



Appeal Decision

Site visit made on 13 July 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2021.

Appeal Ref: APP/D3830/W/20/3263418

Windfalls Boutique Hotel, Crabbett Park, Turners Hill Road, Turners Hill, RH10 4SS

- 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 Ms Margarita Courtenay against the decision of Mid Sussex District Council.
 - The application Ref DM/20/2425, dated 10 January 2020, was refused by notice dated 23 September 2020.
 - The development proposed is demolition of existing timber building and the erection of a new 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have adopted the address for the site as set out on the application form. In relation to the proposed development, I have adopted the description on the decision notice as this more accurately describes the appeal proposal.
3. The emerging Copthorne Neighbourhood Plan 2020 – 2031 (NP) was subject to Regulation 14 consultation in September to November 2020. The emerging plan has not yet been examined and is still at an early stage in its preparation. For these reasons, I have only accorded the relevant emerging policies limited weight in the determination of this appeal.
4. On 20 July 2020 the Government published a revised version of the National Planning Policy Framework (July 2021) (revised Framework). However, the policies that are relevant to this appeal have not materially changed and there was no need therefore for me to invite the parties to make further submissions in response to the revised Framework. Where the paragraph numbering for policies from the 2019 Framework, referred to in the evidence, has changed, I have highlighted those changes in my decision.

Main Issues

5. The main issues are:
 - whether the proposed development would be acceptable having regard to local and national planning policies on the location of housing; and,
 - whether the proposed development would be sustainably located in relation to local services and facilities.

Reasons

Suitability of location - housing

6. Policy DP6 of the Mid Sussex District Plan 2014 – 2031 (March 2018) (DP) sets out the spatial strategy for the district through identifying a settlement hierarchy for meeting, amongst other requirements, future housing needs. The policy requires development to be focused within the strategic allocations including those at Burgess Hill and the built-up areas of the other defined settlements in order to promote sustainable development and to support a strategy of securing sustainable communities. Outside of the defined built-up boundaries the primary objective of this policy is to secure the protection of the countryside by preventing development that does not need to take place there. Policy DP6 further states that the expansion of defined settlements, outside their built-up boundaries, will only be permitted where the criteria to the policy are met.
7. The parties agree that the appeal site is located outside of any defined settlement and is within the countryside. In terms of the first criteria to policy DP6, this does not apply to the appeal proposal as it involves less than 10 units. The second criteria requires the site to be contiguous with the existing built-up area of a settlement. The closest settlement is Three Bridges (Crawley) to the west of the appeal site. However, the appeal site is separated from this built-up area by the lane that provides access to the hotel from Turners Hill Road, an extensive area of mature woodland, the M23 and then a larger area of mature woodland. As a consequence, the appeal site is physically and visually divorced from any defined settlement boundary and the proposal would not be contiguous with the built-up area of an existing defined settlement.
8. The third criteria to policy DP6 requires the development to be sustainable, with particular regard to the settlement hierarchy. Whilst the sustainability of the site is a matter I return to later in this decision, as the appeal site is within the countryside and not contiguous to a defined settlement, it would, by definition, be contrary to the spatial strategy enshrined in the settlement hierarchy and would not, in this respect, represent sustainable development.
9. Policy DP12 of the DP also forms an important part of the spatial strategy for the district in that, as with policy DP6, it seeks to protect the countryside, preventing development that does not need to take place there, whilst at the same time supporting the rural economy. Policy DP12 further states that development will be permitted where it maintains or enhances the quality of the rural landscape and is either necessary for agricultural purposes or is supported by a specific policy elsewhere in the development plan.
10. The appeal proposal is not for an agricultural purpose. In relation to support provided by another policy in the development plan, policy DP15 of the DP sets out the exceptions where new homes will be permitted in the countryside, where special justification exists. The policy continues by defining four forms of development where special justification would exist, namely: essential accommodation for agricultural, forestry or rural workers; isolated homes of exceptional design and quality; affordable housing; and, development that meets the requirements of policy DP6. In my judgement, none of those exceptions apply to the appeal proposal.

11. The Appellant contends that support is provided by policy DP14 and DP19 of the DP, which relate to the promotion of proposals for rural economic and tourism related development within the countryside. However, these policies relate to the promotion of new development to support existing and new businesses and other local enterprises that are sustainable and secure long term employment opportunities within rural areas. The proposal before me is for a new dwelling (market housing), and not a specific business or tourism development.
12. The Appellant states that the new dwelling would enable the owners to relocate from the hotel building to allow the expansion of the guest accommodation and thus the business. However, there is no substantive evidence before me to support that statement. No plans or detailed proposals have been submitted with the appeal to demonstrate how that would work in practice, neither is there any mechanism that would link the appeal proposal to the expansion of the guest house business.
13. Moreover, the Appellant states that the owner requires somewhere “close” to live so as to support the existing business and their guests. That, in itself, does not provide any justification for the appeal proposal. There is no evidence as to whether the need identified by the Appellant could not be met by, for example, an extension to the hotel or other accommodation “close” to or nearby. There is also no evidence to prove that the new dwelling is essential for the proper functioning and/or management of the hotel or that the scale of the proposed dwelling is commensurate with that required to support on-site management and would be essential to enable the business to grow and remain viable.
14. The Appellant also contends that the owners should be defined as rural workers within the context of policy DP15. For the reasons given above, I do not agree. Whilst there is no definition of rural workers in the DP, in my judgement, it relates to workers that are employed in an agricultural or pastoral or forestry occupation, and not as, in this case, the owners of the hotel.
15. Reference has been made to a previous planning permission for a new garage and annex on the appeal site (ref. WP/07/02360/FUL). This permission, granted in November 2007, has now expired. Even so, in the Council’s Delegated Report Officers concluded that whilst a separate annex would not normally be permitted in an area of countryside restraint, the proposal was acceptable as it would replace the existing timber building that could otherwise be used for ancillary accommodation under permitted development. The Report also concluded that a condition would enable the annex to only be used as ancillary accommodation to Windfalls. The circumstances of that case are, therefore, different to the current appeal. I also note that this permission predated the adoption of the DP.
16. Reference has also been made to an appeal at Copyhold Lane in Cuckfield where permission was granted for a new dwelling in the countryside in November 2020 (ref. W/4001198) (Cuckfield Appeal). However, this appeal related to the suitability of a new dwelling in terms of its access to local services and facilities, and thus its compliance with policy DP21 (Transport) of the DP. I have not been provided with the full details of the case, but it is apparent from the decision that no objections were raised to the suitability of the location having regard to national and local policies on housing. I also note

that the Inspector referred to the location as one containing similar large houses, to that proposed, within a linear development. This decision does not, therefore, affect my findings on this issue.

17. Whilst I accept that the appeal proposal would involve the use of previously developed land, by replacing the dilapidated timber building, that does not affect the findings I have reached. Paragraph 119 of the revised Framework (previously paragraph 117) states that planning policies and decisions should promote the effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment. It goes on to say that strategic policies should set out a clear strategy for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed land (brownfield land).
18. Paragraph 120 of the Framework (previously paragraph 118) continues by stating that, amongst other requirements, planning policies and decisions should give substantial weight to the value of using brownfield land within settlements for housing and other identified needs, and promote and support the development of under-utilised land and buildings especially where this would help to meet identified needs for housing where land supply is constrained.
19. The policies of the Framework seek, therefore, to guide development to previously developed land within settlements, where it is considered to be more sustainable. Moreover, the Council's spatial strategy is to locate new housing within defined built-up area boundaries. Within this context, the Appellant has not provided any compelling evidence to demonstrate that there is an overriding need for market housing on the appeal site that would outweigh the harm to the countryside location and conflict with the development plan.
20. In summary, the objective of the housing and spatial policies of the DP is to secure a distribution of development that is focused on the strategic allocations including Burgess Hill and the defined built-up areas of the district so as to support the vitality of those towns and villages, ensure that car reliant development is restricted and that unnecessary development in the countryside is prevented. Paragraph 15 of the revised Framework states that the planning system should be genuinely plan led and the DP settlement hierarchy strategy is a key part of the way that the development plan seeks to achieve sustainable growth. That approach is consistent with the policies of the revised Framework and should be accorded significant weight. Permitting new housing in the countryside, as proposed, would result in harm to the achievement of this planned strategy and none of the material considerations or other circumstances advanced by the Appellant would be sufficient, in my judgement, to outweigh that harm.
21. Furthermore, the Council have indicated their ability to demonstrate a 5-year supply of housing land, which has not been directly challenged by the Appellant. The Appellant has questioned whether the Council have produced a more updated statement on housing land supply (for 2020 compared to the existing 2019 document), but there is no evidence before me which would lead me to find that the 5-year supply position has changed since 2019. As a consequence, the housing policies of the DP are up to date and I have accorded them significant weight as they are consistent with those of the revised

Framework. For these reasons, paragraph 11 d) of the revised Framework is not engaged.

22. Accordingly, I find that the appeal proposal would be contrary to policies DP6, DP12 and DP15 of the DP. In relation to the NP, the appeal proposal would be contrary to emerging policy CNP 2, albeit, as I confirmed at the outset, this policy can only be accorded limited weight at this stage.

Sustainability – local services and facilities

23. The appeal site is located some distance from local services and facilities. The consultation response from the Highway Authority, summarised in the Delegated Report, suggests that this distance is about 1.9km to 2km. Based on my site visit, it appears that these facilities can only be accessed on foot or cycle via the lane that leads to the appeal site from Turners Hill Road and then over the M23 (no evidence has been submitted of any alternative routes). As I observed on site, this route involves a considerable distance to walk or cycle, with no pavements or street lighting over the initial part of the route and along a busy narrow lane. Whilst there are bus stops on Turners Hill Road, the lack of a footpath and street lighting and the distance from the appeal site would, in my view, restrict access to these services.
24. Overall, the accessibility of the appeal site is, in my judgement, poor. Whilst I accept that the number of new trips and comings and goings generated by the new dwelling would not be significant, there would be a material increase, and I consider it highly likely that a large proportion of these would, even for day to day needs, be undertaken by car. Moreover, for new development to be sustainable, it should be easily and safely accessible to local facilities/services on foot, cycle and public transport at any time of the day or night and whatever the weather, which, I am not convinced the appeal proposal would be.
25. The Appellant has referred to an appeal decision on Windfalls Stables, to the south of the appeal site, where permission was granted for the conversion of a barn to a dwelling in November 2012 (ref. APP/D3830/A/12/2177087). In that decision, the Inspector found that the location was sustainable. Even so, I note that the issues raised related to the acceptability of converting the barn to residential use. As far as I can see, no objection was raised to the accessibility of the barn to local services and facilities. Furthermore, the Inspector found that the proposal was acceptable as it would secure the long-term future and repair of the barn, and where the absence of a 5-years supply of housing land was an overriding consideration. The circumstances of that case are, therefore, different to the current appeal. Moreover, this decision predates the adoption of the DP and its sustainable settlement hierarchy strategy.
26. With regard to the Cuckfield Appeal and the planning permission to extend the car park to the Holiday Inn (located further south of the appeal site and ref. DM/20/3243), I do not have the full planning background to these cases to make a detailed comparison with the appeal proposal. Even so, these decisions do not affect the findings I have reached on this issue.
27. Accordingly, I find that the appeal site is not within a sustainable location and would be contrary to policies DP12, DP15, DP21 and DP26 of the DP and emerging policy CNP 15 of the NP, albeit this latter policy can only be accorded limited weight. The appeal proposal would also be contrary to paragraphs 8, 11 and 112 (previously paragraph 110) of the revised Framework. The Council

have referred, in their decision, to paragraph 174 of the revised Framework (previously paragraph 170), but as this relates to conserving and enhancing the natural environment it is not, in my view, directly relevant to this issue. All of the relevant policies seek to promote sustainable development and ensure that new development is located so as to minimise the need to travel and is accessible on foot, cycle and public transport to local services and facilities.

Other Matters

28. The Delegated Report confirms that under the Conservation of Habitats & Species Regulations 2017 (as amended) the Council has a duty to ensure that new development would not have an adverse effect on European sites of nature conservation importance, in this instance the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). This is consistent with paragraphs 179 - 182 of the revised Framework. The Delegated Report confirms that a Habitats Regulations Assessment (HRA) screening report was undertaken for the proposed development, which concluded that there would be no likely significant effects, either alone or in combination, on the SPA or SAC from the proposed development, that the site was outside the 7km zone of influence and that no mitigation or full HRA was required. I have no reason or other evidence before me to dispute the findings that the Council have reached in this respect and there is no need for me to undertake a further assessment.

Planning balance and conclusions

29. I accept that the appeal proposal would boost housing supply, but this would only be for one new dwelling and as such its contribution would be very limited. There would also be the benefit of reusing previously developed land and the short-term economic benefit from construction. Any economic benefit to the existing business has not, in my judgement, been proven, substantiated or justified. I would, therefore, only attach limited weight to these benefits.
30. On the other hand, the appeal proposal would be located in an unsuitable and unsustainable location for a new dwelling, and would result in significant harm to the development plan's strategy that seeks to restrict new development within the countryside and distribute new housing to the strategic housing allocations and defined built-up areas/settlements that are more accessible and sustainable. In my judgement, the significant harm I have identified would outweigh the limited benefits of the appeal scheme when assessed against the policies in the development plan and revised Framework taken as a whole.
31. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR