
Appeal Decision

Hearing held on 3 May 2017

Site visit made on 3 May 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/Y9507/W/17/3166673

Buildings adjoining and to rear of Barnet Side Farm, Petersfield Road, Froxfield, Petersfield GU32 1BZ

- 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 Mssrs Brotherton & Meredith against the decision of the South Downs National Park Authority.
 - The application Ref SDNP/16/03350/FUL, dated 1 July 2016, was refused by notice dated 26 October 2016.
 - The development proposed is the redevelopment of existing B8 storage and distribution yard and buildings to provide two detached houses and ancillary accommodation, including parking and turning areas, landscaping and pull in from the Petersfield Road and junction improvements.
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Decision

1. The appeal is allowed and permission is granted for the redevelopment of existing B8 storage and distribution yard and buildings to provide two detached houses and ancillary accommodation, including parking and turning areas, landscaping and pull in from the Petersfield Road and junction improvements at Buildings adjoining and to rear of Barnet Side Farm, Petersfield Road, Froxfield, Petersfield GU32 1BZ, in accordance with the terms of the application, Ref SDNP/16/03350/FUL, dated 1 July 2016, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - whether the site should be retained for employment purposes or for other non-housing purposes which accord with the development plan; and
 - the effect of the proposal on the character and appearance of the area, including the effect on the South Downs National Park, and on the living conditions of nearby occupiers in relation to outlook.

Reasons

Background

3. The appeal site comprises a large steel portal frame warehouse together with a substantial area of hardstanding on which are sited two portacabins, a shipping container and small amenity building. The site lies within an unnamed hamlet

comprising a cluster of about eight residential properties on the north eastern side of Petersfield Road about 3 km from the village of Froxfield. The hamlet lies within open countryside which forms part of the South Downs National Park. The proposal is to redevelop the site with two detached houses, one with an ancillary garage/stables building. In addition, part of the site would be used as a garden for an adjacent residential barn conversion.

4. The main building was constructed in the early 1980s for use as a grain store under agricultural permitted development rights. In the mid-1990s there were applications for a change of use to storage and distribution/light industrial uses, but in the end these were not progressed. Subsequently in 2004/5 the site was purchased by Hayes Forestry, a timber contracting business which involved extensive vehicle movements, but despite the concerns of nearby residents this use was never enforced against or regularised.
5. After a gap of a few months Stomp Racing, the current appellants, purchased the site and started their operations from it in 2011. The business specialises in the design and sale of motorcycles and motorcycle parts, and at its peak about 12 staff were employed to oversee the delivery, storage and onward distribution of goods at the site. The business has now outgrown the premises and relocated its office base to Petersfield with its other operations elsewhere; use of the appeal site is currently much reduced with some residual activities being undertaken in the warehouse by about 2 staff.
6. Concerns about the Stomp Racing operation led to an application to regularise the B8 use; this was refused by the local planning authority but allowed on appeal in 2012 subject to a number of restrictive conditions including limiting the use to Stomp Racing only¹. The business has since operated with these conditions in place. In 2015, in order to market the site, an application to remove the occupancy condition (but not the other conditions) was submitted, but again this was refused by the local planning authority. The appellants have subsequently pursued a residential redevelopment of the site.

Retention of the site for employment or other non-housing purposes

7. The site lies in the countryside outside the settlement policy boundaries defined by the East Hampshire District Local Plan 2006 (EHDLP). In such areas the spatial strategy for housing in Policy CP10 of the East Hampshire Joint Core Strategy 2014 (EHJCS) precludes housing development except in certain limited circumstances. These include affordable housing under Policy CP14 and housing for rural workers under Policy CP19, neither of which apply in this case. However, in addition, Policy CP10 allows for 'housing and other small scale development' outside settlement policy boundaries subject to four criteria. Two relate to the scheme meeting local community aspirations and having clear community support, the others that the scheme reinforces a settlement's role and function, and cannot be accommodated in the built up area. The proposal is assessed against these criteria in paragraph 16 below.
8. In order to protect existing industrial or business uses, Policy IB4 of the EHDLP only allows redevelopment for other uses if the site harms the character or amenity of the nearby area or the site has restricted potential evidenced by unsuccessful marketing. Policy CP4 of the EHJCS allows alternative uses where

¹ Reference APP/Y9507/A/12/2175343

the site is no longer suitable for employment use and the alternative use complies with other EHJCS policies.

9. The appeal site is surrounded on three sides by residential development with Ditsum House, Barnet Side House, Barnet Side Farm and Barnet Side Bungalow situated close to the site boundaries. Despite the intervening screening these properties have some views into the site and the large warehouse is prominent from first floor windows. Noise and disturbance from vehicle movements and other activity within the site would be noticeable in the adjacent rear gardens. Barnet Side Bungalow also lies immediately alongside the site access, where vehicle movements to and from the site would be intrusive. Furthermore, the residential conversion of the barn on the other side of the site access would result in more residents living in close proximity to the site in future.
10. No record of individual complaints from adjacent occupiers has been provided, but the Parish Council, in a letter supporting the appeal, state they have "historically resisted commercial use of this site due to access and amenity concerns, both of which have been directly conveyed to us by adjoining residents since Stomp Racing first occupied the site and have continued ever since... In our view, any commercial user is likely to generate unacceptable traffic (levels and type) and cause neighbour disturbance." This view was confirmed by further representations at the hearing and in terms of Policy CP10 amounts to clear community aspirations and support for the scheme².
11. Stomp Racing stated their operation had involved the delivery of about 60 large containers of goods per year and their onward distribution with about 6-8 outward van movements daily. This level of activity, which might be increased by a future operator of the premises, would be disruptive to nearby occupiers, particularly those of Barnet Side Bungalow and the barn conversion on either side of the access. The retention of the B8 use, with its visually intrusive warehouse building, would also materially harm the character and appearance of the hamlet which is otherwise fully residential in nature³. In terms of Policy IB4, the site harms the character and amenity of the nearby area.
12. In relation to the suitability of the site for continued employment use, Stomp Racing maintain that mobile phone coverage and broadband speeds at the site are poor, a point confirmed by the Parish Council. In addition, the site is not well connected to the principal road network, with the route from the A3 being via Petersfield and a steep hill. These problems due to the poor location of the site are an increasing issue as a result of modern business needs.
13. The site is also subject to the restrictive planning conditions imposed by the 2012 appeal Inspector. In addition to restricting the use to Stomp Racing, other conditions limit working hours at the premises, control the use of powered tools or machinery, control external lighting and preclude the storage of containers or materials on the open part of the site. Stomp Racing have generally been able to operate within these constraints, the restriction on outside storage being the most problematic, but they both illustrate and confirm the restricted potential of the site which is a pre-requisite for permission to re-use it for other purposes under Policy IB4.

² It was accepted at the hearing that there was no established process to demonstrate community support.

³ The only other commercial use in the area, John Searle Ltd, an agricultural machinery business, operate from premises some distance to the north west. These premises are not apparent from the hamlet and the access drive is located well away from the hamlet further along the road.

14. The main test in Policy IB4 to demonstrate whether the site is redundant for employment purposes is whether a reasonable offer is received following a realistic and active marketing exercise. In order to facilitate this, the appellant sought to remove the restriction limiting occupation to Stomp Racing, but this was refused by the local planning authority in order to retain control over future occupiers⁴. This decision means any prospective purchaser would need to obtain planning permission to amend this condition (and perhaps to relax other restrictive conditions), which would take several weeks and have no guarantee of success given the potential for local opposition. The reality is that this requirement is likely to greatly reduce interest in the site when other less problematic sites are available.
15. Because of this, one specialist agent, Ian Judd and Partners, declined to market the site, but a Petersfield agent Richard Mitham Associates have done so since November 2016. The result, reported second hand to the hearing, has been some viewings but no offers have been made. Most interest has been in use of the open yard, but this is precluded by one of the restrictive conditions. The site has been marketed for six rather than twelve months, and a full report has not been provided, both contrary to the guidance issued by East Hampshire District Council⁵. However, the exercise confirms a general lack of interest in the site given the planning and other constraints that apply.
16. The relatively modern warehouse building appears fit for purpose with internal racking in place. However, the planning restrictions, particularly the occupancy condition and on the use of the yard, put in place to protect the interests of nearby occupiers, significantly restrict its potential. Poor phone and broadband coverage and road access may also restrict its potential use. No firm interest has been shown from marketing the site and there is no proactive evidence from the local planning authority to demonstrate a quantitative or qualitative need to retain the site for employment purposes. As explained above, the site also harms the character and amenity of the nearby area. The tests in Policy IB4 for the re-use of the site are therefore met and in terms of Policy CP4 of the EHJCS the site is no longer suitable for employment use.
17. Policy CP4 also requires that the alternative use complies with other policies of the EHJCS. There is no evidence of demand for other non-housing but policy compliant uses on the appeal site, such as tourism or community uses. Whilst housing on the appeal site would not comply with the overall spatial strategy in Policy CP10 of the EHJCS, the policy does offer support for small scale housing development outside settlement policy boundaries in limited circumstances. The proposal realises community aspirations and enjoys clear community support. It would reinforce the hamlet's role and function as an increasingly residential location within the countryside⁶. The final criterion, that the scheme cannot be accommodated within the built up area, is not relevant in this case.
18. In the circumstances there is no overriding justification to retain the site for employment purposes or for other non-housing purposes which accord with the development plan, and the re-use of the site for housing is acceptable. For the reasons explained above the proposal would in fact comply with Policy IB4 of the EHDLP and Policies CP4 and CP10 of the EHJCS.

⁴ This decision was not appealed but it was not unreasonable to accept the decision of the local planning authority.

⁵ Although technically this does not apply within the South Downs National Park.

⁶ Two other businesses have been lost in recent years, a pottery workshop now with planning permission for conversion to a dwelling and a petrol filling station/garage now redeveloped as Froxfield Drive.

Character and appearance and outlook

19. The proposal involves the removal of the large steel framed portal warehouse and the smaller structures on the site and their replacement with a pair of two storey detached houses. Due to its size and height, the main warehouse is prominent and visually intrusive when seen from the footpath and open countryside to the north east where there is minimal boundary screening. Although well screened on the other three sides, the building is also glimpsed from the road and readily apparent in the outlook from some nearby residential properties. In contrast, the two detached houses would be similar both in terms of design and plot ratio to those adjacent to the site in Froxfield Drive, thus complementing the existing built development in the area.
20. The houses would therefore positively enhance the character and appearance of the area and this would be a significant benefit of the scheme. For the same reasons it would also enhance landscape and scenic beauty in the South Downs National Park, both meeting the policy requirement in paragraph 115 of the National Planning Policy Framework to conserve these characteristics and the statutory purpose of designation to conserve and enhance its natural beauty.
21. The occupiers of Ditsum House, the detached house in Froxfield Drive nearest to plot 2, object to the height and bulk of the proposed two storey house on that plot. However, there is tall hedge screening along the common boundary which would be enhanced with further planting. In addition, whilst the ridge of the house would be about 1 m higher than the existing warehouse, the flank elevation facing Ditsum House would be less than half its width and about 3.5 m further away. The nearest element of the house would also be single storey. Overall the result would be a significant improvement in the outlook for the occupiers of Ditsum House and other nearby residents.
22. For these reasons the proposal would comply with Policies CP29 and CP27 of the EHJCS which seek to ensure development is exemplary in design and architecture with a high quality external appearance, is in accordance with the National Park purposes and duty, and has an acceptable effect on the amenity of the occupiers of neighbouring properties.

Other matters

23. It was agreed at the hearing that the use of part of the site as a garden for the residential barn conversion next to the site entrance raises no additional issues if the re-use of the site for non-employment purposes goes ahead.
24. The other policies listed in the decision notice, CP1, CP2, CP11, CP14, CP19 of the EHJCS and Policy H14 of the EHDLP, are not determinative in this case.
25. The various factors affecting the appeal site at Petersfield Road are unique so a precedent for the re-use of other employment sites would not be set.

Conditions

26. The Council has suggested a number of conditions should the appeal be allowed and I have assessed these against the relevant tests, making minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions are required to control the materials to be used, the floor/roof levels of the buildings and to require a landscaping scheme

and its maintenance to ensure the satisfactory appearance of the development. Further conditions are necessary to ensure the garages and parking areas are provided and retained for use, also that the highway improvements and layby⁷ at the site access are provided in the interests of highway safety. Storage arrangements for refuse/recycling need to be provided, certain permitted development rights to extend or alter the dwellings removed, the stable block restricted to private use only and stable waste controlled to protect the living conditions of nearby occupiers.

27. A condition to control foul and surface water drainage is necessary to prevent flooding and pollution. Conditions are also necessary to ensure any contamination on site is addressed and energy efficiency measures are incorporated in the interests of sustainable development. Finally, a construction method statement, to include hours of working, is required to protect the living conditions of nearby residents during building works.

Conclusion

28. There is no overriding justification to retain the site for employment purposes and the proposal would benefit the character and appearance of the area, improving the scenic beauty of the National Park. It would also improve the amenities of nearby residents. The scheme would provide two additional dwellings with social and economic benefits for the area and make a small but useful contribution to housing land supply. The overall planning balance is in favour of the proposal and therefore the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7262/LO1 rev A, 7262/DO1 rev F, 7262/DO2, 7262/DO3 rev B, 7262/DO4, 7262/DO5, 7262/DO7 rev c, 7262/DO8, 7262/DO9, 7262/DO10 rev A, 7262/DO11 rev B, 7262/D12,
- 3) No development above slab level shall take place until full details (and samples if necessary) of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out strictly in accordance with the approved details.
- 4) Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any

⁷ This would operate like the layby at Froxfield Drive – there is no need to restrict its use.

order revoking, re-enacting or modifying that Order) the stable block hereby permitted shall be used only as private, non-commercial, stabling by the owners of the approved dwellings and for no other purpose.

- 5) Notwithstanding the provisions of Classes A, B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extension or alteration to the dwellings hereby permitted shall be made except with the prior written consent of the local planning authority.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) the garages hereby permitted shall only be used for the purpose of parking private motor vehicles in connection with the residential use of the properties and shall not, at any time, be used for living accommodation, business, commercial, industrial purposes or for the storage of boats, caravans or trailers.
- 7) No development shall take place until details of a scheme for foul and surface water drainage (supported by a drainage layout, run-off calculations and site percolation tests to BRE 365) has been submitted to, and approved in writing by, the local planning authority. Such details should include provision for surface water drainage from parking areas and areas of hardstanding to prevent surface water from discharging onto the highway and should be based on site investigation and percolation tests. The development shall then be carried out strictly in accordance with the approved details before any part of the development is first occupied and the scheme shall be retained at all times thereafter.
- 8) Before any dwelling hereby permitted is first occupied, provision for the parking of vehicles associated with that dwelling shall have been made within the site in accordance with the approved plans and shall be retained for this purpose at all times thereafter.
- 9) No development shall take place (including site preparation works) until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. This shall include:
 - Hours of working;
 - A programme of and phasing of demolition and construction work;
 - The provision of long term facilities for contractor parking;
 - The arrangements for deliveries associated with all construction works;
 - Methods and phasing of construction works;
 - Access and egress for plant and machinery;
 - Protection of pedestrian routes during construction;
 - Location of temporary site buildings, compounds, construction material, and plant storage areas;
 - Provision for storage, collection, and disposal of rubbish from the development during the construction period; and
 - Re-use of on-site material and spoil arising from any site clearance or demolition work.Demolition and construction work shall then only take place in accordance with the approved method statement.

- 10) No development shall take place until plans of the site showing details of the existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls have been submitted to, and approved in writing by, the local planning authority. The details shall clearly identify the relationship of the proposed ground levels and proposed completed height with adjacent buildings. The development shall thereafter be carried out strictly in accordance with the approved details.
- 11) No development shall take place above slab level until a scheme has been submitted to, and approved in writing by, the local planning authority to demonstrate that the development hereby permitted incorporates measures that provide energy savings of no less than 10% above Building Regulations in force at the time the development is to be constructed. Before any part of the development is first occupied a verification report and completion certificate shall be submitted in writing to the local planning authority confirming that the built development hereby permitted has been constructed in accordance with the approved scheme. The developer shall nominate a competent person for the purpose of assessing and providing the required report and certificate to confirm that the completed works incorporate such measures as to provide the required energy savings. The energy saving works set out in the report shall thereafter be maintained so that the required energy saving is sustained at the certified level for the lifetime of the development.
- 12) No dwelling hereby permitted shall be first occupied until the highway/improvement works shown on drawing ref. 7262/D01 rev F have been completed in accordance with the approved details.
- 13) No development shall take place until the following details have been submitted to, and approved in writing by, the local planning authority :-
 - (a) a desk top study report, documenting all the previous and existing land uses both on and adjacent to the site and including a conceptual site model and preliminary risk assessment. The report should be completed by a competent person and produced in accordance with national guidance, as set out in Contaminated Land Research Report No.11 and BS10175:2001;
 - (b) a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site;
 - (c) a written report of the findings which includes a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the local planning authority and identified as unnecessary in the written report, an appraisal of remediation options and the preferred option(s) identified as appropriate for the type of contamination found on site;
 - (d) a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of

works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages. Site works and details submitted shall be in accordance with the approved scheme and undertaken by a competent person.

The above reports and site works should be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 14) Before any part of the development is first occupied or brought into use a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full shall be submitted to, and approved in writing by, the local planning authority. The verification report and completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
- 15) The stables hereby permitted shall not be first brought into use until details of the measures to dispose of manure and other waste have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented on commencement of the use and retained at all times thereafter.
- 16) The development hereby permitted shall not be first occupied until a fully detailed landscape and planting scheme for the site has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. The works shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the local planning authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or diseased, shall be replaced as soon as is reasonably practicable with others of the species, size and number as originally approved unless otherwise first agreed in writing by the local planning authority.
- 17) The development hereby permitted shall not be first occupied until the refuse and recycling storage facilities shown on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

APPEARANCES

FOR THE APPELLANT:

Richard Goodall BA, BTP, DMS, Advoco Planning, Agent
MRTPI

Mark Meredith Stomp Racing, Appellant

Mark Brotherton Stomp Racing, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sabah Halli BA, MA, MRTPI Principal Planning Officer, East Hampshire
District Council

Stephen Wiltshire Development Management Team Leader, East
Hampshire District Council

INTERESTED PARTIES:

David Rymer Froxfield & Privett Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

List of property viewings from Richard Mitham Associates

Guidance on the loss of Industrial or Business Uses, East Hampshire DC