



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: 24 April 2024

Appeal Ref: APP/Y9507/D/23/3325775

Copyhold, Copyhold Lane, Fernhurst, West Sussex GU27 3DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs P Sellers against the decision of South Downs National Park Authority.
 - The application Ref SDNP/22/04387/CND, dated 15 September 2022, was refused by notice dated 24 May 2023.
 - The application sought planning permission for the construction of extensions, following the partial demolition of detached dwelling. Construction of replacement annex, without complying with a condition attached to planning permission Ref SDNP/21/04805/HOUS, dated 21 July 2022.
 - The condition in dispute is Number 2 which states that: *"The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".*
 - The reason for the condition is: *"For the avoidance of doubt and in the interests of proper planning".*
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Decision

1. The appeal is allowed and planning permission is granted for the construction of extensions, following the partial demolition of detached dwelling. Construction of replacement annex at Copyhold, Copyhold Lane, Fernhurst, West Sussex GU27 3DZ in accordance with the terms of the application, Ref SDNP/22/04387/CND, without compliance with condition 2, previously imposed on planning permission Ref SDNP/21/04805/HOUS, dated 21 July 2022, and subject to the conditions in the attached schedule:

Procedural Matters

2. The Government published a recently revised National Planning Policy Framework ("the Framework") and all references to the Framework in this decision relate to the revised document. I am satisfied that no one would be prejudiced by the changes to the national policy context as they are not relevant to the substance of this appeal.
3. The National Park Authority as Local Planning Authority confirmed that on the decision notice for application Ref SDNP/22/04387/CND, the correct plan reference is AS661/712 Rev K, not AS661/715 Rev K. I have considered the appeal on this basis.

Background and Main Issues

4. The appeal relates to a detached dwelling with annex that at the time of my site visit had been mostly demolished in accordance with the development approved under planning permission Ref SDNP/21/04805/HOUS. The appeal proposal is to substitute the originally approved elevations with a different set to allow for the provision of a solid roof lantern light to the dwelling. The main issues are the effect of the proposed roof lantern on the experiential qualities of the landscape in the South Downs National Park (SDNP), with particular regard to dark night skies, relative tranquillity, landscape character and protected species.

Reasons

5. The appeal site lies within an area of the SDNP which is classified as a dark night sky zone¹ and is situated within a landscape character area described as having perceptual and experiential qualities, including high levels of perceived naturalness, lack of visible overt human impact, low density of settlement and associated dark night skies. It is situated on a hillside with panoramic views across the surrounding landscape and is mostly experienced from the public footpaths that extend away from Copyhold Lane and close to the appeal site. The remoteness of its location and the relative absence of buildings contributes to a sense of naturalness and tranquillity.
6. The proposed lantern would amount to a relatively small addition to the roof of the substantially sized dwelling in its approved extended form, with a narrow row of glazed panels to its sides and a solid roof. I have been provided with limited substantive evidence to justify why the approved scheme has reached the maximum allowable extent of glazing at the property, such that the proposed roof lantern would reach a tipping point beyond which unacceptable light spill would occur.
7. Compared to the extent of glazing in the approved scheme, the proposed lantern would increase the overall surface area of glazing by a relatively small amount. Furthermore, the evidence suggests that the extent of glazing in the proposed lantern, together with that in the approved scheme, would be less than in the existing dwelling. As such, the proposal would be likely to reduce light spillage and pollution when compared to the baseline situation.
8. Although the proposed lantern would occupy an elevated position, it would be raised only modestly above the level of the approved dormers in the south-east and south-west elevations of the dwelling. In views from the nearby footpaths, the proposed lantern would be likely to be partly screened by the main roof of the dwelling, given its roughly central position on the elevated roof, set back from the roof slopes.
9. Whilst the proposed lantern would be glazed on all sides, I find that in the context of the window openings in the approved scheme, any increase in light spillage and glow from the proposed lantern during the hours of darkness would be very modest, and likely to be reduced when compared to the baseline situation of the existing dwelling. Therefore, it would not be necessary to require the glazing to adhere to any particular specification or be fitted with blinds.

¹ Dark Night Sky Zone E1(a),

10. For these reasons, the proposal would not have an adverse effect on the intrinsic qualities of the dark night skies in terms of light spill and sky glow, and compared to the baseline situation it would contribute to enhancing the intrinsic qualities of the dark night skies, consistent with the SDNP Technical Advice Note Version 2, May 2021, titled Dark Skies, which seeks to reduce light pollution.
11. The proposed lantern would be a small, low-profile addition to the roof of the dwelling that would not harmfully interrupt its varied roofscape, which comprises of multiple roof slopes, different eaves and ridge levels, dormers and substantial chimney stacks. The tradition appearance and materials of the proposal would be consistent with the authenticity of the design and appearance of the dwelling in its approved extended form.
12. Although located close to woodland where bat movement is likely, there is limited evidence before me to indicate that the roof of the dwelling, which would be new, is designed to be a habitat for protected Bat species or that light spill from the proposed lantern would, in the context of the glazing in the approved scheme, otherwise harm bats. The installation of bat boxes on the dwelling at a height of some 3-5m above ground and positioned on a south/south westerly facing aspect, as required by a planning condition, would appear to correspond to the level of the first floor and roof eaves, where there are several windows through which light could spill out. In this context and taking account of the above, I have no substantive evidence that light spillage from the proposed roof lantern would lead to any harm to protected species.
13. For these reasons, I conclude that the proposed roof lantern would not harm the experiential qualities of the landscape in the SDNP, with particular regard to dark night skies, relative tranquillity, landscape character and protected species. As such, it would be consistent with Policies SD1, SD4, SD5, SD6, SD7, SD8, SD9, SD10 and SD31 of the South Downs Local Plan, Adopted July 2019 (2014-33), insofar as they seek to ensure that development conserves and enhances landscape character, relative tranquillity, the intrinsic quality of dark night skies and protects priority species.
14. The proposal would be consistent with the Framework Paragraphs 135, 180 and 182, insofar as decisions should ensure developments are sympathetic to local character including landscape setting, and should conserve and enhance landscape, scenic beauty and wildlife in National Parks.

Other Matters

15. The unsuccessful appeal² for a replacement dwelling at the site was for a materially different scheme and has limited relevance and weight to the disputed matters and does not alter my conclusions on the main issues.

Conditions

16. In accordance with the Planning Practice Guidance³ and having regard to the main parties' views, I have restated the undisputed conditions that continue to have effect on the development.

² APP/Y9507/W/20/3260442

³ Paragraph: 015 Reference ID: 17a-015-20140306

Conclusion

17. For the reasons given above the appeal should be allowed.

G Sylvester

INSPECTOR

Schedule of conditions

- 1) The development shall be carried out in accordance with the approved drawings listed under condition 2 of planning permission SDNP/21/04805/HOUS or as substituted by those drawings submitted as part of SDNP/22/04387/CND, namely drawings AS661/705 Rev H, AS661/707 Rev H, AS661/712 Rev K and AS661/713 Rev K.
- 2) The development shall be carried out in accordance with the plans and details approved under discharge of condition applications SDNP/22/05806/DCOND and SDNP/23/03497/DCOND, unless prior written consent is obtained from the Local Planning Authority to any variation.
- 3) Prior to the installation of rainwater goods to the dwelling, extensions and annex hereby permitted, the following shall be submitted to and agreed in writing by the Local Planning Authority:
 - i) Samples and/or technical details of the proposed rainwater goods.
 - ii) Details of the proposed method of fixing the rainwater goods to the building, which shall avoid the use of a fascia board.
 - iii) The proposed position of the downpipes.

The development shall be completed in accordance with the approved details and retained permanently as such thereafter, unless prior written consent is obtained from the Local Planning Authority to any variation.

- 4) No works to repoint the external brickwork or stonework of the elevations to be retained shall be undertaken until:
 - i) Details of the extent of repointing have been submitted to and approved in writing by the Local Planning Authority; and
 - ii) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site (in an inconspicuous location), and inspected and approved in writing by the Local Planning Authority.
 - iii) No powered hand-held tools shall be used when undertaking the repointing works.

Where repointing and repair is required, the proposed use of mortar, composition, profile and replacement bricks/tiles/bond shall match the existing in colour, texture and form unless otherwise agreed in writing by

the Local Planning Authority. Thereafter the works shall be undertaken in accordance with the approved details and shall be retained permanently as such, unless prior written consent is obtained from the Local Planning Authority to any variation.

- 5) Upon completion of any element of the works to the existing elevations to be retained, any damage caused to the fabric of the building shall be made good to the satisfaction of the Local Planning Authority.
- 6) Prior to first occupation of the development hereby permitted, details of external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereafter retained as such, unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to the occupation of the host dwelling, extensions and annex, full details of the proposed surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems, as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA. Winter groundwater monitoring, to establish the highest annual ground water levels, and winter percolation testing, to BRE 365 or a similar approved method, will be required to support the design of any infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details.
- 8) The details and mitigation methods contained within the Bat Survey Reports dated November 2018 completed by Stark Ecology Ltd, and Bat and GCN Addendum Statement dated 8th October 2020 completed by Bright Green Environmental for the development hereby permitted are approved and shall be implemented in full. 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. Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work). A check will also be required for birds' nests within the building prior to work commencing. If nesting birds are found, works in the area will need to be avoided and the nest protected until after the young have fledged.
- 9) Before the development hereby permitted is brought into use the following habitat enhancements shall be installed/erected within the site:
 - i) Bat boxes shall be installed on the building on site facing south/south westerly positioned 3-5m above ground.
 - ii) In addition bird boxes shall be installed on the building and/or trees within the garden of the dwelling.

Once installed the habitat enhancements shall thereafter be left in perpetuity. Appropriate designs can be found in the publication "Designing for Biodiversity: A technical guide for new and existing buildings".

- 10) The development hereby permitted shall be undertaken in accordance with the Ecosystem Services Statement submitted 4th November 2021. Those features indicated within the statement to be installed on the site shall be erected/installed prior to the occupation of the development hereby permitted and retained thereafter.
- 11) The development hereby permitted shall not be occupied until details/elevations/location of refuse and recycling storage, cycling storage and electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be implemented prior to the occupation of the development and thereafter retained unless otherwise approved in writing by the Local Planning Authority.
- 12) The annex hereby permitted shall be used solely for purposes ancillary to the occupation and enjoyment of the dwelling known as Copyhold and shall not be used or occupied separately or severed thereafter.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Part 1, Schedule 2, Classes A, B, C, D and E shall be carried out other than expressly approved by this permission.
- 14) Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure shall be erected at the site, other than expressly approved by this permission.
- 15) Notwithstanding the provisions of Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no building or chattel to be used for purposes defined in Section 336 of the Town and Country Planning Act 1990 shall be erected/placed at the site, unless permission is granted by the Local Planning Authority pursuant to an application for the purpose.

End of Schedule