
Appeal Decisions

Site visit made on 10 November 2015

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2015

Appeal A Ref: APP/Y9507/W/15/3129457

Manor House, North Lane, Buriton, Petersfield, GU31 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Camping against the decision of South Downs National Park Authority.
 - The application Ref SDNP/14/03321/FUL, dated 30 June 2014, was refused by notice dated 26 January 2015.
 - The development proposed is the extension of 1 building and the conversion of 2 other existing buildings on the Manor House Estate to provide a total of 6 dwellings (a net increase of 4 dwellings).
-

Appeal B Ref: APP/Y9507/Y/15/3129460

Manor House, North Lane, Buriton, Petersfield, GU31 5RT

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Robert Camping against the decision of the South Downs National Park Authority.
- The application Ref SDNP/14/03322/LIS, dated 30 June 2014, was refused by notice dated 26 January 2015.
- The works proposed are the extension of 1 building and the conversion of 2 other existing buildings on the Manor House Estate to provide a total of 6 dwellings (a net increase of 4 dwellings).

Decisions

1. Appeal A is allowed and planning permission is granted insofar as it relates to the extension and removal of the existing car port at Old Spot Cottage at Manor House, North Lane, Buriton, Petersfield, GU31 5RT in accordance with the terms of the application, Ref SDNP/14/03321/FUL, dated 30 June 2014, subject to the schedule of conditions at the end of these decisions. The appeal is dismissed insofar as it relates to the proposals for the Garages and Monks Walk and the proposed landscaping.
2. Appeal B is dismissed.

Procedural matters

3. Whilst I have noted that some of the works to Monks Walk that do not require permission or listed building consent have already begun, I have assessed the proposals on the basis of the plans determined by the Authority.
-

4. The appellant has requested that Old Spot Cottage is excluded from the application for listed building consent. This seems appropriate as it is not listed and I have determined the appeals accordingly. The Buriton Village Design Statement Group alleges that the original permission for the conversion of Old Spot Cottage was for a holiday cottage but I have not seen the details of that permission. As the Authority has referred to it as a 2 bed dwelling I shall determine these appeals on that basis.
5. I have also dealt with other appeals on the estate (APP/Y9507/W/15/3129452 & APP/Y9507/W/15/3129454 for alterations to the Orangery and Stables cottages and the restoration of the Dovecote and APP/Y9507/W/15/3023073 for a new access track). Those appeals are the subject of separate decisions but I have had regard to them in these decisions where relevant.

Main Issues

6. The main issues are the effect of the proposed development and/or works on:-
 - the settings of the listed buildings at the Manor House and within its grounds, known as the Garages and Monks Walk; the setting of the listed St Mary's Church; the special architectural and historic interest of the Garages and Monks Walk; the character, appearance and setting of the Buriton Conservation Area and the landscape and scenic beauty of the National Park.
 - the living conditions of the future occupiers of the proposed dwellings with regard to privacy, light, outlook, amenity space and noise;
 - the safety of users of the community car park and highway safety.
 - whether there is a need for a planning obligation to secure adequate provision towards environmental improvements, transport, public open space and affordable housing in the district.

Reasons

Listed buildings and settings and character and appearance

7. The Manor House estate is located on the edge of the village of Buriton and includes a number of buildings which are grouped around a central courtyard, including the grade II* listed Manor House and three grade II listed outbuildings, one of which is used as a function space and wedding venue (the Tithe Barn). As the estate is adjacent to St Mary's Church, also a grade II* listed building and close to the village pond which forms a focal point in the Conservation Area, it makes a strong contribution to the attractive character and appearance of the Conservation Area. The buildings which are the subjects of these appeals, the Garages, Monks Walk and Old Spot Cottage are located within the estate but outside the courtyard. The Garages and Monks Walk are grade II listed, within the setting of the listed buildings referred to above, within the Buriton Conservation Area and the settlement boundary in the East Hampshire District Local Plan Second Review (LP) (2006). Old Spot Cottage is not listed and lies just outside those boundaries.
8. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it

- possesses. Section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that any harm should require clear and convincing justification.
9. The objectives of LP policies HE2, HE4, HE5, HE6, HE8, HE11, HE12 and HE19 and policies CP19, CP20, CP29, CP30 and CP31 of the East Hampshire District Local Plan Joint Core Strategy (JCS) (2014) are broadly compatible with the Framework in seeking to achieve a high standard of design particularly where proposals affect listed buildings, Conservation Areas and the rural area and to restrain unnecessary development in the countryside.
 10. Whilst statutory provisions require that the economic and social well-being of local communities within National Parks should be fostered, primacy is given to the purpose of conserving and enhancing the Park's natural beauty, wildlife and cultural heritage. In accordance with the Framework, some of those policies also carry great weight in seeking to conserve and enhance the special character of the National Park which has the highest status of protection.
 11. The three appeal buildings originally formed part of an agricultural homestead. The Garages is an attractive structure with a large and prominent roof which is clearly seen from the churchyard. The open bays seen from within the estate reveal a timber frame and there is a smaller, adjoining brick and stone building. The Garages was a former wagon shed which is shown on a tithe map (circa 1840) and is now used for partly for storage and partly as a kitchen/storage space for the function venue. It backs onto St Mary's churchyard and lies adjacent to the grade II listed Tithe Barn. Its front elevation faces Monks Walk, a large, early C20th agricultural building of red brick and a clay tiled roof, which was converted in the 1990's to a single dwelling. The architectural and historic significance of these buildings derive from their simplicity and robustness, reflecting their former uses and making a positive contribution to the character and setting of the nearby listed buildings and to the character and appearance of the Conservation Area, particularly when seen from within the estate and from the nearby footpaths along the edge of and to the south of the estate. Old Spot Cottage is a modest red brick building converted to a dwelling from a former piggery on the edge of the estate, typical of many former agricultural buildings found in this rural area. By reason of its distance and separation from the main listed buildings it does not contribute significantly to their settings but is seen in the foreground when looking towards Monks Walk and the Conservation Area from the footpaths.
 12. The proposals comprise three parts. The Garages form the subject of a proposed conversion to two, three bedroom dwellings. Monks Walk would be converted from the existing single dwelling to three, three bedroom dwellings. The proposals for these two buildings include twelve parking spaces and landscaping works. A single storey extension is proposed at Old Spot Cottage and a recently erected timber car port would be demolished, together with additional landscaping works.

13. The proposed works to the Garages would result in the replacement of some features such as the timber cladding, traditional glazing and stables doors in the front elevation but have been carefully designed to allow the important timber structure to remain evident and retain a sense of openness by a glazed front elevation set back behind it. This, together with new rooflights, would also allow maximum light into the dwellings on this elevation, thereby avoiding the need for new openings on the rear elevation which abuts the churchyard. This would minimise the impact on the church and the yew trees along the boundary between the churchyard and the building. The replacement of the existing asbestos roof covering with slates, or clay tiles as preferred by Historic England (HE) who has raised no objection to the proposed development, would represent a moderate improvement to both the appearance and the longevity of the building and could be the subject of a condition for materials. I have noted the Authority's objection to the amount of glazing and the number of rooflights proposed and the impact of both additional interior and external lighting on the character and appearance of the area in terms of the night sky. However, it seems to me that conditions requiring automatic blackout blinds in rooflights and external lighting control measures would mitigate this harm to an acceptable degree given its location on the edge of the village and are necessary because JCS policy CP27 seeks to minimise glare and light spillage. The moderate public benefit resulting from the improved roof covering would outweigh the very small degree of harm caused by the loss of some features and overall it would make a positive contribution to the special architectural and historic interest of the building, the setting of the other listed buildings, particularly St Mary's Church, and the character and appearance of the Conservation Area and the wider area.
14. The Authority has raised no objection to the proposed works to the Monks Walk building other than the impact of additional lighting. I am satisfied that the conditions referred to above would overcome this concern and that the alterations to that building, including a minor improvement in terms of the replacement of a large flue, would preserve its architectural and historic interest, the setting of the other listed buildings and the character and appearance of the Conservation Area and the wider area.
15. Both the proposed conversions involve significant landscaping works to provide car parking, turning spaces and gardens in the areas between the two buildings and to the rear of Monks Walk. The area between the two buildings is currently an open, concrete surfaced yard. The area to the rear of Monks Walk is currently an open grassed area. Both are clearly seen from nearby footpaths and their openness reflects their former use and the rural character of the surrounding area. The landscaping proposals would introduce significant lengths and areas of tall hedging, tree planting and lawn, creating small enclosed spaces and long straight lines. They would have a formal, enclosing and suburbanising impact in stark contrast to the informal, open and rural character around the buildings which exists at present. I have noted that the Authority's landscape adviser and HE raised no objection to the landscaping proposals but the HE comments refer only to the impact on the setting of the listed buildings and not to the impact on the Conservation Area or the wider area. Whilst some screening of parking and turning areas, some privacy between dwellings and some private amenity space would be necessary, I am not persuaded that the extent of landscaping proposed is suitable. However, it would be possible to achieve a sympathetic scheme which reflects its

- surroundings more appropriately by means of conditions excluding those details and requiring the submission of further details if permission were granted and these would be necessary in the interests of the character and appearance of the Conservation Area and the wider area. I am satisfied, however, that the site area is large enough for the provision of adequate cycle parking if all other matters were acceptable.
16. Both the Authority and local residents are concerned that the re-use of existing areas in and around the Garages and around Monks Walk, which it is alleged are used for parking in association with the wedding venue, would displace parking to other parts of the site or village, harming the heritage assets. The permission for the Tithe Barn function venue requires that parking space is provided within the site to the satisfaction of the planning authority. It is not clear to me whether those areas have been previously agreed with the Authority or how many spaces should be provided. The appellant's statement includes details of venue parking areas within the estate but outside the areas subject to these proposals but does not include details of visitor numbers or the number of parking spaces provided. It is also unclear whether those areas are acceptable to the Authority. As a result of the limited information provided by both parties in relation to parking for the function venue, I am unable to reach a conclusion on whether the proposed development would lead to an unacceptable displacement of parking that would cause harm to the setting of the heritage assets.
17. The proposed extension to Old Spot Cottage would be sub-ordinate in length to the original building and the proposed design and materials would reflect the rural character of that building and its surroundings. Neither this or the very minor improvement in terms of the proposed removal of the existing car port would harm setting of the listed buildings or the setting of the Conservation Area or the landscape and scenic beauty of the National Park. The impact of the additional lighting would not be significantly greater than that from the existing building. However, I agree with the Authority that the proposed replacement of the existing post and rail fence with a boundary wall and trellis around the property in the landscaping proposals would result in a suburban appearance that would be inappropriate given its rural location backing onto open fields. I have found against the proposal in terms of access for refuse collection later in this decision but it seems unlikely that this small extension would create a need for additional provision for refuse above the existing arrangements. The exclusion of the landscaping proposals would therefore be appropriate should the appeal be allowed in respect of Old Spot Cottage.
18. For these reasons, I conclude that the proposed works to the buildings at the Garages, Monks Walk and Old Spot Cottage would accord with the development plan policies and would preserve the special architectural and historic interest of the curtilage listed buildings, the setting of the other listed buildings and the character and appearance of the Conservation Area and the landscape and scenic beauty of the National Park. I am also satisfied that conditions excluding the submitted landscaping proposals (and requiring the submission of further details in respect of the Garages and Monks Walk) would overcome the harm I have identified in those terms if all other matters were acceptable. I am, however, unable to conclude on whether the proposed re-use of the Garages and sub-division of Monks Walk would affect parking for the function venue and the impact of this on the heritage assets and the National Park but in view of my other findings below, this is not determinative in this appeal.

Living conditions

19. The distance between windows in the Garages and Monks Walk would be some 12m but the windows in Monks Walk would be secondary windows to habitable rooms or windows to non-habitable rooms other than one bedroom window which would overlook the living/dining area of the dwelling opposite in the Garages. Although significantly below the standard normally acceptable in new build dwellings for privacy and light, potential occupiers would be well aware of the relationship between the two buildings and this could be mitigated by appropriate landscaping, notwithstanding my concerns regarding the landscaping proposed in this scheme. I am satisfied that the proposals are acceptable in terms of privacy and light.
20. Each of the proposed properties contains space to provide a private sitting out area. Not all occupiers of three bedroom dwellings require a family sized garden and in this case the lack of a larger outdoor space is compensated for by the proximity to open countryside. I therefore disagree with the Authority that the amenity space provided would be inadequate.
21. The Tithe Barn is located within the courtyard, adjacent to and north of the Garages. This building is used as a function venue mainly for weddings and has two commercial kitchens at its eastern end, closest to the Garages. Conditions of the permission for that building restrict its use, its hours and the timing and number of days on which music can be played. Separate applications have been submitted for The Old Stables, also within the courtyard and some 13m to the north of the Garages, to convert to a ceremony room in association with the function venue and for the extension of the existing kitchen in a manner which would close off the connection between the Tithe Barn and the Garages. However those proposals do not form part of these linked appeals and as I have limited details of them and the outcome of the Council's decision, they have little bearing on these appeals.
22. Although not referred to in the Council's decision, the Environmental Health Officer (EHO) raised an objection to this proposal based on potential noise and disturbance from the adjacent venue. The Council has referred to this in its appeal statement. The appellant has referred to another tithe barn in the village where noise conditions have been applied but I have no further details of that and am unable to draw any meaningful comparisons with this case. Neither the Authority nor the appellant has provided any compelling evidence regarding the likely impact of noise from the venue on the proposed dwellings.
23. There are existing dwellings within the courtyard, in addition to the Manor House, which although physically separated by the existing access into the courtyard, are also very close to the Tithe Barn. The EHO is not aware of complaints about noise from the venue, which has been in operation for a number of years.
24. However, given the proximity of the proposed dwelling at the northern end of the Garages, it seems likely that there would be some noise from the venue. Future occupiers would be aware of the venue prior to occupation but would not necessarily be fully aware of its likely impact. Without further details of whether this can be adequately mitigated through noise attenuation measures, I cannot be certain that it would not cause harm to the living conditions of the future occupiers. A condition requiring such measures would not provide the degree of certainty required before granting permission.

25. I conclude then that the proposed conversion of the Garages would cause harm in terms of noise to the living conditions of the future occupiers of the northern dwelling, contrary to policy CP29 in the JCS which seeks to ensure that development has an appropriate relationship to other buildings.

Safety of car park users and highway safety

26. The Framework encourages safe and suitable access for all people but advises that development should only be refused on transport grounds where the residual cumulative impacts would be severe. I have taken into account the cumulative impact from these proposals together with the proposed new access track through the estate (APP/Y9507/W/15/3023073).

27. The Highways Authority has raised no objection regarding the access onto the public highway at North Lane and from what I saw at my visit I would agree that visibility is adequate and this would not present a danger to highway safety given the number of additional vehicles likely to use it in relation to its existing level of use.

28. LP policy T4 accords with the Framework in seeking to ensure that development does not adversely affect users of rights of way. Access to the proposed dwellings and Old Spot Cottage would be through a community car park next to the village pond and across a public footpath. The County Council's Contracts Monitoring Officer and its Countryside Access Development Officer, together with many local residents, have raised concerns over the legality of rights of access, its maintenance, its increased use and the reversing of the refuse vehicle across the car park. The Highways Authority has not objected to these matters as it considers the land is not a public highway.

29. Despite concerns regarding the legality of the right of access over the community car park and the footpath, which are not shown as within the appellant's ownership in the application, the appellant has provided a declaration from the previous owner of the wedding venue that this is established and the 1840 tithe map shows a track in the existing position. The appellant considers that repairs should be carried out by the Highways Authority and evidence from local councillors indicates that this has been the case in the past. Local residents have referred to a land registry document showing that the right of access applies from 'time to time'. Without further clarification I cannot be certain that the appellant has a right of access over the land. However, this is a legal matter outside the scope of these appeals.

30. The car park provides a number of parking spaces and during my visit on weekday lunchtime I noted that it seems to be well used by local residents visiting the village pond or church and by walkers who use the two nearby public footpaths. Access between car parking spaces appears to narrow at its central point, continuing around a sharp bend by the churchyard wall. Given these considerations, and although it appears that access to Monks Walk and Old Spot Cottage already takes place across this land, the increased use from the four additional dwellings proposed in these appeals (and cumulatively with the use of the new access track which I have allowed under appeal APP/Y9507/W/15/3023073) would increase the danger to car park and footpath users to an unacceptable degree. This is consistent with my findings regarding the impact of four additional parking spaces for the existing Orangery and Stables cottages in appeal ref APP/Y9507/W/15/3129452 for new entrances, etc.

31. It is unclear to me where refuse collection for the existing dwellings at Monks Walk and Old Spot Cottage currently takes place. The proposals provide for refuse collection from a point within the site which must be accessed through the car park. As no turning space has been provided for a refuse vehicle within the site, it is proposed that the refuse vehicle would reverse some 55m or so through the middle of the car park on to the site and then a further distance of around 70m through estate land south of the churchyard. In view of the level of use of the car park and limited space, it seems to me that the reversing of the refuse vehicle would present an unacceptable risk to drivers and pedestrians, particularly those with mobility difficulties or young children.
32. I conclude, therefore, that the proposals for access for the four additional dwellings and for refuse collection would present a severe danger to the safety of car park users and the public footpath, contrary to LP policy T4 and the Framework.

Planning obligation

33. The Authority has indicated that, as a result of the additional dwellings that would be created, a planning obligation is necessary towards the provision of environmental improvements, transport and public open space. I have no reason to consider that this would not accord with the requirements of Regulation 122(2) of the Community Infrastructure Regulations (2010). Although the appellant has confirmed a willingness to provide these contributions I have not been provided with a planning obligation. However, as I am dismissing the appeal on the basis of other Main Issues it is not necessary for me to consider these matters in any further detail.
34. The Authority has also introduced a new requirement for a financial contribution towards affordable housing in its appeal statement which was not previously sought or referred to in its decision because the Ministerial Statement of 28 November 2014 exempted small residential developments from financial contributions to affordable housing. Following a legal challenge to that, a declaration Order was issued on 4 August 2015 stating that the policies in that Statement and paragraphs 012 – 023 of the Planning Practice Guidance (PPG) must not be treated as a material consideration in decisions. Whilst this is currently subject to appeal, I must treat this case on the basis of the Court's Order. The implications of the outcome of the legal challenge were referred to in the Council's appeal statement. The appellant has not made any further representations in response to that and a signed and completed obligation has not been provided.
35. On the evidence before me it appears that the need for a contribution arises from the four additional dwellings and would satisfy the three tests in the CIL Regulations where relevant and the Framework. The proposal would fail to secure appropriate financial contributions towards the provision of affordable housing and so would be in conflict with JCS policies CP13 and CP32 which seek to ensure such provision.

The planning balance and conclusion

36. During my visit I saw the extent of the estate and it seems to me that the appellant is making a concerted effort to improve its condition and secure its viability. LP policy CP6 supports the re-use of rural buildings and the Framework advises that regard should be had to the benefits of viable uses for

historic buildings. The proposals would have some moderate benefit in providing a viable re-use of the historic buildings that would contribute to the viability of the estate. Also of moderate benefit would be the improvement to the setting of the listed Church and the character and appearance of the Conservation Area and the wider area from the re-covering of the roof of the Garages. Minor benefits would arise from the improvements to the Monks Walk building and the removal of the car port at Old Spot Cottage.

37. However, I have concluded that the proposed access for the four additional dwellings and for refuse collection would severely harm the safety of users of the car park and the public footpath. Furthermore, the proposed conversions would result in significant harm by failing to make adequate provision for affordable housing in the district. The harm that would be caused, in terms of noise, to the living conditions of the future occupiers of the northern dwelling in the Garages adds further weight to my concerns. These harms are significant in totality and, in the absence of any financial information to show that the development is necessary for the continued viability of the estate, I am not persuaded that they are sufficiently outweighed by the moderate benefits. I have taken into account all other matters raised but none is sufficient to alter the outcome of my decisions.
38. For the reasons given earlier, I conclude that no significant harm would be caused with regard to the proposed extension and removal of the car port at Old Spot Cottage and they would accord with the development plan and the Framework as a whole. As that part of the proposals is clearly severable I shall issue a split decision in respect of Appeal A. The extension and removal of the car port at Old Spot Cottage should be allowed.
39. I conclude that, for the reasons given above, the proposals for the Garages and Monks Walk and the landscaping proposals would be contrary to the development plan and to the Framework as a whole and in those respects the appeals should be dismissed.

Sarah Colebourne

Inspector

Schedule of conditions

Appeal A

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 1317(PL)7010; 1317(PL)7040; 1317(PL)7111; 1317(PL)7140;

End of conditions.