



Appeal Decision

Site visit made on 25 September 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/Y9507/W/24/3340334

Fisher Hill Flat, Fisher Street, Northchapel, West Sussex GU28 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Veronica Henty against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/23/03628/CND.
 - The application sought planning permission for the demolition of existing flat and garaging (Fisher Hill Flat) and its replacement with a two storey, 3 no. bedroom ancillary residential annexe, garage and bin store, together with a plant room for the adjacent cottage without complying with conditions attached to planning permission Ref SDNP/22/04264/FUL, dated 1 June 2023.
 - The conditions in dispute are Nos 2, 5, 6 and 8 which state that:
Condition 2: 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".
Condition 5: The first floor windows on the north and west elevations hereby approved shall be fitted with automatic blackout blinds to avoid any light spill in accordance with sections 6.3 and 9 of the SDNPA's Dark Skies Technical Advice Note (May 2021). Once installed the blinds shall be maintained in working order and retained as approved in perpetuity.
Condition 6: The development hereby permitted shall be carried out in accordance with the approved Water Neutrality Statement/Budget prepared by ECE Planning and received 23.01.2023 and retained thereafter, and shall include the retro fitting of the existing property as stipulated in the Water Neutrality Statement/Budget. Such fittings shall be retained within the property thereafter or only replaced with fittings with the same efficiency or a higher level of efficiency unless otherwise agreed in writing by the Local Planning Authority.
Condition 8: The details and mitigation methods contained within the Bat Emergence Survey Report dated July 2022 prepared by Lizard Design and Ecology for the development hereby permitted are approved and shall be implemented in full. Specific reference is made to appendix 5 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.
 - The reasons given for the conditions are:
Condition 2: For the avoidance of doubt and in the interests of proper planning.
Condition 5: In order to safeguard the dark night skies within the South Downs National Park in accordance with Policy SD08 (Dark Night Skies) of the South Downs National Park Local Plan
Condition 6: To ensure an overall positive impact on the ability of the natural environment to contribute goods and services, in accordance with policy SD48 of the South Downs Local Plan.
Condition 8: In order not to disturb nor deter the roosting of Bats, a species protected by the Wildlife and Countryside Act 1981.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The Authority do not object to the removal of Condition 8 as it no longer considers that there is a requirement for a Natural England Protected Species License. Nor does it object to the wording alteration within Condition 6. There is nothing before me to conclude otherwise on these 2 conditions.
3. However, the appeal also seeks permission to amend the approved scheme in relation to the design of the new annex. The amendments would include changes to the materials, height, and fenestration as well as an extension to the patio. The application sought to achieve this through the removal or variation of Condition 5, which required provision of automated black out blinds on the first-floor windows within the north and west elevation. However, Condition 2 of the planning permission requires that the development shall in all respects accord strictly with the drawings submitted for approval. Therefore, the alterations to the design of the new annex would require the variation or removal of Condition 2.
4. My consideration of the variation or removal of Condition 2 as well as Condition 5, would not alter the nature of the development that is being proposed. It would not, therefore, deny those who have been consulted through the planning application process the opportunity to comment on the proposal. Consequently, after consultation with the main parties, and as evidently considered within their submission, I have determined the appeal on this basis.
5. Therefore, as the appeal site is within the setting of 'Fisher Hill House', a Grade II listed building (reference 1223028) (the LB), and within the Fisher Street Conservation Area (the CA) and the proposal would alter the design of the new annex. As such sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) require that I pay special attention to the desirability of preserving the setting of a listed building, and preserving or enhancing the character or appearance of a conservation area.
6. As such the main issues are the effect that varying the conditions would have in relation to the design of the new annex on the setting of the LB and the character and appearance of the CA, and the intrinsic qualities and purposes of the South Downs National Park with specific regard to its landscape character and dark skies.

Reasons

Heritage assets

7. The LB's significance is related to both its age and its architectural features and was formerly known as Cylinder House. This reflects its relationship with the production of gunpowder that was ongoing in the immediate area around the period of its construction, the early 19th century¹. The boundaries of the CA appear to relate to this previous use and includes the appeal site, the LB, and

¹ As described in section 3 of the Design, Access and Heritage Statement dated August 2022, submitted to support SDNP/22/04264/FUL

a series of other dwellings most likely built prior to or in support of the production of gunpowder thus creating the rural hamlet now known as Fisher Street². It is noted that as the need for gunpowder dwindled the hamlet reverted back to the more bucolic character and appearance of its rural surroundings, as it appears today³.

8. Prior to the approval of planning permission, the appeal site contained a flat roofed two-storey annex, known as 'Fisher Hill Flat', which was constructed in the early 1970s. Its form and design were of its time, and it was attached to the rear of 'Fisher Hill Cottage'. 'Fisher Hill Cottage' is also ancillary accommodation for the LB but is a modest two-storey building constructed in a local traditional vernacular. 'Fisher Hill Flat' has since been demolished. However with 'Fisher Hill Cottage' it was located at the main access, just outside the formal gates, of the LB. Accordingly there was a subservient relationship, both visually and physically, between them and the LB thus maintaining the generally accepted building hierarchy between main dwellings and subsidiary buildings common for larger rural properties of this nature.
9. The main parties do not dispute, and there is nothing before me to conclude otherwise, that the demolition of 'Fisher Hill Flat' is beneficial to the setting of the LB. Nor that historically the appeal site once had a Sussex Barn on it which was significantly taller than 'Fisher Hill Flat'.
10. Nevertheless, the impact of proposed changes to the new annex must be considered in context with that approved. It is acknowledged that the approved annex would have retained the subservient nature that existed between the former 'Fisher Hill Flat' and 'Fisher Hill Cottage', and the LB, and is of a modern interpretation of the rural vernacular of the area. However, the proposed amendments seek to revert back to the original Sussex Barn which would have been a significantly more dominant feature within the setting of the LB and the wider CA, due to its height exceeding that of 'Fisher Hill Cottage'.
11. Nevertheless, the proposed amendments would create an overly domesticated approach to the Sussex Barn style, with the rear elevation including window proportions and placements more reminiscent with a traditional house than a barn. This is at odds to the proposed inclusion of arrow slit windows and the oversized, glazed, opening within the front elevation, which are design elements that can be found within the Sussex Barn vernacular. However, there is nothing before me to show that such features were present in the original barn on the site nor how they relate to the more domestic proportions and design of the proposed rear elevation.
12. Therefore, the awkwardness in the overall design does not clearly represent the previous barn on the site and this along with its increased height would overwhelm 'Fisher Hill Cottage'. As such the proposed amendments would neither re-instate a previous building form nor retain the existing subservient relationship between the annex and 'Fisher Hill Cottage', and 'Fisher Hill House', thus failing to preserve the LB's setting.
13. Further, the rear elevation would be most apparent within the CA as it faces out over the open fields behind. As this elevation would be read as a

² In some sources spelt Fisherstreet

³ See footnote 1.

residential property rather than a 'converted barn' it would introduce an incongruous feature into views of this area and so would harm the character and appearance of the CA.

14. It is appreciated that the approved scheme would also have a domestically styled rear elevation. However, due to its lower height and form it would be considerably less bulky, so less visible than that proposed. It is also noted that the proposed amendments would create a building taller than the former 'Fisher Hill Flat'. Therefore, the impact of the proposed amendments on the CA would be greater than that of the approved annex and potentially the former 'Fisher Hill Flat'.
15. The proposed amendments would cause less than substantial harm to the setting of the LB and the character and appearance of the CA, and paragraph 208 of the National Planning Policy Framework (the Framework) advises that less than substantial harm should be weighed against the public benefits of the proposal.
16. The demolition of the former 'Fisher Hill Flat' would benefit the setting of the LB and the character and appearance of the CA, as would the principle of reinstating the previous barn. However, the proposed amendments do not fully replicate that of the previous barn and, in my mind, fail to wholly grasp the traditional character of such a building and its relationship to its historical setting. Consequently, these public benefits, along with those previously acknowledged within the permitted scheme, would not outweigh the less than substantial harm identified.
17. As such the varying of Condition 2 to allow an altered design of the new annex would cause harm to the setting of the LB and would not preserve or enhance the character and appearance of the CA. Thus, it would fail to comply with the Act, the Framework, and the South Downs Local Plan (LP) Policies SD12, SD13 and SD15 insofar as they seek to protect designated heritage assets.

South Downs National Park (SDNP)

18. National Parks are designated for the purposes of a) conserving and enhancing natural beauty, wildlife and cultural heritage, and b) promoting opportunities for the understanding and enjoyment of their special qualities by the public, and Section 11A(2) of the National Parks and Access to the Countryside Act 1949 places a duty upon me to have regard to these purposes in this decision.
19. The proposed amendments would increase the overall size and bulk of the annex and so would be larger and more imposing than the approved scheme. Consequently, that proposed would be more visually and physically apparent and represent an increase in development to the detriment of the overall landscape character than that approved.
20. It is noted that there has been a building on the appeal site for a considerable period of time which has curtailed views across the appeal site so any replacement would likely have a similar effect on those views when considered at a landscape scale. Nevertheless, as a neutral impact this does not overcome the afore identified harm the proposed amendments would have on landscape character.
21. One of the SDNP's intrinsic qualities is its dark night skies, which are protected specifically by LP Policy SD8. Condition 5 seeks to minimise the impact of light

spill at night from the windows that would face the surrounding countryside in the approved annex. The proposed amendments, although reducing the overall size of the first-floor windows in the north elevation would increase the number of first floor windows in the west elevation.

22. That the windows would serve bedrooms and an ensuite bathroom, so future occupants would likely manually close curtains or blinds at night to provide privacy is appreciated. However, there is no mechanism to ensure this would occur. Nevertheless, the appellant's assertion that there are other measures which could be used to prevent light spill from the afore mentioned windows beyond the specific use of automatic blackout blinds is acknowledged. Therefore, I am satisfied that a variation of Condition 5 to allow other methods of eliminating light spill would be acceptable, and would ensure compliance with LP Policy SD8, insofar as it seeks to protect the SDNP's dark skies, and by association LP Policy SD9, which amongst other things seeks to safeguard protected species, in this instance bats.
23. Nevertheless, the potential to vary Condition 5 does not remove the more harmful impact the proposed amendments would have on the landscape character of the SDNP, as paragraph 182 of the Framework requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of a National Park.
24. Therefore, in varying Condition 2, the proposed amendments would fail to conserve or enhance the landscape character, as an intrinsic quality, of the SDNP. In combination with the harm identified to heritage assets, it would also be at odds with the purposes of a National Park designation. The proposed amendments would not, therefore, comply with LP Policies SD1, SD4, SD5 and SD31 as far as they seek to protect the purposes of the SDNP and the established landscape character of the area.

Other Matters

25. Within the reasons for refusal LP Policy SD7, which deals with relative tranquillity, another intrinsic element of the SDNP, and Policy SD11 which seeks to protect trees, woodland and hedgerows are mentioned. However, as the proposed condition variations would not alter the use of the site beyond that approved nor additionally impact on any trees, woodland or hedgerows, these policies have not been determinative in this decision.
26. The appellant considers the approved scheme to be unworkable and incapable of physically being built, with reference to building regulation requirements. This is noted but does not overcome the harm identified in relation to the amendments proposed.

Conclusion

27. For the reasons given above the appeal should be dismissed.

R J Redford

INSPECTOR