



Appeal Decision

Site visit made on 9 January 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2024

Appeal Ref: APP/Y9507/W/23/3322550

Holmlands, Main Road, Bucks Horn Oak, Hampshire GU10 4LT

- 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 S Mitchell of Gam Property Ltd against the decision of South Downs National Park Authority.
 - The application Ref SDNP/22/01310/FUL, dated 11 March 2022, was refused by notice dated 5 January 2023.
 - The development proposed is the construction of a two storey, chalet bungalow style, two bedroom, two bathroom dwelling following the demolition of the existing garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023, and I have sought the comments of the main parties concerning the revised national policy. I have had regard to the comments made in reaching my decision.

Main Issues

3. The main issues in this case are:
 - firstly, the effect of the proposal upon the character and appearance of the area, having particular regard to the location of the dwelling within the South Downs National Park;
 - secondly, whether the site is in a suitable location for development;
 - thirdly, the effect of the proposal upon highways safety; and
 - fourthly, the impact of the proposal upon the integrity of the Wealden Heaths II Special Protection Area.

Reasons

Character and Appearance

4. The appeal site is part of the rear garden of Holmlands, which is a semi-detached house within the South Downs National Park. The house fronts the A325 road, and to the rear has a long, narrow garden with a detached garage and associated parking spaces that are accessed from Back Lane. The property

is part of the small settlement of Bucks Horn Oak that mainly lies to the western side of the main road, and comprises mostly residential properties that form a distinct concentrated group which is surrounded by woodland.

5. Within this group there are a mix of ages and styles of dwellings, many of which are detached. Houses and bungalows front both the A325 and Back Lane, forming long lines of development to either side of these roads. The narrow breadth of the rear garden of Holmlands, that of its neighbour and that of the other pair of semi-detached houses next to them, forms a distinct cluster within the line of houses and bungalows to the eastern side of Back Lane.
6. Given the narrow breadth of the appeal site, the proposed dwelling would appear harmfully constrained. Although it would be detached with rooms in the roof, it would occupy much of the width of the plot. This, along with the size of the house, its form and style would make it overwhelm the plot, and this would be intrusively conspicuous in an area of dwellings mostly within more generous sized gardens. There are some dwellings nearby that have short rear gardens, and there are other properties with narrow gardens within which there are detached garages. Nevertheless, within the narrow rear gardens of the group of semi-detached houses there are no dwellings, and whilst there is a great diversity of ages and styles of dwellings along Back Lane, a repeated characteristic is that they are positioned within broader plots than the appeal site.
7. Moreover, the style and form of the proposed dwelling would harmfully exaggerate its cramped appearance. The presence of a cantilevered first floor would give the dwelling a curious, top-heavy form. When combined with the dwelling being set down below ground level, the dwelling would have a strong vertical emphasis that would exaggerate the constrained appearance of the house. In an area comprising mostly conventionally formed and styled dwellings, these features along with the presence of differing sized and styled dormers and a bulky flat roofed rear addition would all serve to amplify the incongruity of the house.
8. The appellant proposes to retain the existing trees and hedges and plant additional landscaping, and such measures would complement the verdant nature of many nearby gardens. However, the size of the dwelling along with the close proximity of works to nearby trees and hedges is such that whether they could be retained and survive has not been demonstrated.
9. The existing double garage within the site is generous in size, with a full hipped roof, but this building is much lower in height than the proposed dwelling and has a simple, modest form. The Authority have acknowledged that the garage could be used as incidental habitable accommodation ancillary to the host dwelling. Even if this use were to occur, the building and the use would retain the legible, ancillary appearance and relationship to the host dwelling. As regards the possibility of extending the existing garage under permitted development rights, I have no evidence before me as to how the garage could be extended or indeed whether the property benefits from such rights. In the absence of this detail the weight I can attribute such a fallback is therefore limited.
10. Whilst each application and appeal must be treated on its individual merits, I can appreciate that approval of this proposal could be used in support of similar such schemes. This is not a generalised concern of a precedent, but a realistic

and specific concern given that there are other properties with similarly narrow gardens that have an access onto Back Lane. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and as there are a group of properties with such narrow gardens close to each other their cumulative impact would exacerbate the harms that I have found and described above.

11. The Framework requires great weight to be given to conserving and enhancing the landscape and scenic beauty of National Parks. In this instance the dwelling would be part of an existing settlement and given this context the scheme would not conflict with these objectives. Nevertheless, the dwelling would cause unacceptable harm to the character and appearance of the area, and the suggested conditions would not overcome this harm. These harms would therefore conflict with Policy SD5 of the South Downs National Park Local Plan (2019) (LP), which requires amongst other things, that development makes a positive contribution to the character and appearance of the area, contributing to local distinctiveness and sense of place, thereby reflecting objectives of the Framework.

Location

12. Holmlands is within Bucks Horn Oak which is a compact cluster of mostly residential development that forms a distinct concentrated group surrounded by woodland. LP Policy SD25 sets out to identify the towns and villages within the National Park that are able to accommodate growth of a scale and nature appropriate to their character and function. Although the appeal site is surrounded by residential development, Bucks Horn Oak is not within the list of settlements identified within this policy for development. Moreover, this policy sets out a clear distinction between land within a settlement boundary and the open countryside. Outside settlement boundaries land is regarded as open countryside, and this includes settlements that have not been given such boundaries, such as Bucks Horn Oak.
13. The appellant has referred to nearby services and facilities, including a bus stop and petrol filling station with an associated shop. Irrespective of this the appeal site is regarded as open countryside under LP Policy SD25, where development can only occur subject to exceptional circumstances, a policy stance that was recognised with another appeal within the settlement (ref: APP/Y9507/W/23/3252981). The appeal scheme would not meet any of the exceptional circumstances identified in this LP policy. Whilst it would be on previously developed land, the policy also requires that the development should be of a scale and nature appropriate to the character of the settlement, and for the reasons given above the proposal would fail to accord with those objectives.
14. My attention has also been drawn to an appeal decision that permitted the severance of a residential garden for the erection of a dwelling (ref: APP/D3640/A/13/2199538). However, this case is not within the National Park and was determined several years ago under different national and local policies. Given these differences, the weight that I can attribute to such a comparison is limited and the case does not form a binding precedent for approving the appeal scheme.
15. For these reasons, the scheme would not be within a location suitable for residential development and would fail to accord with LP Policy SD25.

Highways Safety

16. Although the proposed dwelling would include the provision of two parking spaces, off-road parking provision for the existing dwelling would be lost, and local residents are concerned that the loss of parking for the occupiers of Holmlands would add to the existing parking that occurs on the highway. There is unrestricted parking along Back Lane, and it might be the case that the occupiers of Holmlands could park on this road. However, the proposed dwelling would obstruct pedestrian access to Back Lane, and even if the occupiers of Holmlands did park along this road, it would necessitate a lengthy walk that some may find inconvenient. Moreover, although the A325 is speed restricted it is a very busy main road, with prohibited overtaking, and I note the Authority have recently refused an application to provide parking to the front of this property for reasons of increased danger and inconvenience to other highway users (application ref: SDNP/23/01661/FUL).
17. Given the circumstances of this case, the absence of parking for the existing dwelling would require occupiers of this property to find alternative parking elsewhere, and whether this could be achieved whilst maintaining the safety of other highway users has not been demonstrated. Consequently, with regard to this uncertainty, the scheme would fail to accord with the requirements of LP Policies SD21 and SD22. These policies seek amongst other things, to protect and enhance highway safety and provide parking that is of a location, scale and design that would reflect its context, replicating objectives of the Framework that seek safe and suitable access to a site for all users, and not cause an unacceptable impact on highway safety.

Habitat Sites

18. The application site is within 5km of the Wealden Heaths II Special Protection Area (SPA), and the heaths are internationally designated because they support a number of protected bird species that include Dartford Warblers, European Nightjars and Woodlarks. The heathlands are under significant pressure from public access and use, and a net increase in the number of dwellings and residents in the area would increase the pressure upon these important sites.
19. Given the location of the proposed dwelling, the impact of the scheme upon the integrity of the SPA has to be assessed. Future occupiers would be likely to impact upon the heaths having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. LP Policy SD10 requires development proposals resulting in a net increase of residential units to submit a screening opinion to the Authority to determine whether the proposal would result in a likely significant effect on the integrity of the SPA. In addition, LP Policy SD9 requires amongst other things, that any development that would result in an adverse effect on the integrity of any international site has to be refused, unless there are no alternatives, there are imperative reasons of overriding public interest, and that adequate compensatory provision is secured.
20. Having regard to the evidence before me, the proposal would conflict with the requirements of these policies. Little detail has been provided with regard to

the impact of the proposal upon the integrity of the SPA, nor details of mitigation measures. Although the appellant is unclear as to the information that would be required regarding the SPA, they would be willing to provide ecological information, to enter into a legal agreement, provide appropriate contributions and accept a conditional requirement to provide mitigation. Nevertheless, measures to mitigate the impact of the scheme on the habitat site need to be binding and secure based on evidence. In the absence of information to ascertain the harm to the integrity of the SPA and any mitigation measures, conditions would not provide certainty as to mitigating what harms would arise from the proposal. Consequently, the scheme would adversely affect the integrity of the SPA, contrary to the above referenced LP policies and objectives of the Framework.

Other Matters

21. Bucks Horm Oak is surrounded by Ancient Woodland, which provides a foraging habitat for bats, and the Authority has pointed out that the garage could be utilised as a bat roost. Circular 06/2005 – Biodiversity and Geological Conservation makes it clear that the presence of a protected species is a material consideration when development is being considered, and the extent to which they may be affected by the proposed development is to be established before any planning permission is granted. The existing garage would be demolished and the scheme has not been supported with any information concerning its impact upon any protected species, including whether bats utilise the appeal site and the garage for roosting and foraging. However, as I am dismissing the appeal for other reasons I have not pursued this issue.
22. Local residents have raised a number of matters, including loss of privacy and light, and drainage concerns. Following my findings on the main issues, I have no need to consider these matters further.

Planning Balance and Conclusion

23. The appellant considers the scheme would provide social and economic benefits, as an additional dwelling would be provided in a location where future occupiers would have access to local services and public transport. Future occupiers may use the nearby services at the petrol filling station, but they would need to travel out of the settlement for other needs such as education, health and other day to day services and facilities, thereby resulting in environmental harm.
24. Moreover, following my findings on the main issues, for the above reasons the adverse impacts arising from the proposal would significantly and demonstrably outweigh the modest aforementioned benefits, and the suggested conditions would not overcome these substantial harms. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR