7. The internal floor area of the proposed dwelling would be around 28% larger than the existing dwelling. The additional mass and bulk would therefore represent a moderate increase in the size of the dwelling.
8. The proposed dwelling would broadly occupy the footprint of the existing dwelling. Whilst the proposed development would project slightly west and south and involve building up of land, the overall height of the proposed dwelling would represent only a modest increase relative to the existing dwelling.
9. The appeal site is situated in a landscape comprised of fields and woodlands, defined as Type L: Mixed Farmland and Woodland Vales, and is within the Character Area of L1: Rother Valley Mixed Farmland and Woodland Vales. The neighbouring plot comprises a large contemporary dwelling known as Bury Gate Farm, and to the south are agricultural buildings. The area is therefore rural in character, comprised of grand dwellings in substantial plots, surrounded by countryside.
10. The existing dwelling is set back from the B2138 road by a long driveway and is generally screened from view by a mature, high hedge and tree belt along the highway edge. Likewise, the proposed dwelling would not be visually prominent from the adjacent highway.
11. The appeal property occupies an elevated position with ground levels increasing from Watery Lane to the south. The existing dwelling is screened from wider views from Watery Lane and Footpath WSx/764/1 by farm buildings and mature trees, and therefore is of generally limited visibility from publicly accessible locations.
12. Nonetheless, due to its greater scale and mass, the proposal would result in a small increase in the visual prominence of development on the site, particularly in winter months where foliage cover would be less dense. Within such wider views, the proposed dwelling would be visible within the context of the adjacent dwelling at Bury Gate Farm.
13. To mitigate the proposal's visual impacts, the Authority's landscape officer advises planting of large native trees planted along the southwestern boundary of the garden, secured through submission of a planting plan with detailed

- proposals including tree and shrub planting, grass and wildflower seeding, along with a specification and management regime. The modest increase in the cumulative visual impacts of development on wide, distant views could therefore be suitably mitigated through a condition requiring soft landscaping.
14. The design of the scheme seeks to achieve a sensitively designed dwelling which sits comfortably within its landscape through use of locally sourced materials including local brick and tiles. I am satisfied that the choice of materials represents a landscape-led approach, as advised by the Design Guide Supplementary Planning Document, which at C.12.1.a which expects new development use materials that best match those used traditionally in the locality to reinforce local distinctiveness.
 15. The South Downs National Park is a designated International Dark Skies Reserve. Roof lights and balconies are proposed to both the house and garage annexe. Light pollution could be prevented from these sources through the suggested condition requiring automatic black-out blinds at rooflights, and through a condition to control the use of external lighting.
 16. The proposed development would not increase the number of bedrooms. Therefore, the proposed dwelling would not result in increased occupancy or intensification of the use of the site, and thus would conserve the tranquillity of the National Park.
 17. As set out above, the proposal would provide a replacement dwelling of moderately greater size, sited at the same location and of similar character and type to the existing dwelling. The proposed dwelling would not be visually prominent in the landscape, being well-screened from public vantage points. Additional planting would mitigate the modest increase in visual impacts associated with the proposal. Effects on dark skies can be mitigated through measures to prevent light spill. The proposal would not therefore appear visually intrusive and discordant with the relative tranquillity and landscape character and would not harm the character and appearance of the area.
 18. For these reasons, the proposal would comply with Policies SD1, SD6, and SD7 of the South Downs National Park Local Plan 2019 (SDNPLP), which together require development proposals to conserve the landscape and natural beauty of the National Park and preserve its scenic quality and relative tranquillity. The proposal would not therefore conflict with the provisions of the Framework and first purpose of the National Park designation which give great weight to conserving and enhancing the landscape and scenic beauty of National Parks.
 19. The proposal would accord with SDNPLP Policy SD30 which requires that replacement dwellings not be overbearing or detrimental to the living conditions of neighbours. The proposal would also satisfy SDNPLP Policies SD4 and SD5 which require proposals reflect the context in which the development is located and adopt a landscape-led approach. In addition, the proposal would accord with SDNPLP Policy SD8 which requires proposals to take all opportunities to reduce light pollution.
 20. The proposal would not conflict with SDNPLP Policies SD9 and SD10 which require proposals protect features of biodiversity and geological interest, and conserve habitats of international importance.

Natural environment and resources

21. SDNPLP Policy SD2 requires development proposals be supported by a statement that sets out how the development would impact, both positively and negatively, on ecosystem services.
22. The Ecosystem Services Statement (ESS) provides assessment of the scheme against each of the criteria listed in Policy SD2, concluding either positive or neutral effects against each criterion. No negative effects are identified by the ESS, nor has the Authority put forward any negative effects in respect of any criterion. Therefore, I am satisfied the information provided adequately demonstrates the proposal's effects on ecosystem services.
23. The proposal would therefore comply with SDNPLP Policy SD2 which requires development proposals to have an overall positive impact on the ability of the natural environment to contribute to goods and services and manage natural resources sustainably for the future.

Trees

24. The highway adjacent to the site's eastern boundary is lined with mature trees and hedgerows, including several oak trees situated within a highway verge and ditch between the carriageway and brick wall boundary of the appeal site. The oak trees have potential to support bat roosts and screen the site from view from the road, and therefore contribute positively to the area's ecology and to its verdant character.
25. SDNPLP Policy SD11 requires development proposals that may affect trees demonstrate they have been informed by a full site survey, including an Arboricultural Impact Assessment, Method Statement, Tree Protection Plan and management plan. Whilst the location of trees and their crown spread are indicated on the Proposed Site Plan, the proposal does not provide the information required by SDNPLP Policy SD11.
26. Construction of the proposed tennis court would involve excavation works in close proximity of two mature oak trees. However, I note there are existing built structures in close proximity of the trees. Whilst recognising the landscape and ecological value of the trees, in this circumstance, I consider the information required by SDNPLP Policy SD11 can be secured through a condition with measures to protect roots as required.
27. Excavation works are not expected to affect tree canopies. Were bats discovered during construction, a licensing scheme through Natural England exists to ensure harm to those protect species is avoided.
28. Subject to a condition to secure the required arboricultural information and methods, the proposal would not harm the existing oak trees. On this basis, the proposal would comply with SDNPLP Policy SD11 which requires proposals conserve and enhance trees.

Energy and water efficiency

29. SDNPLP Policy SD48 requires proposals for residential development to demonstrate energy and water efficiency equivalent to a 19% reduction against the Building Regulations Part L 2013 standard and total mains water consumption of no more than 110 litres per person per day. In addition, SDNPLP

Policy SD2 requires development proposals improve the National Park's resilience to climate change.

30. The Water Neutrality Statement demonstrates that the proposed development would achieve the 110 l/p/d water efficiency target through use of water efficient appliances and fixtures.
31. To achieve energy efficiency in developments of single dwellings, the Sustainable Construction Supplementary Planning Document 2019 advises energy demand be minimised through high standards of insulation and airtightness. The proposal does not provide details of the proposed energy standards of the dwelling. However, such information could be secured through a condition.
32. Subject to the suggested condition requiring submission of a satisfactory sustainable construction report, the proposed development would be capable of achieving a suitable standard of energy and water efficiency. The proposal would therefore comply with SDNPLP Policy SD48 which requires development incorporate sustainable design features of appropriate scale and type.

Other Matters

33. A scheme identical to the appeal proposal was approved by the Authority in 2018¹. The Authority suggests that since the 2018 scheme was approved, the development plan for the area has materially changed through the adoption of the SDNPLP. However, the delegated decision for the 2018 scheme contains no assessment against the former Chichester Local Plan First Review's policies and makes clear that "considerable" weight was afforded to SDNPLP policies.
34. In addition, the Authority suggests the context for the appeal site has changed since the 2018 scheme was determined, through construction of the adjacent dwelling at Bury Gate Farm. However, the Authority granted planning permission² for the Bury Gate Farm dwelling prior to its determination of the 2018 scheme, and therefore the development would have been known to the Authority when determining both the 2018 scheme and the appeal proposal.
35. As such, neither the development plan nor landscape context has materially changed during determination of either scheme. Consistency in decision-making is an important tenet of the planning system and like cases should be decided in a like manner. Irrespective of this, subject to compliance with the attached planning conditions, I have found no harm would arise regarding the main issues and have identified no conflict with the development plan.

Conditions

36. In addition to the standard time limit of the planning permission granted, in the interests of certainty I have attached a condition specifying the approved plans.
37. I have attached a condition requiring details of external materials be submitted to the Authority for approval to ensure the appearance of the development complements the character of the area.
38. To avoid harm to the local environment and living conditions of nearby residents, I have attached a condition requiring submission of a Construction

¹ LPA Ref: SDNP/18/04038/FUL

² LPA Ref: SDNP/16/05874/FUL

and Environmental Management Plan. To achieve energy efficiency in accordance with SDNPLP Policy SD48, I have attached a condition requiring submission of a sustainable construction report.

39. A condition requiring submission and approval of an Arboricultural Method Statement is necessary for the purpose of conserving existing trees. To mitigate the additional visual effects of the proposal on wide, distant views, I have attached a condition requiring submission of a landscaping scheme.
40. To ensure the proposed development would not harm protected bat species, I have attached a condition to secure the implementation of the mitigation methods recommended by the Bat Survey Report.
41. For the purpose of conserving the area's dark skies I have attached conditions requiring installation of automatic black-out blinds at the roof lights and submission of details of any external lighting.
42. I have not imposed the suggested conditions relating to the operation of permitted development rights. Such conditions would not be necessary to make the appeal proposal acceptable in planning terms and therefore would not comply with the Framework. Furthermore, paragraph 54 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Conclusion

43. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan DRG01; Proposed Site Plan 01A; Proposed Floor Plans 02A; Proposed Elevations 03A; Proposed Sections 04A; Proposed Roof Plan 05A; Existing Ground Floor Plan & Outbuildings 21139-02-B-1; Existing First Floor Plan 21139-02-B-1; Barn & Brick Shed Existing Elevations 21139-02-E; Main House Existing Elevations 21139-02-E; Shed 1 & Shed 2 Existing Elevations 21139-02-E; Key Plan 21139-02-E; Elevations and Sections through Proposed Tennis Court SL04.
- 3) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the local planning authority. The CEMP shall provide details of the following:
 - a) the anticipated number, frequency and types of vehicles used during construction
 - b) the provision made for the parking of vehicles by contractors, site operatives and visitors
 - c) the loading and unloading of plant, materials and waste,
 - d) the storage of plant and materials used in construction of the development
 - e) the erection and maintenance of security hoarding
 - f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway
 - g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening stockpiles
 - h) measures to control the emission of noise during construction
 - i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
 - j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas, and
 - k) waste management including prohibiting burning.
- 4) No development shall be carried out above ground floor slab level until detailed information in a design stage sustainable construction report in the form of:
 - a) design stage SAP data
 - b) design stage BRE water calculator
 - c) product specifications
 - d) building design details
 - e) layout or landscape plans demonstrating that the dwelling has:
 - i. reduced predicted CO2 emissions by at least 19% due to energy efficiency and;
 - ii. reduced predicted CO2 emissions by a further 10% due to on site renewable energy compared with the maximum allowed by building regulations
 - iii. EV charge point

- iv. predicted water consumption no more than 110 litres/person/day
 - v. separate internal bin collection for recyclables
 - vi. private garden compost bin and providing evidence demonstrating:
 - vii. sustainable drainage and adaptation to climate change
 - viii. selection of sustainable materials shall be submitted to and approved in writing by the Local planning authority. The development shall be built in accordance with these agreed details.
- 5) No development shall commence until a full Arboricultural Method Statement shall be submitted to and approved in writing by the local planning authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.
- 6) The details and mitigation methods contained within the Bat Survey Report dated August 2021 completed by AEWC Ltd for the development hereby permitted are approved and shall be implemented in full. Specific reference is made to appendix 6 of the report. A Natural England Protected Species Licence will be required for the works, and this will need to be obtained prior to any works taking place.
- 7) No development shall be carried out above ground floor slab level until a schedule of external materials finishes and samples to be used on the development has been submitted to and approved in writing by the Local planning authority. Thereafter the development shall be carried out in full accordance with the approved schedule and samples.
- 8) The development hereby permitted shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The roof lights shall be fitted with automatic blackout blinds to avoid any upward light spill in accordance with sections 6.3 and 9 of the SDNPA's Dark Skies Technical Advice Note (May 2021). Once installed the roof blinds shall be maintained in working order and retained as approved in perpetuity.
- 10) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.

END OF SCHEDULE