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## Appeal Decision

Site visit made on 4 November 2024

**by V Simpson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> January 2025

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**Appeal Ref: APP/Y9507/W/24/3340362**

**Badgershole Shaw, Coombes Road, Lancing BN15 0RS**

- 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 and Mrs Lee against the decision of the South Downs National Park Authority.
  - The application Ref is SDNP/22/05736/FUL.
  - The development proposed is the erection of off grid three bedroom dwelling with change of use of land to create a residential curtilage and provision of a street level parking space accessed by new steps.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Although the appellant has indicated a willingness to make amendments to the proposed plans upon which the application was determined, no amended plans have been provided. Moreover, the Procedural Guide – Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme. For these reasons, the plans upon which the National Park Authority (NPA) made its decision, are also the subject of this appeal.

### Main Issues

3. The main issues are;
  - whether the site is a suitable location for the proposed development, with particular regard to the local development strategy and accessibility of services and facilities; and, the effect of the development on;
  - the character and appearance of the area;
  - biodiversity; and
  - highway safety.

### Reasons

#### *Location of development*

4. The appeal site comprises a section of a wooded roadside bank in the South Downs National Park. It is outside and away from any defined settlement boundaries as identified within the South Downs National Park Authority – South Downs Local Plan – Adopted 2 July 2019 - 2014-33 (the Local Plan). As such, for the purposes of the Local Plan, it is within the open countryside.

5. Policies SD1, SD19, and SD25 of the Local Plan, form part of an overall strategy for the delivery of sustainable development within the National Park. Although policy SD25 indicates that, exceptionally, development will be permitted outside of settlement boundaries, the strategy seeks to direct most development to those locations where the need to travel would be minimised and where the use of sustainable modes of transport can be promoted.
6. Even if I could accept that it is desirable for an 'off-grid' house to be located in an open countryside location away from mains facilities, an essential need for such a location has not been demonstrated in this case. Nor would the development comply with any of the other criteria at 2. a)-d) of policy SD25.
7. Moreover, and even if Shoreham by-sea and Steyning contain the services and facilities ordinarily required for day-to-day living, they are some distance from the appeal site. Although it is feasible to walk and/or cycle to access services and facilities within these areas, the geometry of the connecting roads and the lack of lighting and pavements for much of the routes, mean it is unlikely that future occupiers would commonly or routinely walk or cycle to access them. As such, and in the absence of a regular and nearby bus service, future occupiers are likely to be heavily reliant on the use of private car to meet their day-to-day needs.
8. Furthermore, no dedicated cycle storage provision is indicated on the proposed plans. If the storeroom were to be used for this purpose, future occupiers would need to carry bikes up and down a significant number of steps between the level of the storeroom and the road. This would be cumbersome and inconvenient, and would further deter future occupiers from using bikes for day-to-day access purposes.
9. While there are some existing businesses and dwellings off Coombes Road (the road), I do not know the basis of their presence. As such, they do not lead me away from my previous findings in respect of this main issue.
10. For the reasons given, the appeal site is not a suitable location for the proposed development, with particular regard to the local development strategy and the accessibility of services and facilities. Consequently, it would conflict with policies SD1, SD19 and SD25 and of the Local Plan. However, in respect of this main issue, I do not find conflict with Policy SD21, which principally focusses on the public realm, highway design and public art.

#### *Character and appearance*

11. The wooded appeal site slopes steeply up and away from the road. Although there is sporadic development alongside this road, the land on which the development would be undertaken, together with that around it, retains a generally peaceful, rural ambiance. The fields, hedges and areas of woodland which are either within or close to the appeal site, also make a positive contribution to the character and appearance of the area and to the distinctiveness and qualities of the wider National Park.
12. The tree constraints plan which forms part of the submitted arboricultural survey, shows a broad coverage of trees across the appeal site, including the area of the proposed development. However, during my site visit, there appeared to be an opening in the trees in the general location of the proposed dwelling. Nevertheless, a significant number of trees were still observed within and close to the outside of

the edges of this area. No arboricultural impact assessment, tree protection plan and/or arboricultural method statement, has been provided. While screw piled supports could help to minimise ground and root disturbance, the submitted Foul and Surface Water Drainage Statement Report, indicates that the drainage scheme will include 'in ground' measures for foul and surface water drainage. For these reasons, and even if construction materials are carried on to site by hand, I am unconvinced that the development could be undertaken without causing significant harm to, and/or loss of, trees within the appeal site.

13. Bin stores are not shown on submitted plans. However, given the number of steps between the house and the road, it is likely that demand for such provision would be at road level. Moreover, the formation of the proposed car parking space would require a significant amount of excavation of a section of steeply sloping roadside bank. It would also require the construction of a tall retaining wall. Although it is proposed that the retaining wall be constructed of oak, this structure, together with the residential use of the roadside car parking area would be prominent on approaching and when passing the site along the road.
14. The walls and roof of the dwelling would be of a low height and simple profile. However, its long road facing elevation would be significantly higher than the ground level below, and a large expanse of timber cladding would be erected in the gap between this and the platform the house would be built upon. A narrow band of woodland is proposed to be retained between the road and the dwelling. Nevertheless, due to the dwelling's elevation, together with the significant amount of glazing that would face the road, it would catch the eye of passers-by. In such views, and from within the appeal site, the dwelling, the timber cladding covering the supporting pillars, and the platform, would be incongruous in the otherwise undeveloped wooded appeal site.
15. There is no streetlighting in the section of road passing the appeal site, and there are low levels of lighting in the wider area, which forms part of an International Dark Night Sky Reserve. Given the size and expanses of glazing proposed within the dwelling, and in the absence of definitive measures to minimise and/or mitigate light spill from the development, I am not satisfied that a condition would be effective in preventing harmful levels of light spill.
16. Overall, the residential use of the site, the construction of the dwelling and associated infrastructure, and any associated loss of trees, would have a harmful urbanising effect on the area. Such development and works would neither conserve or enhance the landscape or scenic beauty of the National Park.
17. For these reasons the development would cause harm to the character and appearance of the area. Consequently, it would conflict with policies SD1, SD4, SD5, SD6, SD7, SD8, SD11 and SD21 of the Local Plan. Collectively, and amongst other things, these policies seek to ensure that new development is of a high quality of design which conserves the landscape character and relative tranquillity of the area in which it is located, and the scenic quality and the landscape and natural beauty of the National Park. They also seek to ensure the conservation and enhancement of the intrinsic quality of dark night skies and trees and woodlands.

### *Biodiversity*

18. The appeal site contains deciduous woodland, which under Section 41 of the Natural Environment and Rural Communities Act 2006 (as amended) is identified as a habitat of principle importance for the purpose of conserving biodiversity. There is no consensus regarding the amount of trees and ground flora that would be lost by the development. Nevertheless, given the extent and nature of the proposals, damage would undoubtedly be caused to a part of a deciduous woodland priority habitat.
19. Within the preliminary ecological appraisal (PEA), it is indicated that 2 onsite trees, identified as T1 and T2 have woodpecker holes and that these trees provide moderate value for roosting bats. These trees are not shown to be retained on the proposed plan, and they appear to be in the same location or very close to the decking on which the dwelling would be constructed. They are therefore likely to require felling or pruning as part of the development.
20. Bats are identified as protected species under The Conservation of Habitats and Species Regulations 2017 as amended. Paragraphs 98 and 99 of Circular 06/2005, indicate that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Otherwise, all relevant material considerations may not have been addressed in making the decision.
21. Paragraph 193 of the National Planning Policy Framework (the Framework) states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
22. In the absence of suitable bat surveys, the presence or otherwise, of bat roosts within the site, and particularly T1 and T2 as identified within the PEA, cannot be established. As such, the likely effects of the development on bats or bat roosts cannot be determined. Nor can conclusions be reached on whether any harm could be avoided, adequately mitigated, or compensated for. Given the lack of certainty regarding the effect of the development on a protected species, the precautionary principle must be applied, and significant harm to biodiversity cannot be ruled out.
23. While the inclusion of living green roofs and other habitat creation measures have the potential to deliver some on-site biodiversity benefits, project specific biodiversity enhancement measures have not been proposed. As such and given the harm that would be caused to a priority habitat, and potentially also to bats and their roosts, I cannot establish that a net gain in the biodiversity value of the site would result from the implementation of the proposed development.
24. For these reasons, and in the absence of sufficient evidence to the contrary, the proposed development would cause harm to biodiversity. Consequently, it would conflict with policies SD2 and SD9 of the Local Plan. Amongst other things, these policies seek to ensure that developments protect and provide more, better and joined up natural habitats, and, that biodiversity is conserved and enhanced.

**25. Highway safety**

26. Although a snapshot in time, during my mid-week and morning site visit, the section of the road passing the appeal site was fairly lightly trafficked. I have no reason to doubt that such traffic levels are typical. This section of road is subject to a national speed restriction. However, the proposed parking space would be located adjacent to a relatively straight stretch of road, where reasonable intervisibility could be secured between drivers travelling along the road and those parking or exiting the car parking space.
27. Nevertheless, and even if some future occupiers of the dwelling were keen cyclists, I have previously found that occupiers would ordinarily be heavily reliant on the use of private cars to access the site. That being the case and given the size and number of bedrooms within the dwelling, it is reasonably likely that demand for car parking would often exceed one space - be this from future occupiers and /or visitors to the site.
28. While, in isolation, one car could be safely parked and manoeuvred from the proposed off-road car parking space, no parking provision has been identified for additional vehicles. That being the case, demand for car parking is likely to lead to pressure for cars to be parked, at least partially, within the carriageway. Such parking would reduce forward visibility within the highway, to the detriment of highway safety. It would also have the potential to harmfully interrupt and reduce the intervisibility between those using the single proposed car parking space.
29. For these reasons, the development would cause harm to highway safety. Consequently, it would conflict with policies SD19, SD21 and SD22 of the Local Plan. Collectively, and amongst other things, these policies require development to provide an appropriate level of car parking and to protect and enhance highway safety.

**Other Matters**

30. It has been indicated that the development would be self-build. However, no mechanism has been put before me to ensure that it would be delivered as such. Therefore, even if the NPA cannot demonstrate that enough permissions have been granted to meet the local demand for self-build dwellings, this consideration does not weigh in favour of the scheme.
31. The creation of a home suitable for family occupation would help to meet the housing needs of the area. It would also contribute to the Government's objective of significantly boosting the supply of housing. The development includes measures to generate energy and to secure energy efficiency. It is also proposed that more ecologically sensitive materials be used, and, that traditional construction methods be employed which are not reliant on the use of heavy machinery. The proposed employment of local tradespeople during the construction phase, would also benefit the local economy. However, given that only one dwelling is proposed, these benefits would be small.
32. While the development would not cause harm to the living conditions of the occupiers of nearby dwellings, this is a neutral consideration.

## **Conclusion**

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
34. For these reasons, the appeal is dismissed.

*V Simpson*

INSPECTOR