
Appeal Decision

Site visit made on 7 February 2017

by R J Marshall LLB DipTP MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/L3815/W/16/3157478

Bell Inn, Bell Lane, Birdham, West Sussex, PO20 7HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr C Sharpe against Chichester District Council.
 - The application, Ref B1/16/00527/FUL, is dated 12 February 2016.
 - The development proposed is renovation and extension of existing public house to improve existing restaurant and bar areas including the provision of tourist accommodation and construction of 3 no. detached dwellings and associated works within the grounds of the Bell Inn.
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Decision

1. The appeal is dismissed and planning permission for renovation and extension of existing public house to improve existing restaurant and bar areas including the provision of tourist accommodation and construction of 3 no. detached dwellings and associated works within the grounds of the Bell Inn is refused.

Background

2. The proposed development has 3 main elements. An extension and refurbishment of the existing public house, a new and partially re-located car park to serve the extended pub and 3 detached houses on what is currently part of the pub garden and car park.
3. This is an appeal against the Council's failure to give notice within the prescribed period of a decision on an application for planning permission for the development described above. The Council subsequently resolved that had it been in time to determine the application permission would have been refused on the following grounds: 1) the location of the proposed dwellings and extension to the public house car park outside a settlement Policy boundary when not requiring a countryside location; 2) harm to the character and appearance of the area including the adjoining Somerley Conservation Area (CA); and 3) lack of appropriate mitigation measures to offset harm to the Chichester Harbour Special Protection Area (SPA).
4. The Council says that it now has a 5 year housing land supply and no evidence has been provided to the contrary.

Main Issues

5. In light of the above the main issues in this appeal are: **first**, whether the proposed houses, and car park for the extended public house, comply with development plan and Government Policies on the location of new development; **second**, the effect of the proposed houses and car park on the character and appearance of the area including the adjoining Somerley CA; **third**, the implications of the location of the site in relation to the Chichester Harbour Special Protection Area (SPA); and **fourth**, if harm is found on the above whether it would be outweighed by other material matters.

Reasons

Compliance with Policies on location of new development

6. The development plan for the area comprises the Chichester District Council Adopted Chichester Local Plan: Key Policies 2014 – 2029 (LP) adopted 2015 and the recently made Birdham Neighbourhood Plan (NP). Policy 13 of the NP establishes a Settlement Boundary for Birdham. Within this development complying with other policies in the plan will be permitted. However, land outside the boundary is deemed to be rural. NP Policy 15 says that development in the rural area will be in accordance with paragraph 55 of the National Policy Planning Framework (the Framework) and Policy 45 of the LP.
7. Policy 2 of the LP sets out the Council's development strategy and settlement hierarchy. In essence it supports development within the towns and villages. However, in areas outside settlements, such as areas of scattered development and countryside, it restricts new development to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with Policy 45. In so doing it accords with the Framework which requires local planning authorities to support a pattern of development which facilitates the use of sustainable modes of transport. LP Policy 45 allows development in the countryside with the proviso that it meets the essential, small, and local need which cannot be met within or immediately adjacent to existing settlements. It is in this context that the explanatory text in paragraph 22 on allowing limited development in the countryside should be read. Paragraph 55 of the Framework on housing promotes sustainable development in rural areas.
8. The appeal site is well outside the settlement boundary of Birdham and thus in a rural area in Policy terms. The proposed development therefore stands to be considered in light of LP Policies 2 and 45 referred to above and Policy 55 of the Framework.
9. Assessed against the LP Policies the proposed houses are not in an area where new development is generally supported. Nor do the houses in themselves require a countryside location or meet an essential rural need and neither are they put forward to support rural diversification. The proposed houses would, therefore, conflict with LP Policies 2 and 45. For reasons I expand upon later, with regard to the totality of the appellant's case, the proposed houses would not be sustainable development and are thus not supported by Paragraph 55 of the Framework. A few years ago planning permission was granted for a small housing estate just outside the settlement boundary. However, this was at a time when the Council did not have a 5 year housing land supply and these houses are located much closer to the built up part of the village than the

application site. This decision may, therefore, be clearly distinguished from the proposal before me.

10. If permission was granted for the houses and to extend the public house there would be a need for a slightly larger and relocated car park. Clearly this would need to be adjacent to the pub and thus would require a countryside location. Unlike the Council, therefore, I see that there would potentially be no conflict with LP Policy 45 on this aspect of the proposal.
11. On this issue I conclude, albeit solely in relation to the proposed houses, that the proposed development would fail to comply with development plan Policies and National Policy referred to above on the location of new development.
12. In arriving at this view I note the appellant's reference to NP Policies 14 and 16. However, they refer to development within settlement boundaries. In addition I can place little weight on the Council's Sustainable Community Strategy given the limited evidence provided on it.

Character and appearance

13. The appeal site fronts onto Bell Lane. This lengthy road with a straight alignment runs roughly north/south. Travelling north along this road from the appeal site there are at first open fields with attractive roadside hedgerows that give a most pleasant rural aspect to the area in the vicinity of the site. Some way further to the north is a mobile home park and some nurseries and associated glasshouses. Further to the north again is a ribbon of housing within the settlement boundary and just outside the boundary the small estate (now under construction) referred to in the first issue. However, the development to the north of the appeal site, beyond the length of fields which comprise its immediate setting, is sufficiently removed from it as not to detract unduly from its rural character and appearance.
14. Heading south on Bell Lane from the appeal site there are extensive fields to the east, and to the west a loose knit ribbon of housing generally well screened by trees and/or well set back from the road. Thus Bell Lane to the south has a most attractive rural character and appearance. There is in the vicinity of the site a loose knit scatter of dwellings off Hundredsteddle Lane to the west of Bell Lane. However, they are generally well spaced apart, or screened, which ensures that the rural character and appearance of the area is retained
15. The appeal site contains a relatively small 1950s style public house with a car park largely forward of it and to the south. The remainder of the site is down to grass and is what I take to have been the pub garden albeit that in some unspecified time in the past it may have contained other buildings. Crucially, as things stand now, the large and open grounds of the pub ensure that it fits in reasonably well with the rural character and appearance of its surroundings. The proposed extensions to the public house are relatively modest and would not greatly increase it in size. The Council, correctly, takes no issue with this part of the development in terms of impact on character and appearance.
16. However, the proposed houses would occupy a substantial part of the pub grounds and in comparison with much of the housing in the vicinity would be notably closer together and more open to view. The layout of the houses would be less informal than alleged. New planting would only overcome the resulting urbanizing effect of the proposed development to a limited degree and would in

any event take a long time to become fully mature. Thus the more intensive development that would arise from the proposed houses would, notwithstanding their pleasing design and reasonably modest scale, detract from the rural character and appearance of the area. Added harm would be caused by the necessity to create additional parking for the public house. Seen in conjunction with the proposed houses this would add further to the built up nature of the site were the appeal to be allowed..

17. The harm identified above would also, given its urbanising effect, detract from the rural setting of the Somerley CA which encompasses much of the loose knit and well screened scatter of housing to the south of the site.
18. It is concluded that the proposed houses and car park would detract from the character and appearance of the area including the adjoining Somerley CA. Thus it would be contrary to LP Policy 33 which requires new development to be in keeping with the character of the surrounding area and LP Policy 47 and NP Policy 1 on the protection of heritage assets. There would be conflict with the Statutory requirement that new development should preserve or enhance character or appearance of Conservation Areas.

Implications of the location of the site in relation to the Chichester Harbour SPA

19. A screening of the application has found that the proposal is not Environmental Impact Assessment (EIA) development. However, this does not preclude the necessity to assess the application against the requirements of the development plan and the Habitats Directive.
20. The appeal site lies within 5.6 km of the Chichester and Langstone Harbours Special Protection Area (SPA). It is Natural England's advice that all net increases in residential development within this zone are likely to have a significant effect on the SPA either alone or in combination with other developments unless avoidance/mitigation measures are provided. This is to avoid the likelihood of significant adverse effects on the integrity of the SPA which would be contrary to the requirements of the Habitats Directive. LP Policy 50 indicates appropriate avoidance/mitigation measures and they include financial contributions towards appropriate management/mitigation strategies or a package of measures associated with the proposed development designed to avoid any significant effect on the SPA.
21. As far as I am aware no legal agreement to provide a financial contribution is in place, nor any other avoidance/mitigation measure. It is thus likely that the proposed development would be contrary to the Habitats Directive and to LP Policy 50. In the absence of avoidance/mitigation had I been minded to allow the appeal it would have been necessary for me to have undertaken a Habitats Regulation Assessment (HRA) on the impact of the proposed development on the SPA. However, as I am minded, for reasons given further in this decision, to dismiss the appeal and refuse permission on other grounds no such assessment is required and no further consideration needs to be given in this decision to the effect of the proposal on the SPA.
22. In arriving at my views above I note that the appellant considers that in some way mitigation has been provided. However, this view is likely to arise from a miss-reading of a rather poorly worded e-mail from Natural England (NE). My

reading of it, in light of all the evidence before me, is that the lack of objection from NE is reliant upon a financial contribution for mitigation being made.

Other matters

23. The Bell Inn is currently vacant and not in use. In support of the application the appellant says that the proposed extension and changes to the Bell Inn offer an opportunity to bring back an important local business, of benefit locally and wider afield, and maximise its commercial prospects. A Market Appraisal Report has been provided showing a gradual decline in the revenues of the pub. It says that if the public house is to survive changes are required, and the proposed development would allow it to become a gastro pub and have holiday accommodation to diversify the revenue stream. From all that I saw the premises is outdated and run down which supports the view of renovation being required. There are Policies in the LP and SP which encourage the protection and enhancement of facilities and businesses and which support the local economy including the tourist economy. The Council does not contest that this is so and has no objection to the proposed extensions and alterations to the pub.
24. The appellant says that the 3 proposed houses are necessary to help fund the extension and renovations referred to above. The Market Appraisal Report says that the appellant has been unable to secure funding for the works and the recruitment of new staff. In addition it is said that substantial marketing of the site has been unable to find those with reasonable prospects of taking the property on.
25. The Council has provided no evidence to contest the above points. However, the appellant has provided no evidence on the costs of the proposed works to the pub and has not indicated the sum of money likely to be achieved from the proposed houses. It is thus unclear whether development of the scale proposed would be necessary to secure the improvements sought for the public house. Nor has any measure been referred to which would ensure that, were permission granted, profits from the housing would fund those works.
26. The appellant says that the site is well located to local facilities in Birdham by the footpath adjoining Bell Lane, and by regular bus service to distances further afield. However, facilities in Birdham are relatively limited and some distance away by foot and the bus service would not provide the flexibility and reach that would be afforded by the private car in this rural location. Thus the added convenience of using a car is likely to be the overriding determining factor for most when deciding how to access local facilities and services. On this basis the site is not in a particularly sustainable location.
27. The appeal site is previously developed land (PDL) as defined in the Framework. This document encourages the effective use of land by the re-use of PDL. However, this should not be at the expense of appropriate planning control. I note the appellant's concerns that a fairly recent permission to convert the Bell Inn to a house does not comply with various Policies of the NP. However, I can attach little weight to this without more evidence on the case made for that proposal and the relevance on this for my decision.

Final balancing

28. Drawing together my views there would be conflict with the development plan in terms of the location of new housing in the countryside and the harm to the character and appearance of the area, including a Conservation Area. I attach substantial weight to this and to the unsustainable location of the site. I attach limited weight to the alleged benefits that would arise from permitting 3 houses on the site given the reservations I have expressed above. Thus although some requirements of the development plan would be met the harm I have found with regard to LP Policies 2, 45 and 47 and NP Policies 13, 15 and 1 are overriding.
29. The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies 3 dimensions to such development, an economic role, a social role and an environmental role. From my findings above it is clear that in some respects these roles would be met by the proposed development. However, the harm identified means that there would be conflict with the social and environmental roles to a degree which means that, seen in the round, the proposal would not be sustainable development.
30. I have considered, whether in light of the fact that I have no objection to the works to the public house a split decision could be issued. However, this has not been suggested by either party and given the linkages referred to between the proposed houses and the works to the pub I consider that such an approach would not be appropriate.

Conclusion

31. For the reasons given above it is concluded that the appeal should be dismissed and planning permission refused.

R J Marshall

INSPECTOR