

Appeal Decision

Hearing held on 25 October 2016

Site visit made on 25 October 2016

by Stephen Hawkins MA MRTPI

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

Decision date: 20th December 2016

Appeal Ref: APP/L3815/W/16/3149921

Land north of March Primary School, Claypit Lane, Westhampnett, West Sussex

- 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 Mrs Pam Clingan against the decision of Chichester District Council.
 - The application Ref WH/15/04038/FUL, dated 2 December 2015, was refused by notice dated 1 February 2016.
 - The development proposed is erection of two storey detached dwelling house and detached single storey double car port with attached storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - Whether there would be an essential need for a rural worker to live permanently at their place of work in the countryside.
 - The effect of the proposal on the character and appearance of the area.
 - Whether the proposal would provide a suitable living environment for future occupiers of the dwelling, having regard to noise.
 - Whether this is a suitable location for housing having regard to the settlement strategy and accessibility to services.

Reasons

Whether there is an essential need for a rural worker to live at their place of work

3. There is no dispute between the parties that the appeal site lies approximately 175 metres outside of the settlement boundary for Westhampnett. To accord with Policy 45 of the adopted Chichester Local Plan: Key Policies 2014-2029 (LP), development outside settlement boundaries within the countryside has to require a countryside location and meet an essential, small scale and local need which cannot be met within or immediately adjacent to the settlement.
 4. In this regard, the appellant owns and operates an established stud specialising in the breeding and showing of award-winning Connemara ponies from land
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and buildings adjoining the appeal site. For many years, the business had been run from a dwelling adjacent to the stud on the southern side of the School. However, following her father's death in August 2014, it is reported that this dwelling had to be sold off as part of the disposal of his Estate. The appellant now has to travel from her home in Southsea, around twenty miles away to care for and exercise the ponies kept at the stud and to deal with any emergencies.

5. At the Hearing, the appellant explained that although it was a larger scale operation in the past, the stud currently keeps six ponies, of which two are mares of breeding age. The appellant is currently the only full-time employee. I accept that having a worker living at the stud would aid the detection of health problems or injuries which, as explained at the hearing, can develop rapidly with serious or potentially fatal consequences. A lot of the health problems explained seemed to centre on pregnancy and the care of foals up to around three years of age. However, as the appellant confirmed, no breeding is currently taking place at the stud.
6. A worker living close to the stud would also be able to deal with welfare and security issues. In this regard, the appellant pointed to thefts from the site and incidents in the wider area involving harm to horses and the proximity of existing and proposed new housing, as supporting the need for a residential presence close by. However, the theft incidents referred to appear to have occurred prior to the associated dwelling being sold off. I have also taken account of the appellant's comments regarding the shortcomings of the CCTV system and lighting installed at the stud. However, in my view security and welfare matters as well as other emergencies could adequately be dealt with by other methods, such as employing a security guard or regular patrols. I appreciate that such services can involve a significant financial outlay. Nevertheless, this does not support there being an essential need for a worker to live close to the stud.
7. During the Hearing, the appellant indicated that it was not possible to take on additional employees at the moment, due to the lack of welfare facilities at the stud. However, the appellant also confirmed that in any event, the business was not generating a financial return at present and it was being sustained by her husband's income. At the current level of operation, the business is therefore not capable of supporting an equine worker's wages, which based on the figures verbally put forward by the appellant could range from £19,000 to £24,000, depending on experience. Although the appellant outlined ways in which the business might be developed in future, including further breeding, no business plan was produced which might demonstrate in more detail how this might be achieved and over what timescale.
8. The Council submitted verbal evidence at the Hearing regarding the availability of a significant number of houses currently for sale of a size comparable to that of the proposed dwelling, within 5-6 minutes' travel of the stud. The appellant conceded that such a distance would be manageable in terms of its proximity to the stud. However, she suggested that there is a competitive market for dwellings of a similar size to that proposed and prices are likely to exceed their budget. The Council made reference to the substantial size of the proposed dwelling. In response, the appellant said it was of a size appropriate to their lifestyle and the business and not dissimilar to the size of other properties in the area and serving similar businesses. Whilst that may be the case, it seems

to me that a more modest-sized dwelling is more likely to meet the requirements of an equestrian worker and based on the appellant's estimations of the salaries of such workers, would be more likely to be affordable. Even so, the size of dwelling required is at least in part due to the appellant's wish to accommodate her historic grand piano. This stems from the appellant also being a professional concert pianist and is therefore an entirely understandable wish. Nevertheless, this also suggests to me that the search of local properties for sale undertaken by the appellant and the level which she can afford is not based solely upon a requirement to live close to the stud.

9. During the Hearing, it was also stated on behalf of the appellant that almost all equine studs have an on-site residential presence. However, in the absence of details of similar businesses I am unable to make a meaningful comparison. I appreciate that the stud forms an important part of the village and that without residential accommodation close by it might be forced to relocate, thereby incurring significant costs. I also understand that this may also have implications for the future of some of the ponies currently kept at the stud.
10. At the Hearing the Council made reference to LP Policy 37, which concerns accommodation for rural workers. This was not referred to on the decision notice, but the appellant was afforded the opportunity to comment on the relevance of LP Policy 37 to the appeal scheme. In my view, LP Policy 37 is directly relevant to the proposal and I must therefore take it into account. For the reasons that I have identified above, the appellant has not demonstrated that the criteria in LP Policy 37 would be met. Consequently, the proposal would not accord with LP Policy 37.
11. Overall for the reasons identified above, I am not satisfied that the nature and scale of the current stud business demonstrates that there is an essential need for a rural worker to live at their place of work. Consequently, the proposed dwelling would not accord with LP Policy 45, as it would not require a countryside location and it would not meet an essential, small scale and local need which cannot be met within or immediately adjacent to the settlement.

Character and appearance

12. The appeal site is an open field, located to the north of the Primary School and a loose-knit straggle of residential development along Claypit Lane, leading back to the built-up part of Westhampnett. The field has a somewhat neglected appearance and I have no reason to doubt that it is poor quality agricultural land, owing in part to its past use for clay extraction. Rows of mature deciduous planting consisting of a mix of trees and hedges, form the boundaries of the appeal site with Claypit Lane, Madgwick Lane and the rest of the appellant's land, which comprises part of the stud farm.
13. The appeal site is adjoined by land in open use on three sides, which forms part of a wider area of low lying and predominantly open landscape within the Chichester to Yapton Coastal Plain Character Area in the West Sussex County Council's Land Management Guidelines (LMG). While the more urban characteristics of the adjacent road junction, the proximity of the entrance to the Rolls Royce factory, as well as the presence of Goodwood aerodrome and motor racing circuit a short distance away are all acknowledged, overall the appeal site and its surroundings have a predominantly open and rural character. In both visual and physical terms, the appeal site is therefore more related to open countryside as opposed to the built-up part of the village.

14. The proposed dwelling and its associated detached outbuilding would be located towards the centre of the appeal site. The plot size together with the generous external space around the dwelling and outbuilding would in some respects reflect the scale and loose-knit pattern of residential development on Claypit Lane to the south of the School. I also accept that in terms of its design and external materials, the proposal seeks to reflect elements of the local vernacular. The proposed dwelling has been reduced in scale following the Council's refusal of a previous planning application.
15. Nevertheless, by being arranged over two storeys and providing four bedroomed accommodation, the dwelling would have a substantial overall size, height and bulk, added to by the outbuilding. The dwelling and outbuilding would be open to views through gaps in the planting along the boundaries. This would especially be the case on Madgwick Lane, where the boundary planting is generally lower and less dense. Consequently, the proposal would be experienced as a large scale and rather obvious residential feature in the otherwise largely open and undeveloped surroundings and it would therefore give a more urbanised appearance to the locality. This would be particularly evident during the winter, due to the absence of foliage.
16. In respect of the relationship of the appeal site to the more built-up part of the village and surrounding countryside and the visual impact of the proposal, I have also taken account of the findings reached by previous Inspectors when dismissing appeals for the erection of bungalows at the appeal site in 1998, 2004 and 2007¹, whilst being mindful of the physical changes that have taken place over time.
17. The appellant has indicated a willingness to reconsider aspects of the design of the proposal and she would accept a condition requiring the submission of revised details. However, such a condition would make the proposal substantially different from that set out in the application. It would not reflect the guidance on the use of planning conditions in the Planning Practice Guidance (PPG) at paragraph 012² and it would not pass the tests in paragraph 206 of the National Planning Policy Framework (the Framework). Moreover, such changes would be unlikely to satisfactorily address the harm I have identified above.
18. I accept that additional planting of native species to augment the boundaries is proposed to reduce any visual impact from the South Downs National Park and Goodwood Park. This would also be consistent with the objective for the Character Area of strengthening field boundaries and shelterbelts in the LMG and could be secured by an appropriate planning condition. Even so, the LMG also identifies urban development pressures as one of the key issues affecting the Character Area and I am not persuaded that the suggested planting would sufficiently mitigate the urbanising effect of the proposed dwelling.
19. I also accept that the eventual development of the Westhampnett/North East Chichester Strategic Development Location (SDL) in the LP is likely to alter the character of the surroundings over time. However, the exact nature of that change is unknown at this stage. I am given to understand that to date, outline permission has only been granted for the residential development of part of the SDL, on land south of Madgwick Lane. There is likely to be a

¹ References T/APP/L3815/A/98/294752/P9, APP/L3815/A/04/1145005, APP/L3815/A/07/20141724.

² Reference ID: 21a-012-20140306.

substantial buffer of open land, which includes other land owned by the appellant, between the strategic allocation and the appeal site. Moreover, I have to consider the current circumstances, as opposed to what might happen in future. Accordingly and for all of the above reasons, I find that the proposal would unacceptably erode the open and rural character and appearance of the area.

20. Therefore, the proposal would not accord with LP Policy 33 as it would not meet the highest standards of design and would not respect and enhance the character of the surrounding area and site and its setting in terms of its proportion, form, siting, height, size and scale. Moreover, the proposal would not accord with LP Policy 48, as it would not respect and enhance the landscape character of the surrounding area and site, and public amenity through its detailed design. Further, the proposal would not accord with Policy 45, as it would not ensure that the scale and siting would have a minimal impact on the landscape and rural character of the area. Therefore, the proposal would be inconsistent with the Framework core principle at paragraph 17 of seeking to secure high quality design as well as the advice at section 7, which sets out how this is to be achieved in more detail.

Living conditions

21. The appeal site is approximately 420 metres to the south east of the end of the Goodwood Aerodrome runway 32RH/14LH. The appeal site is therefore outside of the Council's 400 metre noise control zone for the aerodrome. I also appreciate that in practice, aircraft will normally take-off well before the end of the runway. Even so, the appeal site is on the recognised flightpath and it can therefore be subject to being overflown at low level by aircraft taking off or coming into land, depending on the wind direction. The airfield is used by predominantly single engine fixed wing aircraft but also by some helicopters.
22. The appellant said that the number of aircraft movements varies according to the season, with the bulk occurring during the summer months and on annual events such as the Goodwood Revival. Movements are also weather dependent due to the runway being grassed and poor drainage. As the runway is unlit, it is not operational at night. The appellant did not dispute the Council's figures concerning the maximum number of aircraft movements that could take place, but considered that in practice for most of the year it was considerably less and that more noise was experienced from helicopters and the motor racing circuit.
23. During my site visit, I noticed that aircraft were taking off from the runway at approximately 15 minute intervals. Whilst I accept that I only saw a brief 'snapshot' of the aerial activity at the aerodrome, it did allow me to obtain a reasonable impression of the nature and likely extent of aircraft operations in fair weather. Consequently, although an overall average figure of one to two aircraft movements per day was suggested by the appellant, this would seem to me to represent a significant underestimate of the aerial activity that could occur.
24. The appellant states that in practice, aircraft are instructed by the aerodrome to turn left by 10 degrees on take-off to avoid flying over the School and therefore, notwithstanding their recognised flightpath, they do not directly fly over the appeal site. This was in evident from the aircraft movements I observed during my visit. Even so, aircraft still passed quite close to the appeal site and it seemed to me that their trajectory did not make a great deal

of difference to the noise that I experienced. As a result, I find that the appeal site would potentially provide a living environment for future occupiers with a high level of background noise.

25. The proposed dwelling incorporates noise mitigation in the form of insulation, triple glazed windows and spacing between cladding. The proposed dwelling would also be sited side on to the end of the runway so that aircraft pass to its front, with the intention of creating a quieter rear façade and rear garden. Additionally, as already noted above the appellant proposes to augment the existing landscape planting. The PPG on noise at paragraphs 008 and 009³ recognises that such measures can be used to mitigate the adverse effects of noise on residential development. Even so, the appellant has not submitted any noise study by which the effectiveness of the proposed mitigation measures could be assessed.
26. The use of triple glazing will only be effective whilst the windows are kept closed. However, as the appellant has pointed out, most aircraft activity occurs during the summer, when the future occupiers of the dwelling could reasonably expect to have their windows open. Although the proposed dwelling would stand between its rear elevation and the path of aircraft passing overhead, this is unlikely to have a significant effect in terms of reducing noise levels from aircraft in the dwelling or in the rear garden because aircraft would be flying well above the height of the roof of the dwelling. In my view, therefore, on the basis of the evidence before me the proposed noise mitigation measures are unlikely to be particularly effective in terms of reducing the unacceptable levels of noise that might otherwise be experienced by the future occupiers of the proposed dwelling.
27. I accept that the appellant is likely to be outdoors undertaking work in conjunction with the stud during the day. However, this would not be a good reason to accept a level of noise at the appeal site that would not otherwise be accepted. The appellant's circumstances may change in future, in which case she or other family members may spend more time in the proposed dwelling and its garden. I also acknowledge that the stud has operated for many years and the appellant has developed good relations with the operators of both the aerodrome and the motor circuit, who provide her with details of future noise events. However, the current arrangement between those operators and the appellant could cease for any number of reasons. Moreover, planning permission runs with the land. What may be tolerated by the appellant in terms of noise may not be tolerated by future occupiers of the proposed dwelling, who may be less familiar with the scale of the aviation operations at the aerodrome.
28. The appellant has also compared the appeal scheme with the recent outline planning permission granted for 300 houses as part of the SDL development. However, at the Hearing the Council confirmed that particular application had been accompanied by a noise study. The Council also confirmed that further noise surveys would be required at the reserved matters stage, thus affording the opportunity to incorporate detailed measures to mitigate noise.
29. Consequently, in my view the proposed dwelling would not provide a suitable living environment for its future occupiers, having regard to the noise from aircraft. In this respect, I note that similar conclusions were reached by the

³ Reference ID: 30-008-20140306 & Reference ID: 30-009-20140306.

Inspectors dealing with the previous appeals at the site in 2004 and 2007. Therefore, the proposal would not accord with LP Policy 33, as it would not provide a high quality living environment in keeping with the character of the surrounding area. It would also therefore be inconsistent with the Framework core principle of seeking to ensure a good standard of amenity for all future occupiers of buildings at paragraph 17 and paragraph 56, as it would not make a positive contribution to making places better for people.

Location

30. The site is located outside of the settlement boundary of a service village. Development outside settlements is restricted by LP Policy 2 unless it meets the criteria set out in Policy 45 or Policy 46 of the LP. Reliance on a settlement boundary as a means of restricting housing development is not entirely in step with the approach in paragraph 55 of the National Planning Policy Framework (the Framework) of promoting sustainable development in rural areas by locating housing where it will maintain or enhance the vitality of rural communities. Also, the proposed dwelling would not be a 'new isolated home in the countryside' as meant by paragraph 55. Nevertheless, as already noted above the appeal site is a substantial distance outside of the settlement boundary beyond existing development, it is therefore not well related to the built-up part of the village and it is adjoined on three sides by open land.
31. The SDL includes the land to the north and further to the west of the appeal site but its eventual development is still likely to leave the appeal site adjoined by significant areas of open land and would not alter its relationship with the built-up part of the village. The appellant has also referred to the Council's Strategic Housing Land Availability Assessment (SHLAA), in which there was an indication that the appeal site could potentially accommodate 30 houses following a future review of settlement boundaries. However, the Council confirmed that allocation of the appeal site for housing is not being taken forward at this stage. The SHLAA does not form part of the Development Plan and it therefore carries limited weight in terms of determining this appeal.
32. At the beginning of the Hearing, the appellant provided me with a copy of an e-mail dated 21 October 2016 from the Chairman of Westhampnett Parish Council, in which he states that the appeal site is included in the draft Neighbourhood Plan (NP). However, from the limited information provided it is apparent that the NP has yet to be the subject of any public consultation and is thus at a very early stage in its preparation. Therefore, I can only afford the draft NP limited weight in my decision.
33. The appellant suggests that the SDL, SHLAA and draft NP all indicate that the direction of travel in terms of planning policy and they are material considerations which all indicate that the proposal should be determined other than in accordance with the policies of the Development Plan. However, I do not agree. The implications of development of the SDL in respect of the appeal site are unclear at this stage and the other documents referred to carry limited weight. At the Hearing, the Council circulated a document which sought to demonstrate that it had a five-year land supply as of 24 October 2016. The appellant did not seek to challenge the Council's evidence in this regard and I have found no reason to do so. Consequently, I have afforded due weight to LP Policy 2. Overall therefore, the proposal would not accord with the

development strategy and settlement hierarchy set in LP Policy 2. Accordingly, it would not accord with the sustainable development principles in LP Policy 1.

34. In terms of the Framework, the approach to achieving all of the objectives of sustainable development is set out at paragraph 7. In order to amount to sustainable development, all three, mutually dependent objectives-economic, social and environmental must be assessed. I accept that the proposal would provide some economic benefits. Notwithstanding the issues raised earlier in my decision, the proposal could potentially help sustain an existing rural business. Even though the appellant stated that it would be a self-build, the proposal would also be likely to generate and sustain jobs in the construction sector, albeit in the short term, and it would bring wealth from incoming residents into the local economy in the medium to longer term. The proposal would also provide some social benefits. Although the Council has a five-year land supply, the proposal would nevertheless make a small contribution to the supply of new housing. The increase in population and increased use of village services and facilities that would flow from the proposal would also enhance the vitality of the village.
35. However, these benefits would all be very small scale and from the evidence I have seen, the prospects of sustaining the existing business are unclear. The proposal would not fully achieve the social role, as it would not create a high quality built environment. Moreover, the proposal would not achieve the environmental role, as it would not contribute to protecting and enhancing the natural environment. Therefore, the proposal would not achieve all of the three mutually dependent objectives required to accord with the principles of sustainable development as set out in the Framework.

Other matters

36. The appeal site lies within the zone of influence of the Chichester and Langstone Harbours Special Protection Area (SPA). To accord with LP Policy 50, a financial contribution, in line with a joint mitigation strategy outlined in Phase II of the Solent Disturbance and Mitigation Project, would be required in respect of recreational disturbance caused by new residential development in the SPA zone of influence, in order to provide mitigation against the potential impact on protected wild birds.
37. A copy of a completed Planning Obligation making a contribution towards mitigation was submitted with the appeal. At the Hearing, the Council confirmed that whilst it had seen a copy of the completed Obligation, it had not received the associated payment from the appellant. However, as I am dismissing the appeal for other reasons it has not been necessary for me give any more detailed consideration to this matter.
38. I have taken account of the proposed pond required to provide sustainable drainage and its potential benefits to wildlife, the lack of any unacceptable harm to the occupiers of nearby residential properties as a result of the proposal and the absence of any unacceptable harm to highway safety conditions. I have also taken the local support for the appeal scheme from interested parties, raising matters which I have dealt with in the main issues above, into account.

Planning Balance

39. The appellant has not demonstrated that there is an essential need for a rural worker to live at this location. Although there would be some small-scale economic and social benefits arising from the proposal, the adverse social and environmental impacts of the proposal would significantly and demonstrably outweigh any benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to sustainable development as defined in the Framework.

Conclusion

40. The proposal would not accord with the Development Plan and the Framework and for the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Pam Clingan	Appellant
Mr Paul Clingan	Appellant's Husband
Haydn Morris	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Chris Bartlett	Principal Planning Officer, CDC
James Cross	Planning Officer, CDC

INTERESTED PERSONS:

Summer Sharpe	Observer, CDC
Oliver Brown	Observer, CDC

Documents Submitted

- 1 Notification letters dated 24/8/16 and 29/9/16.
- 2 Housing Land Supply Calculations – updated 24/10/16.
- 3 Email – Bill Harding, dated 21/10/16.
- 4 Extract – Policy 37 Chichester Local Plan: Key Policies 2014-2029.
- 5 Draft Contaminated Land Condition.
- 6 Draft Occupancy Condition.