
Appeal Decision

Site visit made on 9 December 2025

by Thea L Davis BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2026

Appeal Ref: APP/Y9507/W/25/3367908

Foxgloves, Fernden Lane, Fernhurst, West Sussex GU27 3LA

- 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 Lawrence Deju-Wiseman against the decision of the South Downs National Park Authority.
 - The application Ref is SDNP/24/05313/FUL.
 - The development proposed is the demolition of existing dwelling and garage, erection of a replacement dwelling and garage, hard and soft landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and garage, erection of a replacement dwelling and garage, hard and soft landscaping and associated works at Foxgloves, Fernden Lane, Fernhurst, West Sussex GU27 3LA in accordance with the terms of the application, Ref. SDNP/24/05313/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made and is the subject of a separate decision.

Procedural Matters

3. On 16 December 2025 the Government published a consultation draft National Planning Policy Framework (NPPF). This draft does not constitute Government policy or guidance and may be subject to change before the final document is published. However, this draft is capable of being a material consideration.
4. The consultation draft of the NPPF seeks to alter the way in which development in National Parks should be considered, notably at N4. However, I consider that the proposed amendments would not represent significant change in overall policy intention in the context of this appeal.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, including the South Downs National Park.

Reasons

Legislative and policy context

6. As set out at section 5 of the National Parks and Access to the Countryside Act 1949, the National Park purposes are:

- conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas designated
 - promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.
7. Section 11A of the aforementioned Act is concerned with the duty of authorities to these purposes. Further to this, section 245 of the Levelling-Up and Regeneration Act 2023 amended section 11A, which now sets out that authorities must seek to further these purposes.
 8. In addition to the statutory duty, NPPF paragraph 189 provides that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. It also states that the conservation and enhancement of wildlife and cultural heritage are important considerations and that the scale and extent of development should be limited.
 9. NPPF paragraph 139 states that development that is not well designed should be refused. It goes on to set out that significant weight should be given to development that reflects local design policies, government and local guidance such as design guides. Also, that outstanding or innovative designs which promote high levels of sustainability or help generally raise the standard of design in an area, so long as they integrate with their surroundings should also be given significant weight.
 10. Policy SD1 of the South Downs Local Plan 2019 (2014-33) (SDLP) has similar objectives, in seeking to deliver sustainable development. It sets out that planning permission will be refused where proposals fail to conserve qualities of the National Park, apart from in exceptional circumstances.
 11. SDLP policy SD4 seeks to conserve and enhance landscape character and provides some detail as to how this could be achieved. Policy 1 of the South Downs National Park Partnership Management Plan 2020-25 (PMP) has a similar objective and also promotes an evolutionary approach to improve resilience to the impact of climate change and other pressures. SDLP policy SD5 requires development proposals to adopt a landscape-led approach and respect the local character through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area. The policy also sets out design principles to be adopted as appropriate.
 12. Fernhurst Neighbourhood Plan 2016 (FNP) policy DE1 sets out that where appropriate, new residential development should seek to reflect the local vernacular in frontages with hanging tiles, door surrounds/porches and chimneys. FNP policy DE2 seeks for building materials to reflect the style of traditional properties in the surrounding area and confirms that developments using locally distinctive materials (including sandstone, brick and Wealden clay tiles) will be strongly supported.
 13. Seeking to manage the effects of development on the Dark Sky Core and in other areas where outdoor lighting is proposed is SDLP policy SD8. In addition, FNP policy EE3 seeks to minimise the effects of light pollution produced by new development. The Dark Skies Technical Advice Note (TAN) 2021 (including appendix) provides detail in relation to internal light spill in other dark sky zones as well as other related matters. Similarly, policy 3 of the PMP seeks to protect and enhance tranquillity and dark night skies.

14. SDLP policy SD30 seeks to limit increases in floorspace of replacement dwellings to approximately 30% of the existing gross internal floor area and requires the replacement dwelling not to be overbearing or of a form that would result in loss of light or privacy for nearby residents.

Landscape character

15. The South Downs National Park is dominated by chalk hills that stretch from Winchester in the west to Eastbourne in the east. The interaction between natural and human influences has shaped the landscape. Successive periods of human inhabitation and land use have marked the South Downs throughout history. Woodland is a major component of the landscape, with many areas of woodland dating back to the Medieval period and forming ancient semi-natural woodland.
16. In the South Downs Landscape Character Assessment, September 2020 (LCA), the site has been identified as falling within the 'O1: Blackdown to Petworth Greensand Hills Character Area'. The LCA describes steep, prominent hills formed by resistant sandstone with streams draining the hills in deep ravine-like valleys and significant woodland cover comprising an interlocking mosaic of different woodland types and structures. I noted during my visit that the characteristics identified in the assessment were clearly present on and around the site. The hillside site benefits from a sense of remoteness and tranquillity due to the amount of woodland cover – even during winter - and there is a network of sunken lanes as well as a number of footpaths across the surrounding area.
17. The site lies close to the town of Haslemere within the designated FNP area and the South Downs National Park. It is one of a number of interspersed detached dwellings with gardens amongst woodland close to the junction of Fernden Lane and Bell Road (A286). As Fernden Lane descends towards Bell Road, a steep slope rises on the opposite side. A narrow no-through road (Marley Hanger) ascends from Bell Road hosting a row of houses that line the side of the slope and face out across Bell Road. Behind this, there is woodland (including some ancient woodland) that stretches along the ridge.
18. Where they can be seen through tree cover, the design of nearby dwellings is mixed and includes those with gable ends and hipped roofs. The visible roof slopes of these dwellings tend to be tiled and the use of brickwork for walls is widespread.
19. Fronting Fernden Lane, the site creates a gap in the woodland. This is where it is most visible and primarily accessed. Between the front of the site and Fernden Lane is a small and very narrow area of common land spanning approximately the width of the dwellinghouse. This land is planted with shrubs and small trees. The driveway, garage and dwellinghouse are at a similar ground level as a sweeping bend in Fernden Lane but from here the lane, and an adjacent access route, ascend a slope. The site itself is sloping with a stream running through the rear garden. The highest part of the site shares a boundary with Angell's Stone Cottage. The ground level of this neighbouring property is higher than the site, particularly to the front. This difference in ground levels means that it is primarily the roof and upper storey of the existing dwellinghouse that are visible from the lane, where they are not obscured by planting on the common land.
20. Within the site stands a brick built four-bedroom dwellinghouse over two floors with a hipped tile roof. The fenestration is mixed; the most numerous being white PVC-framed windows of different sizes with some metal-framed roof lights. A white PVC

conservatory with a glass roof stands to the rear. A garage and storage building with a tiled roof and timber walls stands to the side, sharing the building line and extending the width of the front elevation. A greenhouse stands in the rear garden. The sides and rear of the site is enclosed by steep hillside and/or trees.

21. A holding objection was received from the landscape team at Hampshire County Council. This was issued primarily due to concerns that the proposal fails to sufficiently conserve and enhance the landscape. It notes two specific issues – the effect the proposal would have on nearby ancient woodland and on the experience on users of nearby recreational routes. It also discusses design choices and impacts on dark skies. Evidence provided as part of the appeal shows that although the appellant had sought to address matters raised in that objection, the Local Planning Authority (LPA) considered that this would not overcome concerns it had more broadly with the proposal.
22. Although the LPA does not cite views within its reason for refusal, I have considered various views to and from the site to reflect the effects the proposal would have on the character and appearance of the area. There is a sense of enclosure provided by the woodland cover and the particular topography of the site that shield it from views from the wider area. Despite its proximity, the site cannot easily be seen from Marley Hanger due to mature hedges and trees on both sides of Bell Road. Even in winter when many trees are not in leaf it was challenging to see anything on the site from the Marley Hanger area. The part of the site that could be glimpsed through trees were parts of the white frame of the conservatory or greenhouse. There is potential for this proposed taller dwellinghouse to be visible from the houses at Marley Hanger, but due to the position of these houses and the varying ground levels, it is unlikely it would be visible to any degree from the ancient woodland to its rear.
23. Where the site provides a gap in woodland cover, it is possible to glimpse the woodland to the rear of Marley Hanger from Fernden Lane when viewing the site from the higher part of the lane. However, this view is limited due to surrounding woodland. The proposed development is unlikely to interrupt this view in any case due to the position of the proposed buildings and the position of retained trees.
24. Ultimately, the proposed development is for a replacement dwelling on a well screened and discrete site. It is appropriate that the proposal is assessed within this context proportionately. Due to the very character of the area – notably the hills and dense woodland - the proposed development would be unlikely to interrupt the specific characteristics unique to the Blackdown to Petworth Greensand Hills character area nor the character of the wider South Downs National Park. There is not satisfactory evidence before me to show that harm to users of recreational routes would follow as a result of the proposed development. Nor is there evidence that leads me to believe the proposal would result in harm to or the experience of the ancient woodland in the area. Although parts of the development may be visible from some viewpoints and glimpsed views may be possible through tree cover - as the existing dwellinghouse is - this would not amount to harm to the National Park.

Design of the proposed development

25. The proposed development would be most visible from Fernden Lane. The principal front elevation would sit further back from the road than the existing dwellinghouse, with a subservient single storey element proposed slightly behind this on the Angell's Stone Cottage side, providing a stepped appearance. The

proposed dwellinghouse would include a substantial projection to the rear, which, due to its position would be difficult to fully observe from Fernden Lane. The garage would be separated from the dwellinghouse and somewhat obscured by woodland on adjacent land.

26. Most of the trees on the site would be retained. Only those within the footprint of the proposed dwellinghouse that are not easily seen from public viewpoints would be removed. This approach is supported by an arboricultural method statement and tree plan that sets out a detailed approach to tree protection during construction. Due to the significant role trees play in the landscape character, the appropriate care and retention of trees on the site is important.
27. The proposed elevations show where different external materials would be used in the proposed development. The proposal would use more clay tiles and brickwork to the front where the dwellinghouse is more visible, whilst to the rear the palette of materials would include metal and timber cladding. Metal cladding is proposed for the rear projection, and this is unlikely to be particularly visible outside the site. This is likely to be the case for the proposed solar panels also. Timber cladding is proposed for the detached garage.
28. With reference to scale and floorspace, the appellant states the proposal complies with the 30% floorspace increase threshold set by SDLP policy SD30. The LPA has not provided evidence to indicate this requirement would be breached either.
29. The particular qualities of the site provide some freedom for innovation in design to an appropriate degree. The site does not form part of a Conservation Area, nor has it been brought to my attention that the existing buildings are designated or identified in any way for having any specific or historical qualities. It is apparent that the placement of materials has been considered in the design process. The proposal appears to be of a high standard of design, though it is unlikely to be the outstanding or innovative nature of design expected by NPPF paragraph 139.
30. There is also nothing before me to suggest the characteristics of the existing dwelling should be preserved and replicated in a replacement dwelling and in so doing would satisfy the objectives of policies SD1, SD4, DE1 and DE2 any better. The proposed dwelling would be larger than the existing, the hipped roof would be replaced with gable ends, and amongst the proposed materials would be metal cladding. However, these are not reasons to refuse the proposal as they represent evolution in the design of modern dwellings in a way that reflects the changing needs and tastes of the population that have been considered within this sensitive context. Opportunities have been taken to reduce the visual effects of the replacement dwellinghouse and garage. Additionally, the visibility of these design choices would largely be restricted to the site in any case.

Lighting

31. The proposed development includes fenestration and external lighting. The amount of fenestration and its position either at first floor or roof level has been a concern for the LPA, as has external lighting.
32. SDLP policy SD8 and the TAN set expectations in relation to the different dark zones. The site lies within 'Zone E1b – Transition Zone'. Although the TAN provides guidance on the amount and type of glazing, this is not covered explicitly by SDLP policy SD8 which focuses on external lighting and the general principle to

conserve and enhance the intrinsic quality of dark night skies. FNP policy EE3 requires development proposals to show how light pollution has been minimised.

33. The amount of glazing proposed does not appear to have exceeded the threshold as set out in the TAN, nor does the LPA contest the appellant's assertions as to the amount of glazing proposed. As a general glazing design principle, the TAN suggests using an appropriate visible light transmission (VLT) factor for glazing as a primary means of mitigation to reduce internal light spill. The appellant has indicated a willingness to accept appropriate mitigation through planning conditions. The appellant also sets out in the Planning Statement and Landscape Appraisal how light pollution would be minimised. This document provides that a further benefit of the proposal in this context is the removal of the conservatory as part of the demolition of the dwellinghouse, further reducing the potential for light spill.
34. It is also worth noting that the Town and Country Planning (General Permitted Development) (England) Order (GPDO) may allow for various alterations to be carried out to existing dwellinghouses without requiring planning permission. Although some will not apply due to the National Park location, a notable permitted development that may be possible is the insertion of new windows, including rooflights.
35. An appropriate level of mitigation proportionate to the scale of the proposed development can be secured through planning conditions. Subject to control over fenestration VLT, as well as control over any external lighting schemes (which can be informed by the TAN), the proposal would satisfy the requirements of policies SD8 and EE3 as well as the TAN.

Conclusion on main issue

36. The proposal responds to the topography of the site and is acceptable in terms of scale, mass, materials and design. It would not be incongruous or harmful to the character and appearance of the area. The scale, design and massing of the proposal would have a negligible effect on the character or landscape, thus conserving it. Further, this effect would not amount to harm. As a result of design choices and due to the character of the wider area, the proposed development would not interrupt the tranquillity or character of the South Downs National Park by residents or visitors. Planning conditions will secure appropriate control over sensitive details such as materials, glazing, lighting and tree protection.
37. I conclude, therefore, that the proposed development would have an acceptable effect on the character and appearance of the area, including the South Downs National Park. Consequently, there would be no conflict with SDLP policies SD1, SD4, SD5, SD8 and SD30 or FNP policies DE1, DE2 and EE3. Neither would there be conflict with PMP policies 1 and 3, the Dark Skies Technical Advice Note 2021 or the NPPF.
38. The proposed development would therefore not conflict with the statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the South Downs National Park and would not result in harm to its special qualities.

Conditions

39. NPPF paragraph 57 sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other

respects. Due to the sensitivity of the site and wider area, a number of conditions are required in the interests of certainty for design outcomes as well as wider environmental outcomes relating to ecology, dark skies and tree protection. I have imposed conditions which I consider would meet the tests for conditions.

40. It is necessary to specify conditions confirming the time limit for development and approved plans for certainty (see conditions 1 and 2, respectively).
41. Two conditions are pre-commencement conditions as it is necessary for them to be addressed before any construction takes place. Condition 3 ensures that protection for trees is appropriately implemented before development activity begins on site to prevent loss of or damage to trees. Condition 4 is required to provide the LPA with sufficient information relating to surface water drainage and secure any necessary drainage provision thereafter. The appellant has agreed in writing to these pre-commencement conditions.
42. A further three conditions are required to be discharged prior to the occupation of the development. Condition 5 requires the submission and approval of materials in order to conserve the character and appearance of the South Downs National Park. In the interests of highway safety, condition 6 requires that areas to be used for parking are constructed at the appropriate time. Condition 7 is required to be discharged prior to the installation of any external lighting due to the potential for impacts on the National Park's dark skies and wildlife.
43. For the same reason, appropriate glazing VLT factor is controlled by condition 8 to mitigate any effects of light spill. I have also considered whether it would be proportionate to remove permitted development rights for new windows by way of planning condition. In this particular case, I do not believe such an approach would be proportionate, necessary or entirely justifiable.
44. To ensure that trees are safeguarded, condition 9 requires compliance with arboricultural plans and reports. Dealing with hours of operation for construction, condition 10 is required to limit development activity that could result in disturbance to nearby residents.
45. As part of the appeal, 11 conditions were suggested by the LPA. Some are included, although some have been amended in order to meet the tests in NPPF paragraph 57. However, suggested conditions 4, 5, 7 and 9 do not meet the tests.
46. For LPA suggested condition 4, some matters covered by this condition have already been covered sufficiently in the appeal and others are not reasonable with respect to this development. LPA suggested condition 5 is not necessary or reasonable, particularly in terms of the scale of the proposed development. A detailed tree plan and accompanying arboricultural method statement has been included in the appeal. As such, the level of landscaping detail required by suggested condition 7 is not necessary, nor is it reasonable based on the scale of the proposed development.
47. Further to paragraph 57, NPPF paragraph 55 states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. The LPA set out extensive restrictions to permitted development rights in its suggested condition 9. However, these controls do not meet the tests set out, nor is there clear justification to apply this level of restriction. The permitted development types listed within the condition fall under Class A, Part

1 to the aforementioned Order. Class A allows for various alterations to be carried out to a dwellinghouse without seeking specific planning permission, subject to conditions. These include extensions to the dwellinghouse, porches, application/installation of cladding and hardsurfacing to the property as well as the installation of windows.

48. Moreover, the site is within a National Park. The GPDO restricts a number of permitted development rights within National Parks (which falls within the definition of Article 2(3) and Article 2(4) land) due to its sensitivity. As such, some of the types of permitted development listed in the condition are therefore not applicable to dwellings in the National Park or are further limited to mitigate harm. Restricting these types of permitted development would therefore add little or no further control to permitted development. There is not satisfactory evidence before me to indicate why further restrictions provided by such a planning condition would be necessary, when permitted development rights are so confined within National Parks.
49. With regard to ecological matters, when consulted on the planning application, the environmental strategy team highlighted a number of points, including the need for any tree works or vegetation clearance to take place outside bird breeding season and the need to avoid disturbing hedgehogs during hibernation. Although these matters are not covered by conditions, the appellant should have regard to these matters.

Conclusion

50. The proposal would not be in conflict with development plan policies as a whole, the NPPF or the purposes of the South Downs National Park. For the reasons given above, the appeal should be allowed.

Thea L Davis

INSPECTOR

Schedule of 10 Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - 23/813/E001 (Rev A) - Site Location Plan
 - 24/813/P001 (Rev. A) - Proposed site block plan
 - 24/813/P100 (Rev. B) - Proposed ground floor plan
 - 24/813/P101 (Rev. C) - Proposed first floor plan
 - 24/813/P110 (Rev. C) - Proposed front and side elevations
 - 24/ 813/P111 (Rev. C) - Proposed rear and side elevations
 - 24/813/P200 - Proposed garage plans
 - 24/813/P112 (Rev. B) - Proposed garage elevations
 - 24/813/P002 - Proposed site landscape plan
- 3) No development shall commence on site, including demolition, until protective fencing has been erected around all trees, shrubs and other natural features not scheduled for removal in accordance with the recommendations of BS5837:2012 unless otherwise indicated in the Arboricultural Method Statement. Thereafter the protective fencing shall be retained for the duration of the works, unless otherwise specified in the Arboricultural Method Statement or agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.
- 4) Prior to the commencement of development, a drainage statement and an indicative surface water drainage plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall be carried out in accordance with the approved details.
- 5) The development hereby approved shall not be occupied until samples of all external facing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved sample details.
- 6) No part of the development shall be occupied until the car access and parking has been constructed in accordance with approved drawing no. 24/813/P002 - Proposed site landscape plan. The access and parking shall be retained thereafter.
- 7) Prior to the occupation of the development, full details of external lighting, including height, design, location, intensity shall be submitted to and approved in writing by the Local Planning Authority. The lighting installation shall be carried out in accordance with the approved details.
- 8) Notwithstanding the details of the drawings hereby approved, all glazing shall be subject to a visible light transmission (VLT) factor with a maximum target upper VLT limit of 0.65 +/-0.05 (comparable to +/- 50 lux Ev) to be applied in all glazing and retained thereafter.
- 9) At all times, the development hereby permitted shall be carried out in accordance with the tree protection plan WTP1 (Appendix 1) and the Arboricultural Method Statement (Appendix 3) to the document WT 084-24 AIA, dated 12 December 2024.

- 10) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.