

**Case No:** SDNP/21/03759/CND

**Proposal Description:** Removal/variation of conditions 3,4,5 in relation to application Appeal A Ref: APP/Y9507/C/19/3237773 and Appeal B Ref: APP/Y9507/W/19/3232344 (Additional information submitted 05.10.21- guttering details)

**Address:** Abbots Worthy House, Martyr Worthy Road, Abbots Worthy, Hampshire, SO21 1DR

**Parish, or Ward if within** Kings Worthy

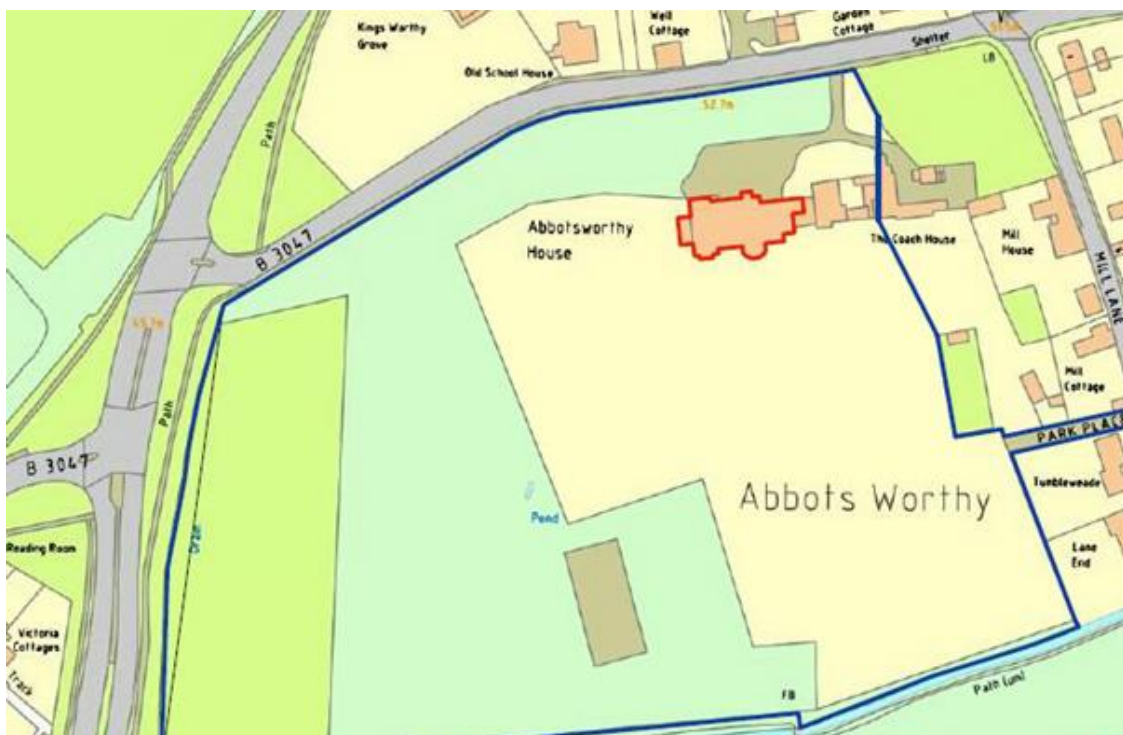
**Winchester City:**

**Applicants Name:** Mr K Lakhpuri

**Case Officer:** Mrs Sarah Tose

**Date Valid:** 16 July 2021

**Recommendation:** Application Approved



## Executive Summary

This application is reported to the Planning Committee at the request of Cllr Cramoysan Ward Member (whose comments have been attached as an appendix to this report) and due to the number of representations that have been received that are contrary to the Officer's recommendation.

## **1 Site Description**

Abbots Worthy House is a large Victorian building formerly a rectory, set within extensive grounds of approximately 5 hectares. It has been the subject of historic alterations and was partially rebuilt and remodelled in a Georgian Style in the 1950s following a serious fire which destroyed the original roof. The site is located on a corner plot between the A33 and the B3047, behind a Grade II listed wall. The house is in mixed use- the main part has a residential use and part of its west wing has lawful use as a day nursery. The building is set back from the highway behind mature trees and vegetation. The site lies within designated countryside, the Abbots Worthy Conservation Area and the South Downs National Park.

A second floor extension has been constructed which was originally permitted in 2018 with subsequent changes allowed at appeal in July 2020.

## **2 Proposal**

The proposal seeks to remove/vary conditions 3, 4 and 5 of the appeal decision granted in July 2020, which relate to the installation of obscure glazing and cast iron rainwater goods.

## **3 Relevant Planning History**

SDNP/13/00174/FUL - Close existing vehicular access onto the A33 and create new vehicular access onto the B3047 to serve the paddock  
STATUS: APP 16th April 2013.

SDNP/13/03297/FUL - 4 no. houses on land adjacent to A33 on the western edge of Abbots Worthy House, demolition and reconstruction of the eastern wing  
STATUS: WDN 28th August 2013.

SDNP/13/03298/CON - 4 no. houses on land adjacent to A33 on the western edge of Abbots Worthy House, demolition and reconstruction of the eastern wing  
STATUS: WDN 28th August 2013.

SDNP/16/03574/PRE - Addition of new mansard storey to main house and conversion of Abbots Worthy House into 5 no. dwellings, demolition of existing eastern wing and erection of 3 no. town houses, new access on to B3047 and provision of parking area behind the building. STATUS: PRE 24th October 2016.

11/01907/SFUL - Conversion of Abbots Worthy House in 10 no, dwellings and conversion of coach house into 2 no. dwellings; demolition of existing wing, outbuildings and garage and erection of new wing comprising of 4 no. flats, garaging with parterre and 35 no. parking spaces; erection of regency style building comprising of 8 no. dwellings for social housing and 12 no. associated parking spaces (RESUBMISSION) STATUS: REF 19th August 2014.

SDNP/17/01733/HOUS - Extension on the roof STATUS: WDN 6th March 2018.

SDNP/18/00679/FUL - Partial Change of Nursery (Use Class D1) at Abbots Worthy House back to Residential Dwelling (Use Class C3) and extension to roof to create additional habitable accommodation. STATUS: APP 18th April 2018.

SDNP/19/00083/TCA - Works at per Abbots Worthy House Action Plan 2018. STATUS: NOOBJ 28th February 2019.

SDNP/19/01331/CND - (Amended Plans) Removal/variation of condition 2 of approved planning permission Application Reference Number: SDNP/18/00679/FUL. STATUS: REF 29th May 2019.

#### APPEALS

SDNP/19/00056/REF - (Amended Plans) Removal/variation of condition 2 of approved planning permission Application Reference Number: SDNP/18/00679/FUL. ALLOW 27th July 2020.

SDNP/19/00084/ENNOT - Appeal against. ALLOW 27th July 2020.

## **4 Consultations**

### **Parish Council Consultee**

No comments received.

### **WCC- Historic Environment**

No objections in Historic Environment Policy terms.

## **5 Representations**

A representation has been received from Councillor Cramoysan, objecting to the scheme for the following reasons:

- Loss of privacy
- Light pollution from clear glass
- Cast iron should be used as consistent with the period of the building
- The conditions are seen by local residents as small mitigation of their concerns
- A decision to remove the conditions that try to limit the light pollution will undermine the Dark Skies policy
- The conditions placed by the Planning Inspector should remain in place

10 representations have been received from 8 different households, raising objections to the proposal for the following reasons:

- Overlooking to neighbouring properties
- Light pollution to South Downs National Park
- Adverse impact on wildlife from light pollution
- Adverse impact on character of the house
- Traditional materials should be used in Conservation Area
- The conditions were imposed by the Inspector for sound reasons
- Set a dangerous precedent if approved

1 representation has been received supporting the proposal for the following reasons:

- Owner is bringing an old dilapidated property back to life
- The internal layout has changed to ensure the structural integrity of the property remains safe
- Condition regarding obscure glazing is no longer required as the space is no longer bathrooms
- Rainwater pipes should not be required to be cast iron as the existing drainage is plastic
- Glazed window above the staircase is high level so no overlooking issue
- Obscure glass will not prevent light spillage as its purpose is for privacy
- Extremely unlikely that all the lights are going to be on at the same time all night without any curtains drawn
- Concerns about light spillage are being made when the building has no curtains or blinds, whilst in a construction phase

## 6 **Planning Policy Context**

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the **South Downs Local Plan 2014-2033** and any relevant minerals and waste plans.

The development plan policies and other material considerations considered relevant to this application are set out in section 7, below.

### National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage,
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

## 7 **Planning Policy**

### Relevant Government Planning Policy and Guidance

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF), updated July 2021. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

### National Planning Policy Framework (NPPF)

The following National Planning Policy Framework documents have been considered in the assessment of this application:

- NPPF12 - Achieving well-designed places
- NPPF15 - Conserving and enhancing the natural environment
- NPPF16 - Conserving and enhancing the historic environment

Paragraph 2 states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.

The following policies of the **South Downs Local Plan** are relevant to this application:

- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD8 - Dark Night Skies
- Strategic Policy SD9 - Biodiversity and Geodiversity
- Development Management Policy SD15 - Conservation Areas
- Development Management Policy SD31 - Extensions to existing dwellings, and provision of annexes and outbuildings

#### Partnership Management Plan

The Environment Act 1995 requires National Parks to produce a Management Plan setting out strategic management objectives to deliver the National Park Purposes and Duty. National Planning Policy Guidance (NPPG) states that Management Plans "contribute to setting the strategic context for development" and "are material considerations in making decisions on individual planning applications." The South Downs Partnership Management Plan as amended for 2020-2025 on 19 December 2019, sets out a Vision, Outcomes, Policies and a Delivery Framework for the National Park over the next five years. The relevant policies include:

- Partnership Management Plan Policy 1
- Partnership Management Plan Policy 3
- Partnership Management Plan Policy 9

## **8 Planning Assessment**

### Principle of development

The applicant is seeking to remove conditions 3, 4 and 5 of the appeal decision dated 27<sup>th</sup> July 2020.

Condition 3 requires the dormer window in the east facing roof slope to be fitted with obscure glass prior to the occupation of the development.

Condition 4 requires the bathroom and en-suite windows on the second floor on the north elevation of the development to be fitted with obscure glass prior to the occupation of the development.

Condition 5 requires all new external rainwater goods and soil pipes on the visible elevations to be of cast iron, painted black unless previously otherwise approved in writing by the Local Planning Authority.

In paragraph 18 of the appeal decision the Inspector states that conditions 3 and 4 'are required in the interests of protecting the living conditions of existing residents'.

### Condition 3

The east facing dormer window has been installed and has been fitted with obscure glass as required by the condition. However the applicant is now proposing to remove the obscure glazing due to the glare that occurs within the living space when the sun shines through it.

The east facing dormer window is located above a stairwell and is high level. The applicant has confirmed that the floor level to window sill height is 1.65m. At this height, it is not considered that views out of the window would be possible so the removal of the obscure glazing would therefore not result in any overlooking to properties located to the east of Abbots Worthy House.

The applicant has offered to replace the obscure glazing with low transmittance glass, to minimise internal light spillage in the South Downs National Park which is an International Dark Sky Reserve. Condition 4 is recommended to secure this.

It is not considered that the replacement of the obscure glazing in the east facing dormer window with low transmittance glass would have a harmful impact on the living conditions of existing residents and is therefore considered acceptable.

### Condition 4

The internal layout of the approved extension has been altered since the appeal decision was granted, so the bathroom and en-suite that were originally proposed at the eastern side of the development, with two windows facing northwards, have been replaced with a bedroom (bedroom 1 on the amended floor layout plan). The applicant therefore does not wish to install obscure glazing to these windows, as required by the condition, and does not wish to replace the existing clear glazing with low transmittance glass.

The condition was imposed by the Planning Inspector to protect the living conditions of existing residents. The windows would face northwards towards the B3047 and the neighbouring property Well Cottage, which lies over 40m away. At this separation distance it is not considered that any harmful overlooking would occur so a reason for refusal on this basis could not be substantiated.

Concern has been raised by local residents that by allowing clear glass in the two windows instead of obscure glazing, this would result in increased light pollution, which would be harmful to the amenity of the area and to wildlife.

It has been raised in a representation that the obscure glazing required by the condition would reduce the amount of light passing through the glass (the visible light transmission) compared to clear glass. This is acknowledged, however it is not considered that obscure glazing would result in a significant reduction in terms of internal light spillage.

The extension is yet to be completed so the windows are not covered and bright lights have been required by the contractors working within the building. It is considered that once the extension is occupied, it is likely that low level lighting will be used with coverings at the windows so the amount of internal light spill will be significantly reduced.

This issue has been discussed with the SDNPA's Dark Sky Ranger who has raised no significant concerns in terms of light pollution. The space will be used as a bedroom which will have a lower illuminated interior and curtains/blinds will most likely be used.

It is not considered that the removal of condition 4 would result in significant harm to the living conditions of existing residents, the dark night skies of the South Downs National Park or local wildlife so a refusal on this basis could not be substantiated.

#### Condition 5

Condition 5 requires all new rainwater goods to be of cast iron and painted black. The Inspector stated that 'the use of appropriate materials are required in the interests of protecting the character and appearance of the building and Conservation Area.'

The Council's Historic Environment Officer has assessed the application. The condition was originally recommended to ensure that high quality materials are used in the Conservation Area. However, as the building is not listed and is not readily visible in the Conservation Area due to its set back position, the Historic Environment Officer has advised that in this particular case it would be difficult to defend a refusal at appeal, particularly as the Local Planning Authority has no control over the type of rainwater goods installed on the rest of Abbots Worthy House. No objections have therefore been raised on Historic Environment Policy grounds.

The guttering that has been installed is Flopast Niagara Ogee in black UPVC, which has a traditional square profile design that is considered to be more in keeping with the style of the existing house than round guttering. The rainwater gutters discharge directly onto the sloped slate walls of the extension which in turn discharge water into a rainwater channel that runs around the internal perimeter of the roof, so no downpipes are required.

The guttering is not the 'cast iron effect' version, however it is not considered to be harmful to the character or appearance of the property or the conservation area. Abbots Worthy House is set back in its plot behind a high listed brick wall and mature trees/vegetation so views of the extension from the public realm are very limited.

The existing rainwater goods on Abbots Worthy House comprise white UPVC in a mix of profile designs and textures. Some downpipes are of a cast iron effect. It is not considered reasonable to insist that the guttering on the new extension is cast iron painted black when the rainwater goods on the rest of the house are not. As the building is not listed, the Local Planning Authority has no control over the type of rainwater goods that are installed on the existing house in the future.

On the basis of the above, it is considered reasonable to vary condition 5 to allow the provision of UPVC rainwater goods but to ensure that a traditional profile design is retained. Condition 3 is therefore recommended to secure this.

## 9 Conclusion

The removal/variation of conditions 3, 4 and 5 are not considered to have any significantly harmful impact on the living conditions of existing residents, the character and appearance of the Conservation Area or the dark night skies of the South Downs National Park so the application is recommended for approval.

## 10 Reason for Recommendation and Conditions

It is recommended that the application be Approved for the reasons and subject to the conditions set out below.

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

As Built Roof Plan Rev 2 A3/AWH/01 received 08.05.2019  
As Built South Elevation Rev 2 A3/AWH/02 dated October 2021  
As Built North Elevation Rev 2 A3/AWH/03 dated October 2021  
As Built West Elevation Rev 2 A3/AWH/04 received 08.05.2019  
As Built East Elevation Rev 2 A3/AWH/05 dated October 2021  
Amended Floor Plan A3/AWH/06 dated September 2021  
Second Floor Section Plan Rev 2 A3/AWH/07 received 08.05.2019  
Location Plan 2188/01 received 19.03.2019  
Building Regulations Drawing- Section and Details 030618/3 received 08.05.2019

Reason: For the avoidance of doubt and in the interests of proper planning.

2. Prior to occupation of the extension hereby approved, all new window and joinery shall be painted timber in accordance with plan No A3/AWH/03 Rev 2 and retained as such thereafter.

Reason: In the interests of the character of the building and Conservation Area.

3. All new external rainwater goods on the visible elevations of the second floor extension shall comprise Flopast Niagara OGEE guttering in black or another type of guttering of a traditional profile design that has been previously approved in writing by the Local Planning Authority.

Reason: In the interests of the character of the building and Conservation Area.

4. The extension hereby approved shall not be occupied until details of the measures to be taken to reduce light spillage from the proposed roof lights (low transmittance glass) and the east facing dormer window have been submitted to and approved in writing by the Local Planning Authority. The measures shall be installed prior to occupation in accordance with the approved details and once installed the approved measures shall retained thereafter.

Reason: To minimise light intrusion in the South Downs National Park which is a designated International Dark Sky Reserve.



## **Informatives**

1. In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included on-site meetings.

2. Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.

3. During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

For further advice on this please refer the Construction Code of Practice <http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>

4. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

### **11. Crime and Disorder Implications**

11.1 It is considered that the proposal does not raise any crime and disorder implications.

### **12. Human Rights Implications**

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

### **13. Equality Act 2010**

13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

### **14. Proactive Working**

Additional information and clarification regarding the amended floor layout and guttering was requested and submitted during the course of the application.

## **Councillor Cramoysan call in request for Committee determination**

### **Comment Details**

Commenter Type: Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

### Comments

Over the last several years there has been a pattern of planning applications, followed by retrospective applications because the Owner/developer has done something different to what was in the approved plan. A retrospective planning application for the main roof extension was initially refused by the planning committee. Subsequently this was overturned by a planning inspector who placed conditions, on it. It seems that now the developer wants to have those conditions removed.

First, given a back-ground where the local residents have objected strongly to the retrospective planning application, the conditions are seen by local residents as small mitigation of their concerns. These conditions were placed by a planning inspector. It should not require residents to muster up a quota of 6 or more objections in order to get the application heard at the correct level.

Hence, I am calling it in.

The application to have the conditions removed should be heard at the appropriate level for each of the conditions that were placed on the development. Conditions that were required by the planning Inspector's decision should be heard at that level or above. If any of the conditions were set by the planning committee, then the application to remove them should be heard by the planning committee, or above - presumably the planning inspector.

As for each of the conditions:

Conditions 3, 4, & 6 related to glass & light emissions The Planning inspector overturned the planning committee decision on the understanding that the windows were for bathrooms, where obscured glass is quite typical. While obscured glass is often seen as providing privacy to the occupant, it also provides privacy to other residents and helps to diffuse and reduce the light emissions from that room. Secondly, a key feature of bathrooms is that people do not spend all day and night in them with the lights on! In other words, it could be expected that the lights would be on for relatively little time at night.

The developer has chosen to change the internal layout of the rooms, without planning permission, and now wishes to assign the spaces to different purposes. For that reason he wants to change the glass to clear glass. This will lead to more light pollution from these spaces for two reasons. Firstly, due to clear glass, Secondly, the change of use means that it is quite possible that the room could be occupied with lights on for much longer than is typical for a bathroom. This will increase the cumulative amount of light pollution.

My understanding is that SDNP has a Dark Skies policy. The Dark Skies Map shows that Abbots Worthy House is in the transition zone. A decision to remove the conditions that try to limit the light pollution will undermine the Dark Skies policy.

Similarly, regarding condition 6, related to roof lights.

For the avoidance of doubt, I believe the Conditions placed by the Planning Inspector should remain in place.

Regarding condition 5, which relates rainwater goods and soil pipes.

The condition states that these should be cast iron which would be consistent with the period of the building. Abbots Worthy House is a key building in the Abbots Worthy preservation area. Every opportunity should be taken to improve the authenticity of this building. While it has been stated that elsewhere on the property UPVC has been used, this should not be used to justify UPVC everywhere. The developer knew what the conditions were and should have planned for it. In the big scheme of the development as a whole it is reasonable to expect. If designating an area as a preservation area is to mean anything, this should be applied consistently.

For the avoidance of doubt, I believe the Conditions placed by the Planning Inspector should remain in place.