



Appeal Decision

Site visit made on 3 June 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/L3815/W/19/3243435

Goose Cottage, Durbans Road, Wisborough Green, RH14 0DG

- 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 Darren Gent against the decision of Chichester District Council.
 - The application Ref WR/19/02126/FUL, dated 21 August 2019, was refused by notice dated 5 November 2019.
 - The development proposed was originally described as the “change of use of an existing timber clad store room into a single bedroom dwelling. Removal of temporary tent garage and replace with permanent timber clad garage.”
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description used above has been taken from the application form and is similar to the description of development that has been used by the Council in their decision notice. Notwithstanding this, the appellant has requested that the garage be omitted from the proposal and not be considered as part of the development. However, it has not been clarified whether the ‘temporary tent garage’ would still be removed and no amended plans have been provided. Therefore, I have proceeded on the basis that the development would be as described above.

Main Issues

3. The main issues are:
 - Whether the site is a suitable location for the development, with particular regard to the accessibility of services and facilities.
 - The effect of the development on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise.

Reasons

Location of Development

4. The appeal site sits within a group of residential properties that are mostly arranged in a linear pattern at each side of Durbans Road. The group is divorced from the settlement of Wisborough Green and is surrounded by open countryside. The appeal site is an ‘L’ shaped parcel of land that is located to the rear and side of The Badgers which is a Grade II listed building. The site also includes a driveway that passes between the residential properties of The Badgers and Roosters. In addition to some smaller buildings, the site hosts a single storey, timber clad

- building that is proposed to be converted to a dwellinghouse with a single bedroom.
5. Both main parties agree that the site is not isolated due to it sitting within the group of dwellings at this part of Durbans Road. The main parties also identify that the site is outside the settlement of Wisborough Green, which is defined as a service village by Policy 2 of the Chichester Local Plan: Key Policies 2014-2029 (CLP).
 6. Policy 2 of the CLP restricts development at locations outside of settlement boundaries to that which is essential in such a location or supports rural diversification in accordance with policies 45 and 46 of the CLP. The main parties agree that the development does not accord with any of the circumstances set out within policy 45 of the CLP where development is supported in the countryside and, as the building is not a traditional building of architectural or historic merit, its conversion to residential use does not accord with Policy 46 of the CLP. The main parties also agree that the development does not accord with Policy OA3 of the Wisborough Green Neighbourhood Plan 2014-2029 (WGNP) which states that development outside the settlement boundary will only be permitted on allocated sites or in accordance with the CLP. In these respects, the positions of both main parties are consistent with the most recent appeal decision¹ at this site which related to a similar proposal.
 7. By being detached from the settlement of Wisborough Green and the public transport connections and limited range of services and facilities that it hosts, it is likely that future residents of the site would be reliant on the private car to access services and facilities. Therefore, although the site is not isolated from other dwellings and the footways aligning the carriageway of Durbans Road provide a pedestrian link to the settlement, the creation of a dwelling in this location would be contrary to the strategic approach towards development that is set out within Policy 2 of the CLP.
 8. Policy 2 of the CLP identifies that settlement boundaries will be reviewed and provides a general approach for doing so but does not indicate the approach set out for reviewing settlement boundaries is intended to be applied to individual development proposals. In the absence of evidence to the contrary, I have no basis to conclude that it is intended to include the site within a settlement boundary. Even if I have regard to the criteria for reviewing development boundaries as the appellant has done and agree that the development would avoid coalescence and sprawl, the evidence before me does not demonstrate that the site would provide good accessibility to local services and facilities or respect the setting, form and character of the settlement of Wisborough Green.
 9. The CLP was adopted prior to the publication of the National Planning Policy Framework (The Framework) and therefore, whilst this does not render the policies of the CLP out-of-date, weight should be given to pre-existing policies according to their degree of consistency with the Framework. In this regard, by stating that buildings can only be converted to residential use where the existing building is a traditional building of architectural or historic merit, Policy 46 of the CLP is not wholly consistent with paragraph 79 of The Framework.
 10. However, the appellant acknowledges that the content of Paragraph 79 is not applicable to the proposed development as the building at the appeal site is not in an isolated location. Furthermore, whilst the appellant identifies that Policy 46 is also inconsistent with Paragraph 83 of The Framework for the same reason, as that

¹ APP/L3815/W/15/3138467

paragraph of The Framework relates to supporting a prosperous economy, I do not find that paragraph applicable to the proposed development.

11. As set out above, Policy 46 is only one of the development plan policies that are most relevant to the proposed development and, as the level of divergence is minimal and of limited relevance to the proposed development, I do not consider that the content of policy 46 is reason to conclude that the most relevant policies of the development plan are out-of-date when taken as a whole.
12. Notwithstanding the above, even if Paragraph 79 of The Framework were deemed to be relevant, that paragraph requires that proposals involving the re-use of redundant or disused buildings also enhance their immediate setting. There is no suggestion that this proposal accords with that requirement and, as the building already sits comfortably within its setting, the change of use of the building would not result in the enhancement of the setting of the building.
13. The proposed dwelling would be no less accessible than the other dwellings within the vicinity of the site and equally detached from the settlement of Wisborough Green. However, the presence of other dwellings would not reduce the reliance of future occupiers on the private car. Furthermore, whilst I have had regard to the Court of Appeal Judgement² that has been brought to my attention and acknowledge that The Framework identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, these factors do not alter my assessment of the suitability of the site for residential development in the context of the strategic approach towards the location of development that is set out within the CLP and the aim of The Framework for patterns of growth to be actively managed to promote the use of sustainable modes of transport.
14. As paragraph 84 of The Framework relates to the meeting of local business and community needs, the identification within that paragraph that developments may be required in rural locations that are not well served by public transport is not relevant to this proposal.
15. The Framework also identifies that rural housing should be located where it will enhance or maintain the vitality of rural communities and that development in one village may support services in a village nearby. However, as the proposal relates to a single dwelling, any benefit arising in terms of maintaining or enhancing the vitality of Wisborough Green or any other nearby settlement would be limited and, as such, I afford this little weight. Similarly, notwithstanding the contention of the appellant, the evidence before me does not demonstrate that the proposal would lead to the safeguarding of existing local facilities, the expansion of the range of facilities or the improvement of access to facilities in nearby centres as is encouraged by Policy 25 of the CLP.
16. The proposal would represent a small boost to the supply of housing on land that contains existing buildings and, in this respect, I have had regard to the appeal decision³ within the Chichester District that the appellant has brought to my attention and the support set out within The Framework for the significant boosting of housing supply, the use of previously developed land, the contribution that can be made by small sites and the development of under-utilised land and buildings. The development would also bring about economic benefits in terms of construction jobs and financial incentives such as the New Homes Bonus and Council Tax income. Whilst I have regard to each of these potential benefits of the

² Braintree District Council v Secretary of State for Communities and Local Government, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

³ APP/L3815/W/19/3237921

development, as a single dwelling is proposed, the benefit in each of these respects would be limited.

17. Although the appellant has identified that the proposal would contribute to the mix of dwellings within the area, I have no evidence before me that demonstrates that this would meet a particular housing need. Moreover, whilst I note that the dwelling would be single storey, it has not been demonstrated that the building would be fully accessible to disabled or elderly residents. As such, I give minimal weight to these suggested benefits of the proposal.
18. The appellant has also identified that the proposal would be undertaken to a high standard of design and would create a high quality living environment that is served by adequate parking, garden space and broadband connections. However, I consider that these features should be expected of all developments and weigh neutrally in favour of the proposal.
19. Therefore, for the reasons set out above, the site is not a suitable location for the development, with particular regard to the accessibility of services and facilities. Accordingly, the development would be contrary to policies 1, 2, 45 and 46 of the CLP which combine to direct development towards designated service villages and restrict development within the countryside to that which is required to be in such a location and cannot be accommodated within a settlement. The proposal would also be contrary to paragraphs 78, 102 and 103 of The Framework which, in combination, require that patterns of growth are managed to enable opportunities to use existing transport infrastructure to be realised and housing is located where it would enhance or maintain the vitality of rural communities.
20. The building has not been used due to the particular circumstances of the appellant's family and, in this regard, the appellant's justification for the creation of a dwelling at the site has changed in comparison to when the application was first submitted. I also note that no other person within the appellant's family wishes to use the building in the same way that it was used previously. However, this does not demonstrate that the lawful use of the building could not continue or that any efforts have been made to find an alternative user outside of the appellant's family. Furthermore, no evidence is before me to demonstrate that any efforts have been made to put the building to another use that is compatible with national and local planning policies. As such, whilst I have had regard to the circumstances of the appellant and the wish to secure a future for the site, these factors do not lead me to conclude that planning permission should be granted.
21. Whilst the Town and Country Planning (General Permitted Development) Order 2015 (as amended) creates some opportunities to convert some agricultural buildings to dwellings, subject to limitations and conditions, the appellant acknowledges that these would not enable the development proposed by this application. Accordingly, I do not find that the permitted development rights should be taken as a reason to interpret the content of the development plan or The Framework differently in respect of the above matters.

Living Conditions

22. The evidence before me indicates that the land and buildings at the appeal site were used for the small-scale keeping of poultry and associated storage. Although the appellant has suggested that the existing use of the site could be intensified, particularly if the site were no longer used by a local resident, the size of the site and the existing buildings, the narrowness of the driveway and the condition

attached to the applicable planning permission⁴ would be likely to restrict the extent to which intensification could occur.

23. Conversely, the use of the site for residential purposes would cause a noticeably different level of activity at the site, particularly as more vehicle movements would be likely to occur due to the location of the site relative to the services and facilities required for day-to-day living. Those vehicle movements would involve the use of the existing driveway that passes in close proximity to the neighbouring dwellings of The Badgers and Roosters, both of which have windows in the side elevation facing the appeal site and their gardens in close proximity to the driveway. Therefore, even though the boundary fencing and an existing hedge might offer some mitigation, the increase of vehicle movements at the appeal site would be likely to detract from the quiet living conditions that the neighbouring residents currently enjoy and would reasonably expect in this location.
24. In these circumstances and as it has not been conclusively demonstrated that the proposal would avoid an uplift of activity at the site, I have no grounds to conclude that the development would not cause additional noise and disturbance to be experienced by the occupiers of the neighbouring dwellings. Moreover, whilst I have had regard to the personal circumstances of the appellant and his family, I do not find that they represent a reason to reach a different conclusion to that which was reached in the most recent appeal decision at this site.
25. For the reason set out above, the proposal would have an unacceptable effect on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise. The development would, therefore, be contrary to policy 33 of the CLP which requires that proposals create high quality living environments and meet the highest standards of design. The development would also be contrary to the part of paragraph 127 of the Framework which states that developments should create places with a high standard of amenity for existing and future users.
26. In this respect, due to the nature of the harm that I have identified, I do not consider that the potential omission of the garage from the proposal would represent a reason to reach a different decision.

Other Matters

27. As set out above, the site is adjacent to The Badgers which is a Grade II listed building and I have a statutory duty to have special regard to the desirability of preserving the setting of that building. In this instance, I consider that the presence of boundary enclosures and a substantial hedge at the rear of the garden of The Badgers creates a visual barrier between the plots. As a result of this and the separation distance between the listed building and the boundary of the appeal site, I consider that the proposals would not alter the setting of the adjacent listed building. As such, the setting of the listed building would be preserved. This does not, however, represent a reason to reach a different conclusion in respect of the main issues.

Planning Balance and Conclusion

28. As set out above, the proposal would conflict with the Council's strategic approach towards the location of development and result in future occupiers being dependent on the private car. The development would also cause harm to the living conditions of neighbouring residents.

⁴ APP/L3815/W/15/3003400

29. Although some benefits would arise from the proposal including the boost to housing supply and the economic benefits arising from the construction and subsequent occupation of the dwelling, the small scale of the development means that the benefits would be limited. Furthermore, whilst the proposal would accord with The Framework in some respects, for the reasons set out above, I conclude that the development would be contrary to The Framework when taken as a whole.
30. Therefore, I find that the harm that has been identified above and the associated conflict with the development plan is not outweighed by other material considerations, including The Framework. Accordingly, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR