
Appeal Decision

Site visit made on 6 August 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/L3815/W/19/3223821

Land East of Lady Lea House, Brewhurst Lane, Loxwood RH14 0RJ

- 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 Ian Felgate against the decision of Chichester District Council.
 - The application Ref LX/18/01578/FUL, dated 19 June 2018, was refused by notice dated 1 November 2018.
 - The development proposed is the demolition of storage outbuilding and erection of detached three bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.
3. Since the application was determined and the appeal lodged, the Council has withdrawn the reason for refusal in relation to the effect of the proposed development on existing trees at the appeal site. The Appellant has been made aware of this change to the reasons for refusal and has had the opportunity to comment. Therefore, the third reason for refusal given by the Council no longer applies to this appeal, and accordingly I have considered it appropriate to identify two main issues and determine the appeal on this basis.
4. At my site visit I was not met and therefore I was not able to enter the site. Nevertheless, I was able to observe the site from the gate adjoining Brewhurst Lane and, therefore, I am satisfied that I have been able to make a comprehensive assessment of the proposal.

Main Issues

5. The main issues are:
 - Whether or not the loss of employment land can be justified with regards to National and Local Planning Policy; and
 - Whether the proposed development would be in a suitable location for housing with regards to National and Local Planning Policy.

Reasons

Loss of Employment Land

6. Policy 3 of the Chichester Local Plan: Key Policies 2014 – 2029 (the Local Plan) promotes sustainable growth of the local economy through the provision of a flexible supply of employment land and premises to meet the varying needs of different economic sectors. In respect of this appeal, this Policy confirms that it seeks to protect and enhance existing employment sites and premises to meet the needs of modern business, with reference to Policies 11 and 26 of the Local Plan.
7. Policy 26 of the Local Plan provides that existing employment sites will be retained to safeguard their contribution to the local economy. This applies to the appeal site which, I understand from the evidence before me, is currently used for the storage of items associated with the building trade and has been in use as such since 1983.
8. Policy 26 of the Local Plan goes on to confirm that planning permission will be granted for alternative uses where it is demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for employment purposes. Within the supporting text of Policy 26 of the Local Plan, paragraph 16.7 makes reference to specific guidance contained in Appendix E (Appropriate Marketing Guidance) of the Local Plan as to the evidence requirements that will be necessary with regards to the redevelopment of existing employment land.
9. In this respect and further to details of general criteria, Appendix E of the Local Plan provides that certain additional information relating to loss of existing employment land and use will be required and, amongst other things, there is a requirement that marketing is expected to have been carried out for a minimum period of two years.
10. It has been put to me by the Appellant that whilst the proposal would not accord with the provisions of Policy 26 of the Local Plan and that such a storage use would be useful in this rural area, by reason of the condition of the building and its size it is unlikely to be attractive as a commercial operation. As a consequence of this, the Appellant has not marketed the property in accordance with Policy 26 and Appendix E of the Local Plan.
11. In this respect, whilst I acknowledge that the current building may not be suitable for some forms of commercial operation, the general comments provided by the Appellant with regards to whether the building and land would be attractive for other commercial enterprises is not, in my view, sufficient evidence to demonstrate that the site is no longer required or would be unlikely to be re-used or redeveloped for employment purposes. Furthermore, there is no evidence before me which demonstrates that the current use of the site is unviable.
12. Consequently, the proposed development would conflict with Policies 2 and 26 of the Local Plan which seek to safeguard existing employment sites. For the same reasons, the proposal would not accord with the provision of the Framework with regards to supporting a prosperous rural economy.

Location of Development

13. The appeal site is located on a narrow lane outside of the settlement boundary of Loxwood. The narrow nature of the lane, the presence of wooded areas and fields adjacent and close to the site, give the surrounding area an intrinsically rural character.
14. Policy 2 of the Local Plan sets out the District's development strategy and settlement hierarchy, with development being focused on the city of Chichester and towards the four other main settlements referred to as 'Settlement Hubs'. Loxwood is identified as being one of the 'Service Villages', where provision is made for small scale housing developments and other forms of development such as local community facilities and small-scale employment, tourism or leisure proposals. Furthermore, Policy 2 of the Local Plan seeks to restrict development located outside the identified settlements, to those forms of development which are in accordance with Policies 45 and 46 of the Local Plan.
15. Policy 25 of the Local Plan concerns development in the North of the Plan Area and states that provision will be made for small scale development through Neighbourhood Plans. Policy 2 of the Loxwood Neighbourhood Plan 2013 – 2029 (the Neighbourhood Plan) states that land outside the settlement boundary is deemed to be rural. Policy 12 of the Neighbourhood Plan provides that development within rural areas must be in accordance with the 'NPPF paragraph 55' (now paragraph 79 of the Framework), which concerns isolated homes in the countryside.
16. It has been put to me that the proposed development would not represent an 'isolated home in the countryside' and would contribute to the vitality of the rural community. In this regard, The Framework does not define what is meant by the term 'isolated'. However, a court judgement¹ determined that 'isolated' should be given its ordinary objective meaning, being 'far away from other places, buildings or people'. By reason of the appeal site's location adjacent to several dwellings which form a ribbon development along Brewhurst Lane and given the site's location close to the settlement of Loxwood, it cannot be said that the appeal site is isolated. Consequently, as the proposed development would not be an isolated home in the countryside, the proposal would not conflict with paragraph 79 of the Framework and would therefore accord with Policy 12 of the Neighbourhood Plan.
17. However, Policy 45 of the Local Plan confirms that sustainable development outside of settlement boundaries will only be supported where certain criteria are all met. In this respect, the appeal proposal would be well related to an existing group of buildings and close to an established settlement and the evidence before me does not indicate that the proposal would prejudice any viable agricultural operations. Nonetheless, this Policy also requires that in such locations proposals would be required to not prejudice other existing viable uses and, for the reasons given above on the first main issue, the proposal would result in the loss of employment land and use of the site.
18. Consequently, given that the proposal would prejudice an existing viable use and would be for residential housing where it has not been demonstrated that the proposal would require a countryside setting, the appeal scheme would

¹ Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin)

conflict with Policy 45 of the Local Plan and subsequently would not accord with Policy 2 of the Local Plan. This conflict with the development plan weighs against the appeal scheme.

19. Notwithstanding the above, it has been put to me that the proposal would represent sustainable development and would accord with a number of development plan policies. Furthermore, the Appellant maintains that the Council are unable to demonstrate a deliverable five year housing land supply.
20. With regard to the position concerning housing land supply, whilst I acknowledge the submissions of the Appellant, in considering all the evidence before me I am satisfied that the Council can demonstrate that there is in excess of five years housing land supply within the District.
21. With regard to the potential benefits that the scheme may provide, the Framework recognises that new housing can contribute to the vitality of rural communities by helping to support local services. As such, I accept that the appeal proposal could play a small part in supporting the viability of services within this rural area.
22. Furthermore, I accept that the proposal would provide social benefits in terms of a contribution of a single unit towards housing supply with the use of previously developed land in an area which, whilst not located within the settlement boundary, would be close to services and facilities to be found at Loxwood. The Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It is to be expected, therefore, that some travel by private motor vehicles is likely in rural areas such as this. I find that the appeal site would be within acceptable walking and cycling distance of the services and facilities at Loxwood. Therefore, I am satisfied that a new dwelling in this location would ensure sufficient choice of travel by sustainable modes in order to access local services and amenities.
23. In terms of the economic benefits of the proposal, it has been put to me that the appeal scheme would provide employment during the construction phase. However, for the reasons described above under the first main issue, the proposal would result in the loss of existing employment land and, consequently, the limited short-term benefit of providing employment during the construction of the proposed dwelling would prevent the potential long-term employment opportunities that may exist in the continued use of the site. This would not accord with the economic dimension of sustainable development as described within the Framework.
24. In my view, the potential benefits of the appeal scheme as described above, which are limited by the small scale of the proposed development, would be outweighed by the significant harm that would result from the loss of employment land and the conflict with the development plan when taken as a whole. Consequently, once these matters are considered together, the proposal could not be considered to be sustainable development in the terms of the Framework or in terms of Policies 2 and 45 of the Local Plan and Policy 2 of the Neighbourhood Plan, for which there is a presumption in favour of.

Other Matters

25. Interested parties raise several additional objections to the proposal including overlooking and loss of privacy and the effect of the proposed development on the nearby listed building at The Fletchings. These are all important matters and I have taken into account all of the evidence before me. However, given my findings in relation to the main issue, these are not matters that have been critical to my decision.

Conclusions

26. For the reasons given above, the scheme conflicts with the development plan when considered as a whole and there are no material considerations to outweigh the identified harm and subsequent development plan conflict in relation to the suitability of the location of the appeal site and the loss of employment land. I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR