



Appeal Decision

Site visit made on 16 February 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/Y9507/D/23/3329634

41 Elmleigh, Midhurst, West Sussex GU29 9EZ

- 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 Andrew Elliott against the decision of South Downs National Park Authority.
 - The application Ref SDNP/22/03964/HOUS, dated 22 August 2022, was refused by notice dated 5 July 2023.
 - The development was originally described as "a proposed rear first floor roof dormer extension. 3 x roof lights to front elevation".
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Decision

1. The appeal is allowed and planning permission is granted for a proposed rear first floor dormer roof extension and 1 x rooflight to the front elevation, at 41 Elmleigh, Midhurst, West Sussex GU29 9EZ in accordance with the terms of the application, Ref SDNP/22/03964/HOUS, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: 0802-SK-01 Revision A, 0802-SK-02 Revision A, 0802-SK-03 Revision B, 0802-SK-04 Revision A, and 0802-SK-05 Revision A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The development hereby permitted shall not be carried out except in accordance with the mitigation measures set out in the Bat Survey Report (June 2022), produced by The Ecology Co-Op, unless otherwise varied by a European Protected Species licence issued subsequently by Natural England.

Procedural Matters

2. To reflect the amended scheme on which the decision of the South Downs National Park Authority ("the SDNPA") was made, I have used a different description of development in the grant of planning permission above to that used on planning application form.
3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. There are no material changes relevant to the substance of this appeal and therefore I am satisfied that no one would be

prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, having regard to its location within the South Downs National Park ("the SDNP"), and
 - the mix of housing within the SDNP, having particular regard to the supply of small and medium sized homes.

Reasons

Character and appearance

5. Elmleigh is a residential cul-de-sac with a spacious and well-ordered suburban character and appearance that is derived from the rows of broadly similar style residential dwellings that are set back from the road behind relatively large and open frontages. Relatively expansive long distance views from out of the cul-de-sac and across the surrounding landscape are possible through the gaps between buildings and over the roofs of the low height bungalows in the same row as the appeal property. These views give the sense that the cul-de-sac is set within the wider rural landscape of the SDNP.
6. Based on the evidence before me, the proposed dormer would not increase the floor space of the existing dwelling by more than 30%. It would be set on the rear roof slope of the appeal property and below the existing roof ridge level. As such, the proposed dormer would largely be screened in public views from the road, and it would not harm the appearance of the appeal dwelling or the spacious suburban character and appearance of the residential cul-de-sac. Moreover, it would not harmfully intrude into views of the rural landscape over the roof of the property that positively contribute to the qualities of the landscape.
7. In private views from nearby gardens, the elevated mass and box-like shape of the proposed dormer would markedly change the appearance of the appeal property's roof. However, it would be well contained within the extent of the existing roof slope, and it would be broadly comparable in scale and form to the existing rear roof dormers at Numbers 38a and 40. Seen in the context of those existing dormers, the proposed dormer would not be a visually incongruous addition to the appeal property or the wider roofscape, and it would not be visually overbearing in views from nearby properties. The small front rooflight would not be visually harmful and would be in-keeping with others in the cul-de-sac.
8. Consequently, I conclude on this issue that the appeal proposal would not harm the character and appearance of the area, having regard to its location within the SDNP. As such, it would be consistent with Policies SD1, SD4, SD5 and SD31 of the South Downs Local Plan Adopted 2 July 2019 (2014-33) ("the SDLP"), which seek to ensure that development respects local character, conserves and enhances landscape character, and safeguards the experiential and amenity qualities of the landscape. For the same reasons, it would comply with the first purpose of the SDNP's designation.

9. In terms of the Framework the proposal would be consistent with Paragraphs 135, 180 and 182, which require planning decisions to ensure that development would be sympathetic to local character, including the surrounding built environment and landscape setting, and to conserve and enhance landscape and scenic beauty in National Parks.

Housing mix

10. The evidence indicates that the area of floor space within the appeal dwelling is less than 120 square metres. Therefore, it falls within the SDLP's definition (in paragraph 7.89) of a 'small' dwelling.
11. The definition of a 'small' or 'medium' sized dwelling in the SDNP is typically considered by the SDNPA's Technical Advice Note¹ ("the TAN") to have a gross internal area of less than 120 square metres and/or (my emphasis) 1, 2 or 3 bedrooms. The use of the word 'or' in the TAN's definition means that bedrooms and floor space operate as alternative metrics to each other in defining whether or not a dwelling is 'small' or 'medium' sized.
12. The proposed dormer would not increase the area of floor space within the existing dwelling by more than 30%, or beyond 120 square metres in total. Therefore, the appeal dwelling in its proposed extended form would remain within the definition of a 'small' or 'medium' sized dwelling in the SDLP and the TAN, irrespective of the proposed fourth bedroom shown on the drawings. Consequently, the proposal would not result in the loss of a 'small' sized home, and it would have a neutral effect on the supply of 'small' and 'medium' sized homes in the SDNP.
13. I therefore conclude on this issue that the appeal proposal would not harm the mix of housing within the SDNP, having particular regard to the supply of 'small' and 'medium' sized homes. As such, it would comply with Policies SD1, SD27 and SD31 of the SDLP, insofar as they seek to ensure that dwellings are not over-extended so as to protect the limited supply of small and medium sized homes in the SDNP.

Other Matters

14. The appellant's Bat Survey Report ("the BSR") indicates that the appeal property is being used as a day roost by a solitary Daubenton's bat and intermittently by a likely solitary long-eared bat. The proposal would require the roost of the latter to be removed and the roost of the former to be modified, potentially obstructing access to it. As such, a European Protected Species Licence (EPSL) would be required from Natural England to carry out the development.
15. The decision on whether or not to grant a EPSL is a matter for Natural England. However, in having regard to the proposed mitigation strategy in the BSR, which includes measures to avoid harm to individual bats during construction works and the provision of alternative roosting opportunities after completion, I consider it is likely that the proposal would meet the necessary tests and allow a EPSL to be granted. Consequently, I am satisfied that any potential harm to bats would be adequately mitigated.

¹ South Downs Local Plan - Extensions and Replacement Dwellings Technical Advice Note, 26 October 2023

Conditions

16. For certainty of the planning permission granted and to ensure that the development respects the appearance of the host property, it is necessary to impose conditions requiring it to be carried out in accordance with the submitted drawings and constructed from matching materials.
17. To ensure that bats would not be harmed it is necessary to impose a condition to secure the mitigation measures proposed in the BSR. I have altered the wording of the suggested condition to ensure that it would not be incompatible with any EPSL granted subsequently by Natural England. The grant of a EPSL is additional to the requirements for planning permission and subject to separate processes. It would not be necessary or reasonable to require an EPSL to be granted before development can commence as this would duplicate a separate regulatory regime.
18. The proposed dormer would be constructed on the appeal property's roof and away from existing vegetation within its curtilage. As such, imposing a condition preventing vegetation removal would not be necessary to make the development acceptable.

Conclusion

19. For the reasons given above the appeal proposal accords with the development plan and should be allowed.

G Sylvester

INSPECTOR