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## Appeal Decision

Site visit made on 15 October 2019

**by C Osgathorp BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 November 2019**

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**Appeal Ref: APP/Y9507/W/19/3232116**

**Gosling Croft Business Centre, Long Furlong, Clapham BN13 3UT**

- 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 M Wakeham against the decision of South Downs National Park Authority.
  - The application Ref SDNP/18/05668/FUL, dated 1 November 2018, was refused by notice dated 2 April 2019.
  - The development proposed is 1No. detached chalet bungalow.
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### Decision

1. The appeal is allowed and planning permission is granted for 1No. detached chalet bungalow at Gosling Croft Business Centre, Long Furlong, Clapham BN13 3UT in accordance with the terms of the application, Ref SDNP/18/05668/FUL, dated 1 November 2018, subject to the conditions set out in the attached schedule.

### Preliminary Matter

2. Since its determination of planning application Ref SDNP/18/05668/FUL, the Authority has adopted the South Downs Local Plan 2014-33 ('SDLP') on 2 July 2019 and I therefore give full weight to the relevant policies of SDLP. The decision notice refers to policies SD25 and SD26 of SDLP. It also refers to policies GEN2 and GEN3 of the Arun Local Plan 2004, which have now been replaced by SDLP and therefore have had no bearing on my decision.

### Main Issue

3. The main issue is whether the proposed development would provide a suitable location for housing having regard to its effect of the character and appearance of the countryside.

### Reasons

4. The appeal site consists of land which is within the curtilage of Gosling Croft Business Centre. The land is used for temporary parking and open storage for the existing business units, which includes 2 shipping containers. The appeal site is previously developed land because it is within the curtilage of a permanent structure and is not excluded by the definition of previously developed land contained in Annex 2 of the National Planning Policy Framework ('Framework').

5. The southern part of the appeal site is located within the 'recognised village envelope' as shown in Schedule A of the Clapham Neighbourhood Development Plan 2015 to 2035 ('CNDP'), however the northern section is outside the recognised village envelope. There is no visual demarcation on site between those parts that are within or outside the recognised village envelope. The appeal site is well-contained due to the screening provided by the neighbouring detached dwelling to the south; the business units to the east; and the trees and vegetation to the north, east and west.
6. Policy SD25 of the SDLP supports the principle of development within settlements. The policy seeks to ensure that development is of a scale and nature appropriate to the character and function of the settlement in its landscape context. It states that exceptionally, development will be permitted outside of settlement boundaries, where it complies with relevant policies in the Local Plan; responds to the context of the relevant broad area or river corridor; and (d) it is an appropriate reuse of a previously developed site, excepting residential gardens, and conserves and enhances the special qualities of the National Park.
7. Policy HD4 (Windfall Sites) of the CNDP supports, in principle, residential developments on infill and redevelopment sites within the recognised village envelope. However, the CNDP does not include circumstances where development outside of settlement boundaries will be permitted, which conflicts with Policy SD25 of the SDLP. The Planning and Compulsory Purchase Act 2004 (s38) indicates that where there is conflict between policies, the conflict must be resolved in favour of the policy contained in the last document to become part of the development plan. The SDLP was adopted most recently and therefore the conflict is resolved in favour of Policy SD25.
8. The officer's report states that it is recognised that the village envelope of the CNDP has been drawn in two parts to prevent the erosion of the existing countryside gap where only a few buildings in low density are currently present. The Authority is concerned that the proposed development would cause harm as a result of the erosion of the countryside area between the two defined settlement boundaries to the north and south.
9. Whilst the northern part of the appeal site is outside the recognised village envelope, it visually and functionally relates more closely to the settlement than the countryside. This is because the land is within the curtilage of existing business units, which are themselves within the recognised village envelope. Furthermore, the appeal site is visually contained from the open countryside by the surrounding trees and vegetation. The proposed dwelling would be viewed as part of a group of buildings, including the neighbouring detached dwellings at Bona Vista and Glenelg to the south and the existing business units to the east. The proposed development therefore would not visually encroach into the countryside.
10. I have had regard to the statutory purposes of the National Park designation to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park. I have also had regard to paragraph 172 of the Framework to give great weight to the conservation and enhancement of the landscape and scenic beauty of the National Park. The Authority's Landscape Officer comments that the site is visually well contained and concludes that the proposal would be broadly in keeping with the prevailing landscape character

within its immediate context, and is not likely to cause adverse landscape or visual effects. I see no reason to take a different view.

11. The appeal site has an attractive post and rail timber fence on the southern and western boundaries, and the neighbouring properties at Bona Vista and Glenelg have low front boundary walls. The proposed 1.8 metres tall timber fence on the southern and western boundaries would be visible from the main road and would not be in keeping with the prevailing landscape characteristics. Nevertheless, I am satisfied that an alternative boundary treatment could be agreed through the imposition of a condition to require details of a landscaping scheme to be submitted to the Authority for approval.
12. The proposal would therefore be an appropriate reuse of a previously developed site and it would conserve and enhance the special qualities of the National Park.
13. For the above reasons, I conclude that the proposed development would provide a suitable location for housing having regard to its effect of the character and appearance of the countryside. The proposal would therefore comply with Policy SD25 of the South Downs National Park Local Plan 2014-2033, which seeks to ensure that development is of a scale and nature appropriate to the character and function of the settlement in its landscape context. The proposal would also accord with Policy SD26 of the SDLP, which seeks the supply of additional homes, including delivery through the development of land previously unallocated or identified (windfall).
14. Moreover, the proposed development would comply with paragraph 170 of the Framework, which states, among other things, that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. It would also accord with the first statutory purpose of the National Park.

### **Other matters**

15. Though not comprising a reason for refusal in the decision notice, the Authority has drawn my attention to Policy SD35 of SDLP and Policy BT2 of the CNDP in respect of the loss of employment land. The policies state that change of use applications that would result in a loss of employment land will only be permitted provided that evidence of a robust marketing campaign of at least 12 months clearly demonstrates that there is no market demand for the business premises.
16. Whilst evidence of a marketing campaign has not been submitted, the appeal scheme would not result in the loss of buildings used for employment floorspace and it would not have an adverse effect on the operations of the existing business units. The land is currently used for a small amount of open storage and parking which could be accommodated within the business centre. The proposal would therefore safeguard the employment site, in accordance with the objectives of Policy SD35 of SDLP and Policy BT2 of the CNDP.
17. I have had regard to the representations from an interested party and Clapham Parish Council, which, in addition to the main issue, raise concerns including: the proposed development does not meet the housing need identified in the housing needs survey of the parish for affordable housing for the young and old to help them remain in the area; the arboricultural report states that there are

no TPO's on the site which is incorrect; the night-time visibility of the proposed building would be significant; and, the external lighting bollards must prevent spillage/pollution and face inwards away from open landscapes.

18. There is no planning policy requirement for a one dwelling development to provide affordable housing. Policy SD27 of the SDLP states that proposals for market housing should provide a mix of units, including 3 bedroom dwellings. The proposed development would provide a 3 bedroom dwelling, which would contribute towards housing supply in the National Park area.
19. The proposed dwelling would not be within the root protection zones of existing trees and the arboricultural report includes tree protection measures to protect the existing trees during construction works. The proposed dwelling would maintain an appropriate separation to the trees adjacent to the northern boundary and there would not be any main habitable windows on the northern side elevation that would be affected by the trees. The officer's report states that the proposed development would not result in a detrimental impact on the Dark Night Skies reserve and there is no evidence before me to the contrary. A condition could be imposed to require details of an external lighting scheme to be submitted to and approved in writing by the Local Planning Authority.

### **Conditions**

20. The Council has suggested 13 conditions which I have considered against the Framework and the advice in Planning Practice Guidance, amending where necessary in the interests of clarity and precision.
21. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
22. Conditions dealing with the materials to be used in the external surfaces of the development and the further approval and implementation of a hard and soft landscaping scheme are necessary to preserve the landscape character of the area.
23. A condition to require the submission of a detailed scheme of biodiversity enhancements for approval, including the measures outlined within section 4.9 of the Preliminary Ecological Appraisal<sup>1</sup>, is necessary to ensure that the proposed development would enhance biodiversity on the site.
24. A condition to require the tree protection measures shown on drawing No. TPP/G/135/18 to be implemented for the duration of construction works and for the development to be undertaken in accordance with the arboricultural report<sup>2</sup> is necessary to protect trees surrounding the proposed dwelling, which provide an important landscape setting.
25. Conditions to require the car parking spaces to be completed; the covered and secure cycle parking space to be provided; and, the existing electronic gates to be relocated in accordance with the approved plans are necessary to provide adequate car parking to serve the proposed dwelling; to provide alternative travel options to the use of the car; and to provide safe access and egress from the site.

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<sup>1</sup> Carried out by The Ecology Co-op, dated 25 May 2018 (Ref 2793)

<sup>2</sup> Prepared by Phillip Ellis Arboricultural Consultancy (Ref G/135/18)

26. A condition to require the submission of a Construction Method Statement ('CMS') for approval is necessary in the interests of highway safety and to protect the living conditions of the occupiers of neighbouring properties during construction works. This is a pre-commencement condition because the carrying out of construction works without a prior agreed CMS may have an adverse impact on highway safety and the living conditions of the occupiers of neighbouring properties.
27. A condition to require details of the finished ground floor level of the proposed building in relation to surrounding existing and proposed levels is necessary to ensure that the proposed development would respect the landscape character of the area. I am satisfied that this needs to be a pre-commencement condition because the carrying out of groundworks prior to levels being agreed may result in works being carried out that would not be appropriate in the landscape setting of the site.
28. A condition to require the submission of an external lighting scheme for approval is necessary to minimise light pollution in the National Park.
29. The Authority has suggested a condition to remove permitted development rights under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) in respect of extensions, additional glazing, buildings and structures. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. In this case, I am satisfied that this condition is necessary to ensure that the Authority is able to consider the effect of such developments on the natural beauty of the National Park.

### **Conclusion**

30. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

*C Osgathorp*

INSPECTOR

### **Schedule of conditions**

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-  
  
AR-124-01; AR-124-02; AR-124-05; AR-124-06; AR-124-07; and, AR-124-08.
3. No construction works above slab level shall commence until a schedule of materials and finishes, including samples of such materials and finishes to be used, for all roof materials, walls, glazing, eaves details, flues and rainwater goods, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved materials.
4. No construction works above slab level shall commence until a detailed scheme of hard and soft landscaping works has been submitted to and approved in writing by the Local Planning Authority. All such works as may be approved shall then be fully implemented in accordance with the approved development. The scheme shall include details of:
  - i) Existing trees and other vegetation to be retained in the scheme.
  - ii) Boundary treatments, which should be predominantly native hedgerow.
  - iii) Paving and other surface materials
  - iv) New planting around and boundaries and within the site.
  - v) Ancillary structures including refuse storage
  - vi) Written specifications (including cultivation and other operations associated with plant and grass establishment;
  - vii) Planting methods, tree pits & guying methods;
  - viii) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
  - ix) A timetable for implementation of the soft and hard landscaping works.

All soft landscaping shall be carried out in the first planting and seeding season following the first occupation of the building, or the completion of the development, whichever is the sooner. All shrub and tree planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
5. No construction works above slab level shall commence until a detailed scheme of biodiversity enhancements to be incorporated into the

development, including the measures outlined within section 4.9 of the Preliminary Ecological Appraisal (The Ecology Co-op, dated 25 May 2018), has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

6. Prior to the commencement of development, the tree protection measures detailed on Plan TPP/G/135/18 shall be implemented on site and retained during the construction period. The development shall also be undertaken in accordance with the approved Arboricultural Report and Statement (ref: G/135/18).
7. Prior to the occupation of the dwelling hereby approved, the car parking shall be completed in accordance with approved Site Plan AR-124-02 (dated June 2018). These spaces shall thereafter be retained for their designated purpose.
8. Prior to the occupation of the dwelling hereby approved, the covered and secure cycle parking space shall be provided in accordance with the approved Site Plan AR-124-02 (dated June 2018).
9. Prior to the occupation of the dwelling hereby approved, the existing electronic entrance gates to Gosling Croft Business Park shall be relocated as shown on the approved Site Plan AR-124-02 (dated June 2018).
10. No construction works shall commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - a. An indicative programme for carrying out of the works;
  - b. The arrangements for public consultation and liaison during the construction works;
  - c. Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method for constructing foundations, the selection of plant and machinery and use of noise mitigation barrier(s);
  - d. Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination;
  - e. The parking of vehicles of site operatives and visitors;
  - f. Loading and unloading of plant and materials;
  - g. Storage of plant and materials used in constructing the development;
  - h. The erection and maintenance of security hoarding, where appropriate;
  - i. Wheel washing facilities;
  - j. Measures to control the emission of dust and dirt during construction;
  - k. A scheme for recycling/disposing of waste, including spoil, resulting from demolition and construction works;

I. Working hours.

11. No construction works shall commence until details of the finished ground floor levels of the building hereby approved in relation to existing and proposed site levels, the adjacent highway and adjacent premises, together with details of levels of all accesses, to include pathways, driveways, steps and ramps, have been submitted to and approved in writing by the Local Planning Authority. Development shall subsequently proceed in accordance with the approved details.
12. Prior to the occupation of the dwelling hereby approved, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify the type and location of all external lighting to be installed on the site and dwelling. All external lighting on the dwelling shall be restricted to down lighters that do not exceed 1000 lumens, which shall be designed and shielded to minimise upwards light spillage. External lighting shall only be installed in accordance with the approved external lighting scheme. No further external lighting shall be installed anywhere within the site. This exclusion shall not prohibit the installation internal lighting or of sensor-controlled security lighting of 1,000 lumens or less, which shall be designed and shielded to minimise light spillage.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order amending or revoking and re-enacting this Order, no extensions, additional glazing, buildings or structures shall be erected or installed at the site without prior planning permission from the Local Planning Authority.