



Appeal Decision

Site visit made on 21 September 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2021

Appeal Ref: APP/L3815/W/20/3255125

Gosden Green Nursery, 112 Main Road, Southbourne PO10 8AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Williams (PNH Properties Ltd) against Chichester District Council.
 - The application Ref 20/00032, is dated 16 December 2019.
 - The development proposed is demolition of existing B8 and B1 buildings and erection of replacement buildings for a mix of B8 and B1 uses, with access, parking and landscaping.
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Decision

1. The appeal is dismissed, and planning permission for demolition of existing B8 and B1 buildings and erection of replacement buildings for a mix of B8 and B1 uses, with access, parking and landscaping is refused.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the updated Framework in determining this appeal.
3. Amended plans were submitted to the Council during the course of the planning application, with a view to address the concerns raised by Chichester Harbour Conservancy. Having regard to the available evidence, I understand that the amended plans notably sought to reduce the height of some of the buildings. Having regard to the Wheatcroft principles¹, I am satisfied that the proposed changes did not fundamentally alter the nature of the development as originally submitted to the Council. I shall therefore determine the appeal on the basis of the submitted drawings, together with the amended plans.
4. The appeal is against the Council's failure to give notice, within the prescribed timescales, of a decision on an application for planning permission. Had it been in a position to determine the application, the Council has however confirmed that planning permission would have been refused, and has set out its concerns in detail within its submissions.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

Main Issues

5. The main issues are:

- The effect of the proposal on the landscape and rural character and appearance of the surrounding area, including the Chichester Harbour Area of Outstanding Natural Beauty (AONB);
- Whether the proposal would constitute a sustainable design and construction; and
- The effect of the proposal on protected species, with particular regard to bats.

Reasons

Character and appearance

6. The appeal site lies outside the settlement boundary of Hermitage, within an area of rural character which also forms part of the Chichester Harbour AONB. It comprises several greenhouses and associated buildings, and has in the past operated as a horticultural holding. The greenhouses are however no longer used for their intended purpose, and certificates of lawful use² have previously been issued to confirm the use of the majority of the buildings sited within the centre of the site for storage purposes (B8), as well as the area further south for open-air storage.
7. The existing structures are significantly set back from the road frontage, within spacious and open grounds. Notwithstanding their current use for storage purposes, the distinctive built form of the greenhouses reflects the former horticultural operation of the site, which is consistent with its rural surroundings.
8. As noted above, the site also lies within the Chichester Harbour AONB, which was designated in 1964. Its statutory primary purpose is to conserve and enhance the natural beauty of Chichester Harbour. Despite the dilapidated condition of some of the structures, the site's open frontage and its rural character make an important contribution to the setting of Hermitage and the locality, as well as the wider Chichester Harbour AONB.
9. Whilst the cumulative floor area of the new buildings would be reduced compared with the footprint of the existing structures, the new units would have a higher building profile. Furthermore, the sprawling nature of the development would harmfully erode the site's contribution to the character of the area. In particular, the appeal scheme would introduce buildings closer to the road frontage, which would harmfully erode the open character of the site, and detract from its rural surroundings and the wider AONB.
10. The excessive scale and bulk of the proposal, together with the extensive areas of hardstanding for the provision of access and parking, would also alter the appearance of the site and the surrounding area significantly. Additionally, the regimented approach of the layout would add to the incongruous nature of the development, which would be widely visible from the public realm along Main Road and from the nearby footpaths. The appeal scheme would lead to an

² Local Planning Authority References 09/02602/ELD and 17/01039/ELD.

urbanisation of the site, which would detract from the character and appearance of its surroundings, and harm the rural setting of Hermitage.

11. The proposal includes details of a soft landscaping scheme and the provision of grasscrete for the overflow car parking area. That said, the footprint of the buildings and associated hardstanding areas would reduce the scope for any meaningful landscaping to a significant degree, particularly along the site's side boundaries. The provision of grasscrete would appear as a further incursion of urban development in what largely remains an undeveloped area, especially as it would enable its use for parking purposes. As a result, the soft landscaping scheme would be wholly insufficient to adequately mitigate the visual impact caused by the development.
12. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited. As detailed in Footnote 60 to the Framework, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
13. The scale of the proposal would be significant in this part of the AONB and in this particular context, the appeal scheme would constitute major development within an AONB which, in accordance with the Framework, should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. These are considerations to be weighed in the overall planning balance, which I shall return to later in this decision.
14. For the foregoing reasons, the appeal scheme would cause unacceptable harm to the landscape and rural character and appearance of the area. It would also fail to conserve and enhance the landscape and scenic beauty of the Chichester Harbour AONB. Accordingly, the proposal would be contrary to LP Policies 43, 45, 48 and 52, but also Policy 7 of the Southbourne Parish Neighbourhood Plan 2014-2029, and paragraphs 130, 174 and 176 of the Framework. These notably require development proposals to have a minimal impact on the landscape and rural character of the area, but also protect the predominantly open and undeveloped, rural character of the AONB and its setting.

Sustainable design and construction

15. LP Policy 40 requires evidence to be submitted as part of new proposals, for example in the form of a sustainability statement, which should demonstrate how a number of key criteria are to be met as part of the development. These should include sustainable design, good environmental practices, sustainable building techniques and technology, reduced water use and energy consumption, use of renewables, as well as measures to adapt to climate change, etc.
16. Compared with the existing greenhouses, it is likely that the replacement buildings would be more energy efficient and cost effective. Whilst no sustainability statement was submitted as part of the planning application or in support of the appeal, the Local Planning Authority has however not explained why the matter could not be addressed by condition.

17. Based on the available evidence and having regard to the particular circumstances of the case, the lack of sustainability statement does not represent a reason to withhold planning permission. Had the development been considered acceptable in all respects, a condition could have been imposed to require sustainable design and construction details to be submitted prior to commencement of the development. Accordingly, I find no conflict with LP Policy 40 or paragraph 154 of the Framework.

Protected species

18. The appeal site lies within proximity to a number of statutory designated sites, which include the Solent Maritime Special Area of Conservation, Chichester and Langstone Harbours Special Protection Area and Site of Special Scientific Interest, and Brook Meadow and Eames Farm Local Nature Reserve.
19. As detailed within the Preliminary Ecological Appraisal³ (PEA) carried out by Ecosupport, there is potential for bats to be roosting within buildings. The site is also considered to be moderately suitable for foraging and commuting bats and badgers. The PEA has identified potential for breeding and nesting birds, as well as moderate potential for reptiles to be present on site. The Council is satisfied with the precautionary method statement for dormice set out within the PEA, and the mitigation proposed in respect of reptiles, as detailed within the Reptile Survey & Mitigation.
20. However, there are concerns regarding the proximity of the proposed development to the hedgerows which are used by bats for commuting and foraging. In the absence of adequate buffer strip being provided between the development and the hedgerows, there would not be sufficient mitigation to ensure that the appeal scheme does not cause undue disturbance to bats.
21. The appellant suggests that the layout of the development allows for the buildings to be moved further away from the boundary, but the appeal process should not be used as a means to progress alternatives to a scheme which is giving rise to a number of issues. Furthermore, it is unclear whether such changes could be accommodated without affecting other aspects of the scheme.
22. Consequently, and without substantive evidence demonstrating otherwise or measures to mitigate against the adverse effects of the proposal, I am not satisfied that the proposal would safeguard protected species, having particular regard to bats. It would therefore conflict with LP Policy 49, which notably seeks to ensure that demonstrable harm to habitats or species which are protected, or which are of importance to biodiversity is avoided or mitigated.

Planning Balance and Conclusion

23. The provision of additional employment space would support the local economy, in an area of rural character where the Council acknowledges that there is demand for small affordable light industrial space for businesses, but limited supply of this type of premises. It would also to some extent enable the use of previously developed land, which paragraph 85 of the Framework seeks to encourage, where suitable opportunities exist.

³ Dated 30 October 2019.

24. However, the appeal scheme would cause unacceptable harm to the rural and landscape character and appearance of the area. It would also fail to conserve the landscape and scenic beauty of the Chichester Harbour AONB, to which great weight should be afforded. The appeal development would represent major development in an AONB, and I find that there are no exceptional circumstances to justify it. Furthermore, the effect on protected species also weighs against the proposal.
25. Overall, the presented benefits would not outweigh the identified harm. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR