
Appeal Decisions

Site visit made on 15 May 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 27 June 2017

Appeal A Ref: APP/L3815/W/17/3169679

Dragon Nursery, Third Avenue, Almodington, Earnley, PO20 7LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs C Durant against the decision of Chichester District Council.
 - The application Ref E/16/01459/FUL, dated 22 April 2016, was refused by notice dated 20 September 2016.
 - The development proposed is the erection of 1no custom/self build dwelling – Alternative to dwelling permitted by virtue of Class P Prior Approval for Change of Use from Class B8 (Storage) to Class C3 (Dwellinghouse) under E/15/04244/PA3P.
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Appeal B Ref: APP/L3815/W/17/3169680

Dragon Nursery, Third Avenue, Almodington, Earnley, PO20 7LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs C Durant against the decision of Chichester District Council.
 - The application Ref E/16/02914/FUL, dated 5 September 2016, was refused by notice dated 10 January 2017.
 - The development proposed is the erection of 1no custom/self build dwelling – Replicating change of use to dwelling permitted by virtue of Class P Prior Approval for Change of Use from Class B8 (Storage) to Class C3 (Dwellinghouse) under E/15/04244/PA3P but with false pitch roof and roof lanterns.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Application for Costs

2. An application for costs was made by Mr & Mrs Durant against Chichester District Council. This application is the subject of a separate Decision.

Main Issue

3. As set out above, there are two appeals. These both concern the erection of a dwelling on the same site and differ only in terms of their detailed design. The dwelling proposed in Appeal A would be a traditional two storey dwelling, whereas Appeal B would be single storey and loosely replicate the appearance of an existing greenhouse which both of the proposed dwellings would replace. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
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4. The main issue in both Appeal A and Appeal B is whether the appeal site is a suitable location for a new dwelling having regard to local and national planning policy, and any other material considerations.

Reasons

5. Dragon Cottage is a detached residential dwelling located in the countryside. It occupies a relatively large plot of land which has historically been used for horticulture and falls within a Horticultural Development Area as designated in the Chichester Local Plan. Many of the other residential properties along Third Avenue and in the surrounding area have also historically been occupied in connection with horticultural activity. Whilst there has been some diversification in recent years much of the area continues to be used in association with horticulture.
6. On the land to the rear of Dragon Cottage is a large greenhouse. A change of use of the greenhouse to B8 storage or distribution was recently found to be lawful (ref E/15/00473/ELD). Subsequently a change of use from B8 to C4 dwellinghouse under Class P of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) was also found to be lawful (ref E/15/04244/PA3P). In both appeals a new private dwelling is proposed to be located on the site of this greenhouse.
7. Policy 2 of the Chichester Local Plan: Key Policies 2014-2029 (LP) outlines the development strategy for the district. This seeks to direct new development to within existing settlements in order to, amongst other things, ensure good accessibility to local services and facilities. Any development outside of these areas is to be restricted to that which requires a countryside location, meets an essential local rural need, or supports rural diversification, as set out in detail in Policy 45 of the LP.
8. These policies are consistent with the National Planning Policy Framework (the Framework) which seeks to promote sustainable development in rural areas by directing housing to places where it will enhance or maintain the vitality of rural communities or support nearby services. New isolated homes in the countryside should be avoided unless there are special circumstances such as those set out in paragraph 55 of the Framework.
9. Whilst the development plan does not specifically refer to people wishing to build their own homes, for which there is support in the Framework, the relevant LP policies in these appeals, which concern the location of new housing, nevertheless, display a high degree of consistency with the Framework as set out above and as such can be afforded great weight.
10. The appeal site falls within the countryside outside of any designated settlement boundary area. The appellant has not advanced any arguments to satisfy Policy 45 of the LP or outlined any special circumstances such as those set out in the Framework to justify the proposals. Whilst there are other residential properties along Third Avenue and in the wider area generally the appeal site is isolated insofar as it is not located in close proximity to any recognised rural centre where local services and facilities would be found. Any future occupants of the proposed dwellings would therefore be likely to be entirely reliant on the use of the private motor vehicle. As a result the proposed dwellings in Appeal A and Appeal B would both conflict with local and national planning policy.

11. The appellant, however, makes the case that the permitted change of use of the greenhouse on the appeal site to C4 residential is a viable and realistic 'fallback' position of significant weight and as such this justifies both proposals as the impact would be similar to that of erecting a new dwelling. The 'fallback' position had not, at the time of my site visit, been implemented.
12. The greenhouse in question is in a dilapidated state, the original timber frames to the windows are suffering from rot and most of the original glass in the elevations is missing. The floor to the greenhouse is largely bare ground. I understand, however, that a structure constructed within the greenhouse is proposed, although full details of how this would be achieved or what it would look like are not provided. I have before me photographs of such a construction in Europe but these show a much taller and larger greenhouse than that which is before me. I therefore question the suitability of the greenhouse in this appeal for such a conversion as it is a low structure capable of providing only a fairly limited floor to ceiling height due to its roof form.
13. In addition to the above the existing metal frame is supported by a large number of internal posts set out in a grid-like pattern. On the evidence before me it appears these would be retained. This would make the layout of accommodation and any associated furniture, as well as the general circulation of future occupants, awkward. Furthermore, to give the roof structure stability, to provide insulation, and to stop any condensation it is proposed that the underside of the steel gulleys and frames along with the glass panels are sprayed with a polyurethane rigid foam. Whilst the benefits from such a treatment are obvious I am concerned over the resulting appearance of the greenhouse and whether this would be a desirable place to reside.
14. I do accept that in theory the greenhouse could be converted to provide some form of residential accommodation, and the report by Mr C Wood, Chartered Civil and Structural Engineer goes some way towards supporting this. However I consider the works required, and the limitations of the resulting dwelling are such that I do not consider this would be a viable or realistic option. I therefore consider there is no greater than a theoretical possibility that the conversion would take place. This therefore limits the weight I can attach to it as a 'fallback' position.
15. In concluding on this issue I agree that the carrying out of the conversion of the greenhouse into a residential dwelling simply as a means to an end to obtain planning permission for a replacement dwelling is nonsensical. This does not however change my findings above and indeed raises the question as to whether the permitted change of use is simply being used to pursue an isolated new dwelling in the countryside, contrary to planning policy.

Other matters

16. The appellant refers to an allowed appeal decision in Chiddingfold and an application for planning permission granted by Arun District Council, both of which concern new dwellings in the countryside. The 'fallback' position in the appeals before me is not, however, directly comparable to either of the 'fallback' positions in the above cases, nor are the circumstances surrounding them. The same is true of an application recently approved by the Council in Sidlesham where the 'fallback' position concerned a permitted change of use of a timber and brick building. In any event, each application and appeal must be considered on its own planning merits.

17. Positive landscape changes as a result of the proposals are put forward as a benefit but given that impact on character and appearance is not raised as a concern and the fact that the site is well screened from public views this can only be considered as a neutral factor. I have had regard to national policy in respect of the change of use of commercial buildings into residential use and permitted changes of use but that is not what is before me.
18. A second reason for refusal in both appeals relating to the effect of the development on the Pagham and Chichester Harbours and Langstone Harbour Special Protection Areas has fallen away following the submission of a unilateral undertaking which resolves the Council's concerns in this respect. As I am dismissing these appeals for other reasons it is not necessary for me to consider this matter in any further detail.

Conclusion

19. The appeal site is not a suitable location for housing as it would be contrary to local and national planning policy to which I afford great weight. I have had regard to all material considerations including the 'fallback' position, the need to significantly boost housing supply and the fact that a new build dwelling would likely have greater energy efficiency than the greenhouse as converted. However, given my findings above, these matters do not outweigh the conflict with the development plan. The presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, does not, therefore, apply.
20. For the above reasons, and having had regard to all matters raised, the appeal is dismissed.

Hayley Butcher

INSPECTOR