
Appeal Decision

Site visit made on 11 June 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/Y9507/W/24/3358169

Land North of B2138 & A29 Road Junction, Bury Gate, Pulborough, West Sussex RH20 1NL

- 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 Tim Hatcher against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/24/00253/FUL.
 - The development proposed is the construction of 1 no. underground net zero dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a reworked Design and Access Statement (dated 17 December 2024), an Ecosystem Services Statement (dated 16 December 2024), and Water Neutrality Statement (dated 8 December 2024), as well as some computer-generated images. These were not part of the original planning application submission. However, they do not alter the proposed development and have been submitted to clarify elements of that proposed in light of the reasons for refusal. The Authority and third parties have had opportunity to comment on them, therefore their inclusion as part of the submission would not be prejudicial.

Background and Main Issues

3. There was a previous application¹ for a scheme similar to that before me was submitted to the Authority in 2022. It was refused for identical reasons and dismissed at appeal². Nevertheless, it is necessary that this appeal is dealt with on its own merits.
4. Therefore, the main issues are:
 - whether the appeal site is an appropriate location for the proposed development in regard to the development plan's spatial strategy;
 - the effect of the proposed development on the character and appearance of the area and scenic beauty of the South Downs National Park; and
 - the effect of the proposed development on the protected Arun Valley sites regarding the Sussex North Water Resources (Supply) Zone.

¹ SDNP/22/05725/FUL

² APP/Y9507/W/24/3338957

Reasons

Location

5. The appeal site is a broadly triangular grassed paddock with some small structures on it. It is surrounded by hedging and positioned between 3 roads. Access is via a gated entrance off the one-way road connecting the B2138 and A29 and the site slopes away from the gate providing clear views across it.
6. Although there is a scattering of houses in the vicinity of the appeal site, it is not disputed that it is beyond any identified settlements. The South Downs Local Plan (LP) Policy SD25 sets out the spatial strategy for the South Downs National Park (NP) including when, exceptionally, development would be permitted outside of settlement boundaries.
7. The appeal site is not within a rural estate or large farm, is not an allocated or safeguarded site for residential uses, nor does the proposal constitute community infrastructure. There is no evidence that there is an essential need for the proposal to be in a countryside location nor that the site would constitute the reuse of previously developed land. Accordingly, the proposal would fail to comply with the exception criteria of LP Policy SD25 so the appeal site would not constitute an appropriate location for the proposed development.
8. The appellant has sought to promote the proposal as that of exceptional quality in line with the exceptions for isolated homes in the countryside as set out in Paragraph 84 of the National Planning Policy Framework (the Framework). They justify this based on the grounds that the proposal would be a revolutionary, self-sufficient net zero underground dwelling³.
9. It is acknowledged that the previous Inspector found that the proposal before them had the potential to constitute exceptional quality were evidence submitted to demonstrate this. And the proposal before me has not significantly changed in terms of the design so its aspirational self-sufficient and net zero potential remains.
10. However, although various statements have been extended and rewritten, since the previous appeal, the additional information is largely limited to the visual design of the proposal. It does not provide detailed information in relation to the self-sufficient and net zero capacity of the new dwelling nor that the proposed methods to achieve this are sufficient, viable or appropriate for the life of the building. Therefore, without such evidence the proposal fails to justify how its design is truly outstanding, as required by the Framework's Paragraph 84 test.
11. As such the appeal site would not constitute an appropriate location for the proposed development in regard to the development plan's spatial strategy, set out in LP Policy SD25.
12. It is noted that the Authority has also referred to LP Policy SD19 which relates to transport. However, neither of the main parties' cases turn on this matter and the spatial strategy is set out in LP Policy SD25. Therefore, in this instance, I have not found LP Policy SD19 determinative.

³ Letter received 25 February 2025

Character and appearance

13. Beyond the roads on each side of the appeal site there is a mix of trees and fields. Although there is a sporadic scattering of houses in the broad area of the appeal site and the roads are relatively busy, the area is rural in character and indicative of the NP's pastoral landscape.
14. 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. Section 11A(2) of the National Parks and Access to the Countryside Act 1949⁴ places a duty upon me to seek to further these purposes in this decision, and where there is conflict greater weight should be given to purpose a). Such a designation affords the area the highest status of protection in landscape terms and Paragraph 182 of the Framework requires great weight to be given to conserving landscape and scenic beauty in such areas.
15. Although the proposed dwelling is described as underground, the proposal would include an extensive area of hard surfacing for the access and turning space, retaining walls, expansive glazing, PV solar panels, wind turbines and a large oval roof cap providing additional PV solar strips and rain harvesting plant, all of which would be visible above ground. Notwithstanding the normal domestic paraphernalia a new dwelling would attract, this considerable amount of development would create an over-engineered appearance to the site at odds to its surroundings.
16. When considering the current sites low level of development and rural character, the proposed change in appearance would have a detrimental effect on the countryside character of the area. As such it would be at odds to the bucolic surroundings and specific characteristics of this part of the NP.
17. The proposed landscaped screening would provide some amelioration but would not outweigh the overall intensity of development the proposal would require on a relatively small and visible site.
18. The Authority have also referred to LP Policy SD7 and SD8, which relate to relative tranquillity and dark skies. In both instances, with appropriate conditions, the proposal could have a neutral effect on these issues. This is due to the proximity of the roads and existing associated vehicle noise, and the proposed low height of the new dwelling. Nevertheless, this would not overcome the harm identified above.
19. It is acknowledged the appellant has taken on board some of the comments made by the previous Inspector in relation to plan details, ground levels, and the use native planting, with the option of conditions to specify landscaping. It is also noted that the proposed walling would incorporate more local material in the form of random Fittleworth stone and alter the hardstanding finish. Although these allow better understanding of the proposal and would constitute a level of improvement. The changes proposed are largely cosmetic and do not overcome the harm identified in relation to the overall quantum and type of development proposed.
20. The appellant as referred to a development by Sandy Rendel Architects. However, with limited details submitted I am unable to make any direct comparisons. Yet, perceived suboptimal design elsewhere is not justification for approval.

⁴ As amended by Section 245 of the Levelling-up and Regeneration Act 2023

21. The proposal would therefore significantly harm the character and appearance of the area and would not conserve or enhance the scenic beauty of the NP. It would fail to comply with LP Policies SD1, SD4, and SD5, as far as they require new development to respect character and landscape as well as the purposes of a NP.

Protected Arun Valley sites

22. The Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley sites - AVS) are low-lying wetland areas that are protected as they provide a variety of habitats for over wintering birds and uncommon flora and fauna. The appeal site is within the Sussex North Water Resource (Supply) Zone (WRZ), served by groundwater abstraction. As the hydrology of the area is important to the qualifying features of the AVS, their integrity could be impacted by any additional water abstraction.
23. The proposal would constitute a new dwelling so would require additional water. Therefore, it cannot be concluded that the development would not adversely affect the integrity of the Arun Valley Sites, in combination with other projects. As such, Natural England advocates a water neutral approach to new development. LP Policy SD17 seeks to support the protection of the water environment, and this aligns with the aforementioned Natural England advice.
24. The appellant has expanded their evidence to include specific budget figures. There is a lack of empirical information to support these figures, but the appellant's position seems reasonable in relation to the site's previous equestrian use.
25. However, in light of water consumption for new residential development, LP Policy SD48 requires a maximum of 110 litres per person per day for properties on mains water. Although it is noted the proposal is not seeking to use mains water, it is unclear why they have used a maximum value of 85 litres per person, beyond it being set out in a non-specified document developed by Chichester District Council. Nor is it clear how the water provision would be viable for the life of the dwelling.
26. Consequently, the information submitted is not satisfactorily justified to conclude that the proposal would not have a harmful effect on the WRS, and therefore the AVS. Consequently, the proposal would fail to comply with LP Policy SD17. Nevertheless, even were water neutrality attained this would constitute a lack of harm.

Other Matters

27. It is noted that the Framework seeks to boost the supply of homes. The proposal would provide an increase of 1 home. Along with the aspirational nature of the proposal in terms of energy efficiency and resource use could have some modest environmental benefits. There would also be limited social and economic benefits in terms of a new dwelling supporting the local rural community.
28. No harm has been identified in terms of living conditions or highway safety. Some issues have been raised in relation to bats. There is potential this could be resolved by condition thus also ensuring a lack of harm. Nonetheless, by definition, a lack of harm cannot weigh for or against a proposal.
29. However, housing provision should not come at the cost of strategic policy compliance, character and appearance, the purposes of the NP and protection of

the AVS. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.

30. That the appeal site is too small to be independently viable for agricultural land and that the proposal would provide certainty for the site's future use, do not alter the findings in the main issues.

Conclusion

31. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR