
Appeal Decision

Site visit made on 21 October 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Appeal Ref: APP/Y9507/W/19/3232162

Bryn Gardens, Rake Road, Liss GU33 7HB

- 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 and Mrs Barton against the decision of South Downs National Park Authority.
 - The application Ref SDNP/18/03705/FUL, dated 5 July 2018, was refused by notice dated 28 December 2018.
 - The development proposed is demolition of existing B1(a) office and adjoining buildings and erection of a single storey detached dwelling and associated landscaping works.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Barton against South Downs National Park. This application is the subject of a separate Decision.

Procedural Matters

3. Since the application was determined the Authority has now adopted (on the 2 July 2019) the South Downs Local Plan 2014-33 (2019) (SDLP). The form and wording of Policies SD25 and SD35 of the SDLP have not materially changed from when the planning application was determined by the Authority.
4. In their refusal notice, the Authority has also referred to Policies CP2, CP4, CP6 and CP10 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (JCS) and Policy IB4 of the East Hampshire District Local Plan: Second Review 2006 (LP) as reasons for refusal. However, as noted above, the Authority has now adopted the SDLP and therefore the policies in the SDLP replace those in the JCS and the LP. Hence, although the Authority's refusal notice refers to policies in the JCS and the LP, they are no longer relevant to the determination of this appeal.

Main Issues

5. The main issues are (i) whether or not the loss of employment land can be justified having regard to local planning policy; and (ii) whether or not the location of the proposed dwelling is appropriate in principle having regard to local planning policy.

Reasons

Loss of employment land

6. The site, Bryn Gardens, is an area of land comprising several low buildings between a row of terraced properties known as Rockpit Cottages and the dwelling of Bryn. The buildings serve a mixed use for B1(a) office, garaging and ancillary storage.
7. The purpose of Policy SD35 'Employment Land' of the SDLP is to set out employment land provision figures for the National Park and safeguard existing employment sites.
8. In respect of this appeal, paragraph 3 of Policy SD35 states that the Authority will safeguard all existing employment sites and allocations that are fit for purpose from development proposals for non-employment uses. It goes on to state that change of use applications that would result in a loss of employment land, such as in this case, 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.
9. I saw on my site visit that a business is operating at the site. As a matter of fact and degree, I consider the business premises to be small. In this regard, the supporting text to Policy SD35 states that because the National Park's economic base is focussed on small businesses it is not practicable to identify all these sites on the Policies Map. It goes on to state that it is important to protect all existing small business premises, extending beyond identified principal and local employment sites, unless it can be proved that the site and the premises are not fit for purpose.
10. It has been put to me by the appellants that the site is not considered to be fit for purpose because the buildings are underutilised and in a poor state of repair. Furthermore, they contend the site has an established use under a specific form of office space, would be less desirable in planning terms if it were to serve a broader office use, the loss of commercial floorspace is small, and for these reasons, retaining a more formal office use on the site would be impractical to achieve.
11. I acknowledge the buildings are underutilised and in a poor state of repair. However, the comments about whether the buildings and site would be attractive for other business enterprises, especially in light of the aforementioned supporting text to Policy SD35, are not, in my view, sufficient evidence to demonstrate that the site is no longer required or would be unlikely to be redeveloped or re-used for employment purposes.
12. Furthermore, the apparent abundance of commercial office premises available for let or sale within the local area, is not, in my view, a reason for not marketing the premises for at least 12 months as required by Policy SD35. Without such a marketing campaign, and in the absence of any other compelling evidence before me, I do not consider the appellants have clearly demonstrated that there is no market demand for the business premises.
13. For the above reasons, I do not consider the loss of employment land can be justified. Consequently, the proposed development would conflict with Policy SD35 of the SDLP which, amongst other things, seeks to safeguard existing employment sites.

Location of development

14. The site is located outside the settlement boundary of Liss and within the countryside. The recently adopted SDLP sets out the housing strategy for the area and Policy SD25 'Development Strategy' sets a clear distinction between land within a settlement boundary, where the principle of further development is established subject to other policies in the SDLP, and countryside.
15. Paragraph 2 of Policy SD25 states that exceptionally, development will be permitted outside of settlement boundaries, where it complies with relevant policies in the SDLP, responds to the context of the relevant broad area or river corridor and complies with at least one of the criteria listed in (a-d).
16. Based on the evidence before me there is no dispute between the main parties that the proposal does not fall within any of the exceptional circumstances set out in criteria (a-c) of paragraph 2 of Policy SD25. Criteria (b) refers to an essential need for a countryside location. It therefore follows that the proposal would also be to Policy Liss 1 of the Liss Neighbourhood Development Plan 2011-2028 (2017) (NP) which states, in paragraph 2, that development outside the settlement policy boundary will be permitted only if there is a genuine and proven need for a countryside location.
17. Criteria (d) of paragraph 2 of Policy SD25 relates to the appropriate reuse of a previously developed site, excepting residential gardens, provided the development conserves and enhances the special qualities of the National Park. In regard to development on previously developed land, the supporting text to Policy SD25 states that "*Policy SD25 also provides some limited flexibility, in exceptional circumstances, to allow 'brownfield' development outside settlement boundaries, where demonstrably necessary to meet the wider objectives of this Local Plan*".
18. The appellants contend that a major enhancement would result from the replacement of the existing buildings and hardstanding with a single storey dwelling to include landscaping and native planting and asserts, therefore, that the proposal would comply with criteria (d) of paragraph 2 of Policy SD25.
19. By virtue of the existing trees and other vegetation and its set-back position the site is well screened and not prominent in the wider landscape. However, although the site is well screened and is close to other residential development in the area, the proposal would introduce a new dwelling and thus a domestic form of development into the rural South Downs National Park, which would be at odds with the intrinsic character of the countryside. Therefore, in this regard, notwithstanding that the existing buildings and hardstanding would be removed, the development would not conserve or enhance the special qualities of the South Downs National Park which includes its landscape and scenic beauty.
20. I acknowledge the appellant's point that the site is not isolated, however it is located well outside a settlement policy boundary and a little over half a mile from facilities and services in Liss. Although within reasonable cycling distance there is no footpath or street lights for some distance between the site and Liss. So, for future occupiers of the proposed dwelling walking to Liss would not be a safe or attractive prospect, especially during inclement weather or after dark. Furthermore, there is no evidence before me to indicate that there are any public transport facilities available from or to the site. On this basis,

notwithstanding that the proposal may lead to a reduction in the number of vehicular trips compared to the existing situation, future occupiers would have limited options other than to rely on the use of a private motor vehicle for their daily needs, a factor which significantly limits the accessibility of the site.

21. I accept the appellant's point that the proposed dwelling would be modest in size and located on previously developed land. However, I do not consider these factors represent exceptional circumstances in the context of Policy SD25 or that it would overcome the limited accessibility of the site. Nor do I consider the proposed dwelling demonstrably necessary to meet the wider objectives of the SDLP.
22. For the reasons outlined above, the site is not an appropriate location for the proposed development. Therefore, it would not accord with Policy SD25 of the SDLP which, amongst other things, seeks to resist development in the countryside in the absence of exceptional circumstances. It would also conflict with Policy Liss 1 of the NP which seeks to resist development outside the settlement policy boundary unless there is a genuine and proven need for a countryside location.

Other Matters

23. The site is located within the 5 km buffer zone of the Wealden Heaths Phase II Special Protection Area. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. Thus, given my overall conclusion on the main issues it is not necessary for me to consider this matter in any further detail.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR