



Appeal Decisions

Site visit made on 9 July 2024

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

Appeal A Ref: APP/Y9507/D/23/3333674

The Folly, Graffham Common Road, Graffham, West Sussex, GU28 0PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Johnson, Anglo Chinese Retirement Scheme against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/23/01156/HOUS.
 - The development proposed is replacement of the existing attached garage and erection of two storey extensions together with veranda and balconies.
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Appeal B Ref: APP/Y9507/D/23/

The Folly, Graffham Common Road, Graffham, West Sussex, GU28 0PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Johnson, Anglo Chinese Retirement Scheme against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/23/01157/HOUS.
 - The development proposed as described on the application form is erection of detached garage.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out in the banner heading above there are two applications for the same appeal site. To avoid repetition where appropriate I have dealt with the proposals together unless otherwise indicated.
4. The site and surroundings are in the South Downs National Park (the SDNP). The Parties have had the opportunity to comment on the new duty under s245 of the Levelling-up and Regeneration Act 2023 requiring all relevant authorities to "seek to further" the purposes of National Parks. The first of these is to conserve and enhance the natural beauty, wildlife and cultural heritage. Comments received have been taken into account.

Main Issues

5. A main issue for Appeal A (the extensions) and for Appeal B (the garage) is the effect of each proposal on the character and appearance of the area having regard to the location within the SDNP.

6. In addition for Appeal A there are two further main issues: the effect of the proposal on the mix of housing within the SDNP, having particular regard to the supply of small and medium sized homes; and the effect on bat populations.
7. In addition for Appeal B whether the proposal would comply with planning policy in relation to a building in the countryside. `

Reasons

8. The Folly is a large, detached house on a flat area carved out of the hill side. It is in the countryside and not near a settlement. The private drive climbs from the northern most point of the site up to the house, where there is a parking/turning area and a garage. The Folly has a relatively small residential curtilage identified by the red line on the Location Plan Ref TF 00a. This is demarcated on site by changes in land levels and a low post and railing fence. It is a material consideration that in 2020 planning permission was granted for smaller extensions. Development has lawfully commenced such that the 2020 permission is extant although the extensions have not been built.
9. Ownership extends to a larger area of land, identified by the blue line on the Plan Ref TF 00a, which practically surrounds The Folly and which slopes steeply down to the road below. The Council considers that this larger area is outside the established residential curtilage of The Folly. The northern half of the larger area is close mown grass with trees and is maintained as such by the owner of The Folly. However, this in itself does not confer residential status. I have seen no substantial evidence to dispute the view of the Council.
10. The proposal at Appeal B relates to a site near the entrance some distance from the house. Although the red line for the garage proposal as shown on Plan Ref TF.GA.00.A includes the curtilage of The Folly I consider the siting of the garage to be outside the established residential curtilage of The Folly for the purposes of this Decision. Plan Ref TF.GA.00.B shows a separate red line curtilage for the proposed garage.

Character and appearance

11. The National Planning Policy Framework ('the Framework') confers the highest status of protection on National Parks and I also have a statutory duty to seek to further the purposes of the SDNP.
12. The SDNP is the product of an interaction between natural and human processes. Different parts have different characteristics so a landscape first approach to development is appropriate. The site is in Character Area M2 which is a long, elevated 'plateau' in an area of gently undulating lowland 'plateau' landscape, with small to medium sized fields, and soils supporting a mix of nationally important heathland habitats. The settlement pattern is dispersed, with isolated farmsteads. Views are limited by dense woodland cover. This is essentially a quiet landscape with a high sense of 'naturalness' deriving from the mix of woodland and heathland and dark skies identified as the 'Dark Sky Core' of the South Downs International Dark Sky Reserve.
13. The extensions proposal would not alter the use of the red line appeal site as a single dwelling in the countryside. Policy SD31 of the South Downs National Park Local Plan 2019 (the LP) allows for extensions to existing dwellings where the proposal does not increase the floorspace by more than 30% unless exceptional circumstances apply. This is not asserted by the appellant in this

- case. The proposal would significantly increase the floorspace of the existing dwelling so there would be conflict with Policy SD31.1(a). The floorspace would also be significantly greater than the extant permission.
14. The two crown roofs over most of the two storey side extensions would help reduce the overall mass and height required. In addition there would be a two storey hipped roof extension projecting forward of the smaller crown roof. The larger crown roof would be about the height of the top of the hipped roof of the existing house and the smaller one would be a little lower.
 15. The significant increased height and mass of the proposed extensions compared to both the existing house and the 2020 permission would be most noticeable on the north and south elevations which are the most prominent in the partial views from the road and on the approach from the drive. The extensions would project towards the hillside but would require engineering work for a retaining wall almost two floors high. The extensions and the retaining wall would overwhelm the existing house and detract from the openness of the site particularly at first floor and roof level. For these reasons I conclude the extensions proposal does not take a satisfactory landscape led approach as required by Policy SD5 and would not conserve or enhance the landscape of the SDNP. The proposal would result in a less disjointed roof form than the extant permission. However, this goes only a little way towards outweighing the harm caused by the increased height and mass proposed.
 16. Existing windows in the house already can cause light that interrupts dark skies and the 2020 permission allows for more windows. However, the proposed extensions would have significantly more glazing overall than both the existing house and the permitted extensions. There would be less glazing on the west elevation but this faces the hillside so light spill would be less intrusive from that side of the building. There would be additional fenestration on the other three elevations, which are the most noticeable in the landscape from this elevated position, and no mitigation of the effects of light spill on dark skies has been put forward.
 17. The character of the site for the proposed garage is that of open grassland and the garage would be at the lowest point between the road and the house. The proposed garage would be some 12.5m by 7.1m and constructed of cedar cladding and a tiled roof. The ground floor would accommodate two cars, a workshop and a wc. The upper floor is stated for storage in the roof space. It would be served by two dormer windows, three rooflights and two Juliet balconies which seems somewhat excess for a storage use.
 18. The garage would be positioned on grassland close to the entrance into the site and at a slightly higher level than the road. Due to its scale, mass and position, even though there is a hedge around part of the garage site, the proposal would be a taller than this and would be a prominent and intrusive building on undeveloped land. I acknowledge that the garage would be at a lower part of the site but it would still change the landscape within the open site. Moreover, I have seen no substantive evidence to demonstrate that a suitably scaled and sited garage, including cycle parking and vehicle charging, could not be provided where there is already flat land in the curtilage to the house with less harmful effects on the character and appearance of the area.
 19. Light spill from the extensive garage roof lights and windows in a currently undeveloped position would be detrimental to the dark skies of the SDNP even

though fenestration in the eastern elevation is relatively limited. The appellant indicates the garage would be unlikely to be used in the evenings or at night and then only for a short time. However, this may not always be the case. The automated blackout blinds proposed by the Council would mitigate light spill from the rooflights but would not address light spill from the dormer windows or Juliet balconies.

20. I conclude that both the extensions proposal and the garage proposal would have a harmful effect on the character and appearance of the area by virtue of scale and mass and effect on the intrinsic quality of dark night skies. Neither proposal would conserve or enhance the SDNP or further its purposes. Accordingly both the Appeal A and the Appeal B proposals would conflict with Policies SD1, SD4, SD5 and SD8 of the LP, section 15 of the Framework and the first purpose of the SDNP.

Appeal A the mix of housing

21. The plans show that 6 bedrooms are proposed compared to four bedrooms in the existing dwelling and the five bedrooms permitted by the 2020 permission. Consequently, even without the proposed extensions, the house is larger than the one to three bedroom size preferred under Policy SD27 which seeks to address local needs for smaller and medium sized houses. Even though the increase in floor area would be greater than the 30% sought by Policy SD31, and there has been no evidence of exceptional circumstances, I find no conflict with the purpose of avoiding over extension in the context of seeking to protect the supply of small and medium sized homes in the SDNP.
22. I conclude the proposal would have no material effect on the mix of houses within the SDNP. There would be no conflict with Policies SD27 or SD31 of the LP in this respect.

Appeal A effect on bat populations

23. The extensions proposal was accompanied by the Darwin Ecology Bat Emergence Survey Report 2019. This referred back to an initial survey in December 2018 which identified various species of bats emerging and confirmed the building as a bat roost. Works to the roof and the tile cladding would be likely to directly disturb roosts such that a European Protected Species Licence (licence) would be required.
24. Surveys older than two years may be unreliable as circumstances can change. The first reason for refusal of the extensions proposal relates to the age of Report and whether sufficient information was available to assess the proposal and any potential impact on The Mens, the Ebernoe Common and the Singleton and Cocking Tunnels Special Areas of Conservation (the SACs).
25. The Darwin Ecology Update letter dated 22 December 2022 did not include a bat emergence survey but inspections were made of the loft void and external gaps in the building fabric were noted. The Update confirmed that the ecological conditions of the building were consistent with the 2019 Report, acknowledged the need for updated phase 2 surveys prior to the start of works in order to inform the required EPSL, and advises works are unlikely to commence for several years. To compensate for the absence of updated surveys an enhanced mitigation scheme is proposed. These include four bat

boxes (or one per species) and directing external lights to avoid light spillage onto the building, trees, hedgerows or adjacent habitat.

26. Government Guidance confirms that conditions for additional surveys are not generally appropriate and that planning permission should not be granted without reasonable confidence that Natural England or DEFRA will issue a licence. However, on the basis of the information to hand I cannot be sure that there would be there is no net loss of roost sites, roost types would be replaced on a like-for-like basis, that light spill from windows would not intrude on flight paths or that the affected bat population could continue to function as before. Moreover, no further evidence has been provided in respect of the SACs and the effect, if any, on the bat populations of these protected sites. Whilst I acknowledge that the information submitted with an application needs to be proportionate, I cannot be sure that a licence would be likely to be granted.
27. For the above reasons I have insufficient information to confidently conclude there would not be an unacceptable effect on bat populations from the extensions proposal. There would be conflict with policies SD1, SD9 and S10 of the LP and the purposes of designation of the SDNP in terms of the effects on wildlife.

Appeal B building in the countryside

28. I acknowledge the appellant's view that Policy SD31 of the LP does not specifically state that residential outbuildings must be within the curtilage of a residential property. However, the siting of a residential outbuilding on land not within a residential curtilage would also amount to a change of use of that land which is not allowed for under Policy SD31. Accordingly references to floorspace of the existing dwelling or purposes incidental to the use of the dwelling are not relevant in respect of the garage proposal. Nor would it be necessary to make reference to Policy SD31 on the refusal notice.
29. Policy SD25 of the LP allows for development outside settlement boundaries where there is an exceptional need for a countryside location which has not been demonstrated in this case. Nor would the proposal gain support from Policy SD39 of the LP which allows for buildings for agriculture and forestry purposes.
30. I conclude that the proposed garage would not comply with planning policy in relation to a building in the countryside. Accordingly I find conflict with Policies SD1, SD4, SD5, and S8 of the LP in terms of the effect of an unjustified building on the character and appearance in the countryside. The proposal would not further the purposes of the SDNP.

Other Matters

31. Examples of other garages have been drawn to my attention. However, it is not clear where these are. None that I could see have the same scale and combination of dormers, rooflights and Juliet balconies as the proposal. Also most are close to other buildings so would not have such an effect on open countryside. Accordingly they lead do not lead me to any different conclusion in respect of the garage proposal.
32. Introducing a new building where none exists could impact on flight paths and foraging areas for bats. I have seen no evidence in relation to the effect of the proposed garage in this respect or the effect, if any, in relation to the SACs.

Had my conclusions on the main issues been otherwise I would have sought more information but, in the circumstances, it is not appropriate for me to do so.

Planning Balance and Conclusion

33. The extensions proposal would not have a material effect on the mix of houses within the SDNP. However, for the reasons set out above neither extensions proposal nor the garages proposal would conserve or enhance the SDNP or further its purposes and I attach great weight to the interests of the SDNP. I have insufficient information to conclude that either proposal would not have an unacceptable effect on bat populations. There is insufficient justification for the garage building in the position proposed.
34. Both proposals conflict with the development plan and material considerations do not indicate that the appeals should be decided other than in accordance with it.
35. For the reasons given above Appeal A should be dismissed.
36. For the reasons given above Appeal B should be dismissed.

S Harley

INSPECTOR