



Appeal Decision

Site Visit made on 5 October 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2020

Appeal Ref: APP/L3815/W/19/3237926

Common Piece, Main Road, Birdham, PO20 7BY

- 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 Mrs K Barnes against the decision of Chichester District Council.
 - The application Ref BI/19/00845/FUL, dated 20 March 2019, was refused by notice dated 2 September 2019.
 - The development proposed is use of land for the stationing of a static caravan for the purposes of human habitation.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the location of the development accords with the Council's adopted housing strategy.

Reasons

3. On two sides, the site abuts built form and the settlement boundary for Birdham, which is identified as a Service Village in the Chichester Local Plan: Key Policies 2014-2029 (LP). Therefore, the site is not isolated. However, outside settlement limits, LP Policies 2 and 45 seek to restrict development to that which requires a countryside location, meets an essential local rural need or supports rural diversification.
4. I understand that the appellant's son is unable to afford his own property. However, in the absence of a demonstrable housing need generally, this is a personal circumstance to which I attribute limited weight. LP Policy 3 allows the formation of live/work units where commercial demand exists, but while the appellant's son works at the existing business housed at the site, commercial demand or how it would be satisfied by the proposal, has not been demonstrated. Therefore, the proposal is not permissible under Policy 3 and there is no clear essential local rural need.
5. LP Policy 45 indicates support for 'sustainable development in the countryside' where certain criteria are met. However, while the criteria may be satisfied, the lack of essential rural need results in a conflict with Policy 45 read as a whole. In any case, the approach to housing development and, in particular, the application of settlement boundaries set out in Policy 2 results in a clear conflict with the LP read as a whole.
6. Policy 15 of the Birdham Parish Neighbourhood Plan 2014-2029 (NP) indicates that development outside settlement boundaries will be in accordance with

paragraphs 55 of the (2012) National Planning Policy Framework (the Framework) and LP Policy 45. Paragraph 55 has been superseded by paragraphs 78 and 79 of the 2019 Framework which are supportive of development where it will enhance or maintain the vitality of rural communities. Thus, the Framework does not place the same blanket restrictions on development outside defined settlement boundaries as the LP, and the additional housing could support local services and vitality.

7. However, the NP must be read as a whole. NP Policy 12 clarifies that there are no plans to allocate housing sites, Policies 13 and 14 clarify that within the settlement boundary development is permissible. Therefore, notwithstanding the reference in NP Policy 15 to Framework paragraph 55, I find that the overall aims of the NP's housing policies, like the LP, are to restrict development outside settlement limits. The proposal, therefore, conflicts with the aims of the NP.
8. The overall aims of the development plan are to direct development to the most accessible locations and protect the countryside from all but essential development. Notwithstanding their blanket approach to the rural area and use of settlement limits, these aims of the development plan are broadly consistent with the overall aims of the Framework.
9. Moreover, the LP was adopted in the context of the (2012) Framework. Given the similarities between Paragraph's 55 of the 2012 Framework and 78/79 of the 2019 Framework, there are no changes in national policy that would render Policies 2 and 45 out of date. Furthermore, while the judgement of *Braintree DC vs SSCLG, Greyread Ltd and Granville Developments [2018] EWCA Civ. 610* aids the interpretation of the Framework, there is no substantive evidence that it should influence the application of Policies 2 or 45, which do not only apply to isolated development. Therefore, I find that the relevant policies of the development plan are not out of date for the above, or any other reason.
10. An appeal has recently been allowed on land to the north of 20 Wessex Avenue, East Wittering. The site was also outside the settlement boundary and, in that case, the Inspector found that compliance with the Framework and effective use of previously developed land indicated a decision otherwise than in accordance with the development plan. Similar conclusions were reached at the same time by the same Inspector in connection an appeal on a site at 34 Birdham Road, Donnington. There are similarities between the above sites and the current appeal in the issues to be weighed in the planning balance.
11. However, at *Wessex Avenue*, the Inspector found that the site was read as part of the street and that the proposal at *Birdham Road* would continue an existing line of dwellings. The current site, whilst adjoining dwellings on 2 sides, is clearly a separate entity. It has an independent access from a main road with no footway provision around the site entrance and is beyond the part of the settlement that has a clearly residential character. Therefore, even though this site was identified in the Housing and Employment Land Availability Assessment 2018 as suitable for development, it is not directly comparable to these other examples.
12. In the current case, I find that the proximity to Birdham, services and public transport connections, lack of harm to the character and appearance of the area and effective use of previously developed land results in compliance with the Framework. There are also benefits from the general delivery of housing.

These are material considerations to which, given the small scale of development, I attribute only limited weight.

13. I understand that the LP, when adopted, did not make provision for the objectively assessed housing need, and that an early review was required to address housing supply issues. However, there is no dispute that there is currently an adequate housing land supply. Therefore, whilst there is no maximum housing target, I find no unmet housing need that might increase the weight that I give to these material considerations.
14. Ultimately, my decision must be made in accordance with the development plan unless material considerations indicate otherwise. Framework Paragraph 12 also clarifies that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Therefore, whilst there are material considerations to weigh in favour of the proposal, they do not indicate that a decision should be taken otherwise than in accordance with the development plan.

Other matters

15. The Council's reasons for refusal cite a conflict with LP Policy 48 relating to the natural environment. However, as there is no demonstrable harm to these interests, I find no such conflict. Whether or not potential adverse effects on the integrity of the Chichester and Langstone Harbours Special Protection Area would be adequately mitigated by the appellant's submitted unilateral undertaking, as mitigation, the undertaking is neutral in the planning balance.

Conclusion

16. As the development is outside the settlement boundary it conflicts with the Council's housing strategy and the development plan read as a whole. In the absence of any material considerations that indicate otherwise, I conclude that the appeal should be dismissed.

M Bale

INSPECTOR