



Appeal Decision

Site visit made on 1 June 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/L3815/C/19/3243251

Land at Zsaras Yard, Highleigh Road, Sidlesham, Chichester PO20 7NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ashleigh Partridge against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered S1/71, was issued on 6 November 2019.
 - The breach of planning control as alleged in the notice is the material change of use of the land to use for the stationing of a caravan for the purposes of human habitation.
 - The requirements of the notice are:
 - (i) Discontinue the use of the land for the stationing of a caravan for the purposes of human habitation; and
 - (ii) Remove the caravan from the Land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. The main issues are:
 - Whether the proposal is in a suitable location for new residential development, the effect of the proposed development on the character and appearance of the area, and whether there would be an over reliance on travel by private motor vehicles; and
 - The effect of the development on the Chichester and Langstone Harbours Special Protection Area (CLHSPA) and the Pagham Harbour Special Protection Area (PHSPA).

Reasons

Location

3. The site is located on a small spur road off Highleigh Road, within the Parish of Sidlesham. It is located outside any identified settlement boundaries. There are a number of mainly detached dwellings within large well landscaped plots in the

immediate vicinity of the site. The prevailing character of the area is however rural. The caravan has been sited within a small paddock to the rear of a number of stables and an existing motor repair business with associated buildings.

4. It is common ground between the parties, that the Council is currently able to demonstrate a five year housing land supply, which has regards to the housing and economic needs assessment in its preparation. However, for the purposes of paragraph 11 of the Framework, the appellant considers that the policies which are most important for determining this appeal are out of date. If that is the case, paragraph 11 (d) of the Framework would be engaged and permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole. The Council has based its reasons for issuing the notice in regard to its location, on Policies 1 and 45 of the Chichester Local Plan: Key Policies 2014-2029 (LP). I agree that these are the key policies for assessing the development in this regard.
5. Policy 1 of the LP reflects the Framework and sets the presumption in favour of sustainable development. It states that planning applications that accord with the policies of the LP should be approved, unless material considerations indicate otherwise.
6. Policy 45 controls development in the countryside and sets out criteria for exceptions. It therefore allows for development, including residential, to be permitted outside settlement boundaries, under certain circumstances. It seems to me, that it does not therefore constitute blanket protection from development.
7. There is nothing in the framework to indicate that the definition of settlement boundaries is not an appropriate policy response. I conclude that the intention to protect rural areas, by restricting development outside settlement boundaries is not inconsistent with the framework. Accordingly, I find that policies 1 and 45, in so far as they are relevant to this appeal, are not out of date.
8. The appellant refers to paragraph 83 of the Framework, which makes it clear that amongst other things, planning policies should enable the sustainable growth of all types of business in rural areas, through conversion of existing and new buildings, and the development and diversification of agricultural and other land based businesses.
9. I recognise that the existing car repair business provides a service to those living in the area. The provision of the residential caravan in such close proximity to the business, is understandably convenient to the occupier, and its presence may help to deter criminal activities such as theft from the premises. I note that CCTV has been installed on the site. I have no evidence however, to explain the nature or the equipment or goods that need to be protected, or why an appropriate level of security could not be provided in other ways.
10. I am therefore not satisfied that on the evidence I have, that the business fulfils an essential, small scale, local need that requires a countryside location, or that the occupation of the caravan is critical to the business.

11. Turning to accessibility, I agree with the parties that the development is not isolated, given its relationship to surrounding residential properties. I note that the primary school is within walking distance of the site. Nonetheless, the nearest small shop is located at a petrol station some 1500m away with the nearest bus stop approximately 1200m to the east, via a public footpath. Other recreational facilities lie some distance from the site. I have no information about the distances to any health or other essential services.
12. From my site visit it was clear that the surrounding roads, including those leading to Brookland, generally do not have pedestrian footpaths, are very narrow and are unlit. This would make walking and cycling, especially in the winter months or after dark, a less attractive alternative to the private car.
13. Accordingly, in the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, I do not consider that the development provides a viable alternative to the use of private cars for residents. The appeal site is therefore, not in a suitable location for new residential development, given its location outside any established built up boundary.
14. Drawing all of the above points together, whilst the reduction in any commuting to work would weigh in favour of the development. Overall, I find that on the basis of the evidence before me the development does not require a countryside location or meet an essential local need. It is therefore in conflict with policies 1,2 and 45 of the LP. In summary these policies set out the Councils settlement strategy for Chichester, and resists development outside the built up area boundaries, unless supported by a requirement for a countryside location or where an essential need is met.

Character and appearance

15. As set out above, the prevailing character of the area is generally that of a collection of large traditionally built dwellings, set within large verdant plots. Beyond the dwellings there is open countryside with a number of horticultural glass houses.
16. The development has introduced a large traditional static caravan, into a previously undeveloped paddock to the rear of the car repair business. The paddock is well screened with a timber fence to the east, substantial hedges and the existing commercial buildings to the remaining boundaries. It is acknowledged that this level of screening limits views of the development from public vantage points outside the site.
17. It is not clear from the evidence whether the boundary fences and screening are within the appeal site or the appellant's control. However, even if they are, while a condition could be imposed to protect the vegetation for several years, there is no guarantee that it would remain permanently. Moreover, the level of screening is likely to be subject to change from month to month and year to year.
18. I recognise that it is not uncommon for residents to store recreational caravans in their gardens, although I saw little evidence of this at my site visit. Nonetheless, to my mind there are marked differences between the character of a stored holiday caravan, to one that is in residential occupation. Such a residential use generally attracts the usual domestic items and paraphernalia

normally associated with residential occupation. The appeal site is no different in this regard, with a TV aerial, satellite dish, a substantial timber climbing frame, a seating area, trampoline and inflatable toys all sited within the paddock.

19. For the above reasons, I find that whilst the caravan is in a reasonable state of repair, its siting and use for residential occupation, is in stark contrast to the other more traditional dwellings found in the area. Consequently, irrespective that it cannot be readily seen, it has introduced an incongruous form of development into this predominately rural area, that is significantly at odds with existing nearby development and contrary to its prevailing rural character.
20. Consequently, the development fails to respect or enhance the character of the surrounding area and causes significant harm to the character and appearance of this rural area. The development is therefore contrary to policy 33 of the LP, which aims to ensure that new development provides a high quality living environment that respects or enhances the character of the surrounding area, the site and its setting in the landscape.

Special Protection Areas

21. The Habitat Regulations 2017 require an assessment to be undertaken as to whether a proposal would be likely to have a significant effect on the interest features of a protected site. The CLHSPA and PHSPA are such protected sites. The appeal site lies within 5.6 kilometres of the CLHSPA and 3.6 kilometres of the PHSPA and the proposal would provide a net increase in occupancy. Therefore, the development has the potential to cause harm to these areas.
22. During the course of this appeal the appellant submitted a signed unilateral undertaking dated 22 April 2020. This undertaking sets out an agreement to pay a contribution to the Council towards the provision of access mitigation measures, in respect of the CLHSPA and PHSPA, as a planning obligation.
23. However, as I have already identified significant harm to the character and appearance of the area, such that the appeal should be dismissed, there is no need to consider this further.

Other matters

24. The appellant refers to static caravans being sited on nearby nurseries. I have not been provided with any information about the planning status or history of these caravans, or what they are used for. Accordingly, their existence does not justify allowing the appeal.
25. My attention has been drawn to the accommodation needs of caravan dwellers, who are not Gypsies, Travellers or Travelling Showpeople. I have not however, been provided with evidence of the availability, or otherwise, of any alternative sites that have been approached by the appellant. Furthermore, I have no evidence to conclude that a caravan is the appellant's preferred style of housing. The appellant's case chiefly relates to providing security for the business, which I have already considered. Moreover, the assessment of need is a matter of planning policy to be considered as part of the Development Plan process. It is therefore not a matter to be determined as part of this appeal.
26. I have considered the appellant's suggestion of imposing a personal condition, or granting a temporary permission. However, such a permission or condition

would not overcome the significant harm that I have identified above, or lead me to a different conclusion.

27. I am very mindful of the appellants personal circumstances and the effect that this decision is likely to have. I have carefully considered the Human Rights issues that may be pertinent to this appeal. However, the protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights. I consider that the decision is proportionate and necessary in the circumstances.
28. The appellant's evidence makes a reference to a medical condition, although I have not been provided with any details. Nonetheless, I have had due regard to the Public Sector Equality Duty (PSED), contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
29. Although there is no appeal under ground (g), I am aware of the uncertain situation that continues to exist with regard to COVID-19. Nevertheless, under s173A the Council have the power to extend the time for compliance with the notice. This is however, a purely discretionary power that is within the Councils' gift to exercise.

Conclusion

30. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Hilary Orr

INSPECTOR