



Appeal Decision

Site visit made on 29 November 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/C3810/W/22/3290960

The Chalet, Littlehampton Road, Ferring BN12 6PG

- 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 Joanna Goodman against the decision of Arun District Council.
 - The application Ref FG/163/21/PL, dated 9 September 2021, was refused by notice dated 24 November 2021.
 - The development proposed is a marine workshop and boatyard, martial arts gym (class E) and storage container compound (class B8) to replace former glasshouses.
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Decision

1. The appeal is allowed and planning permission is granted for a marine workshop and boatyard, martial arts gym (class E) and storage container compound (class B8) to replace former glasshouses at The Chalet Littlehampton Road, Ferring BN12 6PG in accordance with the terms of the application, Ref FG/163/21/PL, dated 9 September 2021, subject to the conditions set out in the schedule below.

Application for Costs

2. An application for costs was made by Joanna Goodman against Arun District Council. This application is the subject of a separate decision.

Preliminary Matters

3. As part of the appeal the appellant has submitted an amended drawing which shows the lowering of the ridgeline of the proposed building by 0.9m. While this reduces the height of the building, to accept the drawing would deprive those who should have been consulted on the changed development of the opportunity of such consultation. Having regard to the Wheatcroft Principles¹ I have not taken this drawing into account in determining the appeal.
4. A site plan showing landscaping details has also been submitted which the appellant describes as being indicative. On this basis I have taken that drawing into account.

Main Issues

5. The main issue is the effect of the development proposed on the character and appearance of the area, including the gap between the settlements of Angmering and Worthing.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Reasons

6. The appeal site lies among a cluster of commercial, light industrial and residential uses. Other uses immediately to the north of the appeal site include a fencing contractors yard, storage container site and other light industrial uses. Together these uses form a broadly rectangular area which extends from Littlehampton Road and which occupy a well contained area within the landscape due to their physical characteristics, which clearly distinguish them from the surrounding countryside. The ground levels across the area slope gently upwards to the north and the South Downs National Park lies on higher ground to the north.
7. The appeal site is outside the Built-up Area Boundary (BUAB) and is consequently in the countryside for the purposes of the Arun Local Plan 2011-2031, adopted 2018 (the ALP). It also lies within the settlement gap between Angmering and Worthing. This is one of the gaps listed in Policy SD SP3 of the ALP, which seeks to protect the generally open and undeveloped nature of the gap to prevent coalescence and retain the separate identity of the settlements. The policy gives criteria where development will be permitted.
8. As the proposed development would be located within the area of the former greenhouses, and as the site is positioned within an existing cluster of development, the proposal would not undermine the visual or physical separation of the settlements. Neither would the proposal represent any further encroachment into the surrounding open countryside, nor compromise the integrity of the gap. This is compliant with parts a. and b. of Policy SD SP3.
9. There are a number of other buildings forming part of this cluster of development which vary in scale and appearance, and which are separated by various substantial and utilitarian boundary treatments. This includes the two storey building of Highdown House immediately to the north of the appeal site and two warehouse buildings beyond. I also note a planning permission granted at appeal in 2020 for a new commercial warehouse to be positioned between those existing². The character within this cluster of development is consequently light industrial and commercial. The residential properties to the south of the site comprise a mix of one and a half, and two storey properties.
10. The proposed new building would be taller than the former greenhouses. However, it would be positioned against the existing substantial boundary and retaining wall which bind the northern side of the site. As a result it would be partially recessed into the gentle slope of the land, which would help to reduce its prominence in any views from the north. Its footprint and coverage of the appeal site would also be substantially less than the former greenhouses.
11. The proposed new building would be utilitarian in its design and materials, but would be similar in appearance to other existing commercial buildings nearby. The proposed soft landscaping would also assist to some degree in screening and softening the appearance of the development from surrounding view points.
12. The appellant's Landscape Viewpoint Analysis (the LVA) demonstrates that in localised views the proposed building would be largely screened by other buildings and by the nearby belts of mature trees. Some glimpses of the

² FG/74/19 and appeal W/4000626

building would be possible in winter months, particularly across the adjacent recreation ground. However, even if the new building were to be visible from surrounding view points, it would be seen in the context of the other buildings forming part of this cluster of development which together form a distinct part of the landscape character. This would similarly be the case for the storage containers on the site. Visibility of the development is also likely from the private view points of nearby residential properties, however, for the above reasons the appeal scheme would not cause harm to those views given its context.

13. The LVA demonstrates that in views from the public footpath to the north, the proposed building would be heavily screened by the existing trees, in particular a row of deciduous trees to the north. While this is the only view point taken from the north, as above, even if some visibility were experienced in views out of the National Park, the development would be seen within the context of its surrounding cluster of buildings. For this reason the proposal would not cause harm to the setting of the National Park. Additional screening to preserve the setting of the National Park, as sought by Policy 7 of the Ferring Parish Neighbourhood Plan 2014- 2019, made 2015 (the FPNP) is therefore not necessary.
14. The proposal would see the loss of the former agricultural use, and give a more industrial character to the site as well as a more intensified use through having multiple businesses operating from the site. However, as I have found above, this change would not cause visual harm to the character of the area and the nature of the uses proposed would align with the character of the cluster of development in which the site lies.
15. Taken together, for the above reasons, the proposed development would sit comfortably within its surroundings and would not cause harm to the character and appearance of the area. Consequently, the development would comply with policies D DM1 and C SP1 of the ALP, which together relate to design and the need for development to reflect the character of the site and the surrounding area, as well as the character and beauty of the countryside. The proposal would also comply with all parts of Policy 7 of the FPNP with the exception of criteria v, discussed below.
16. Based on the evidence before me, there would be conflict with part c. of Policy SD SP3, and with criteria v. of Policy 7 of the FPNP, which require that the development could not be located elsewhere. The Parish Council have drawn my attention to other potential locations which the proposed uses could operate from, including an industrial unit where the marine workshop is currently based and locations within Ferring village for the martial arts gym. There is little evidence of the locations and availability of these sites, or whether they represent realistic alternatives to the appellant, and I note that the Inspectors in the other appeal decisions evidenced did not find this matter to be central to their decisions.
17. In addition, I find that these aspects of the policies do not fully align with paragraph 84 of the National Planning Policy Framework (the Framework) which seeks to support a prosperous rural economy and states that decisions should enable the sustainable growth and expansion of all types of businesses in rural areas. For this reason, and together with the links between the proposed uses and the appellant who lives adjacent to the site, and as the

nature of the proposed uses generally align with those within this cluster of development, I find the proposed uses to be suitable to the area. There is no strong evidence that the proposed uses are not suitable to this location for other reasons. I therefore afford the areas of conflict with policies SD SP3 of the ALP and 7 of the FPNP limited weight.

18. Insofar as the other criteria of Policy SD SP3 are concerned, the proposal would maintain the character of the undeveloped coast, and while it is not deemed appropriate by a Neighbourhood Plan or other development plan document, as required by criteria e), this criteria is presented as an alternative to the criteria above it. I am therefore satisfied that the proposal would not conflict with the other criteria of Policy SD SP3.

Other Matters

19. While it is not referred to in the reason for refusal, the Council cite conflict with Policy EMP DM1(6) of the ALP which relates to economic growth outside the BUAB. As the appeal site lies within the confines of the existing developed area, I do not find conflict with the criteria set out in the policy. Policy HOR DM1(3) is also referred to in the appeal statement which, in turn, refers back to Policy C SP1 relating to development in the countryside. For the reasons given above relating to the location of the proposed development, I have not found conflict with that policy.
20. I do not have substantive evidence that the proposal would cause an increase in crime or trespassing, or a significant increase in local air pollution. As such, additional safeguards on these matters are not necessary for the development to be acceptable in planning terms. While there would likely be an increase in activity on the site, and this would be perceivable from the nearby residential properties, this alone would not cause unacceptable harm to the living conditions of occupants of those properties, particularly given the distances of separation and the nature of the existing surrounding uses. Conditions can be used to control operating and delivery hours as discussed below.
21. The proposal would be served by an existing access from Littlehampton Road which the Highways Authority consider to be adequate for this purpose. Based on the evidence I have no reason to reach a different view. While the proposal has the potential to increase vehicle trips to and from the site, this is unlikely to be significant given the scale of the development. In any event there is not strong evidence to suggest that such an increase in traffic would cause harm to highway safety, or that the residual cumulative impacts on the road network would be severe. In line with paragraph 111 of the Framework, the development should not therefore be prevented or refused on highways grounds.
22. The appeal site is close to the Highdown Conservation Area and grade II* listed park and garden, as well as Highdown, which is a Grade II listed building, set further into the conservation area. Due to the distance of the appeal site from these designated heritage assets, and their separation by areas of mature trees, open space and landscaping, the appeal site does not form part of their setting. As such the proposal would not affect their significance.

Conditions

23. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
24. In addition to the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans to provide certainty to the parties. Given the proximity to other residential properties, conditions are necessary to control the hours of construction works and hours of operation of the uses. I note that the operating hours listed on the Council's conditions do not align with those stated on the application form. In the absence of detailed evidence on this matter I have replicated the hours given in the Council's suggested conditions, as the appellant has had the opportunity to comment on these.
25. In light of the previous uses of the land, and to ensure the site is safe for its future users, conditions are imposed relating to land contamination and remediation. To ensure appropriate drainage across the site, details of surface water drainage are also necessary, and for environmental reasons details of sustainable energy measures are also conditioned. Details of cycle parking are necessary to be conditioned to promote sustainable transport among future users of the site.
26. In order to ensure that the site is made safe before ground works commence, and to ensure that drainage measures are integral to the development, conditions relating to these matters need to be satisfied prior to commencement of the development.
27. To protect the character of the area, details of a final scheme of soft landscaping, and a mechanism to ensure its implementation and replacement where necessary, is also conditioned. For the same reason, details of the final colours of the materials to be used, and a height limit on storage containers are secured by condition. Details of any external lighting are also secured for visual and biodiversity reasons. Biodiversity enhancements are also conditioned to promote ecology on the site.
28. As there is no notable soft landscaping on the site at present, details of retained plants and their protection are not required. Similarly, in the absence of evidence of hedgehogs, and given the characteristics of the site at present, I do not consider a condition relating to small animals and hedgehogs during construction meets the test of necessity or reasonableness.
29. The proposal has been found to be acceptable and a personal condition linking the permission to the appellant is not necessary. In addition, the PPG states that conditions restricting the future use of permitted changes of use may not meet the test of reasonableness or necessity. As such, and in the absence of evidence as to why this would be necessary, such restrictions on permitted changes of use would not meet the tests for conditions.
30. Given the above restriction on operating hours and deliveries, in combination with the nature of the nearby uses, I do not find a further condition to limit plant and vehicle noise from the site would be necessary or reasonable. Close

boarded fencing already exists between the appeal site and the residential property of The Chalet, therefore its delivery does not need to be conditioned.

31. The installation of the electrical vehicle charging points now falls under building regulations and I do not have evidence that it is necessary to secure these for planning purposes. As the car parking and manoeuvring spaces form an integral part of the site layout, I do not find it necessary to secure their delivery and maintenance.
32. Given the limited visibility of the ground level from the surrounding area, and in light of the character of the immediate area, a condition restricting outdoor storage is not necessary. Given that details of the surface water drainage system are secured by condition and would be subject to approval by the Council, I do not find it necessary for further details to be submitted to the Council at a later stage.
33. Conditions relating to the lighting of buildings outside the appeal site would not meet the test of necessity and given there is little existing vegetation on the site, timing of its removal to protect nesting birds, is also not required.

Conclusion

34. Although the proposal would conflict with parts of the development plan, for the reasons given I afford those conflicts limited weight, and the proposal should be regarded as being compliant with the development plan when read as a whole. The appeal is therefore allowed.

C Shearing

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Site Plan dated 25 August 2021, 'Site Plan- Proposals 01', FG/LHR/02, FG/LHR/03A, FG/LHR/04, FG/LHR/05.
- 3) No demolition or construction activities shall take place other than between the hours of 08:00 and 18:00 (Monday to Friday) and 08:00 and 13:00 (Saturday). No construction or demolition works involving external plant or machinery shall take place on Sundays or Bank Holidays.
- 4) Prior to the commencement of development (except for demolition), details of the following shall be submitted to and approved in writing by the local planning authority:
 - a) a preliminary risk assessment which has identified all previous (historical) uses; potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination of the site;

- b) a site investigation scheme, based on the findings of point a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- c) based on the above results, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
- d) based on the above, a scoping verification report, providing details of the data that will be collected in order to demonstrate that the works set out in point c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall be carried out only in accordance with the approved details.

- 5) Prior to the commencement of any development above the existing ground level (except for demolition), a final verification report shall be submitted to and approved in writing by the local planning authority. The report shall demonstrate completion of the approved remediation strategy and the effectiveness of that remediation, and shall include results of sampling and monitoring. The report shall also include a long-term monitoring and maintenance plan relating to pollutant linkages, maintenance and arrangements for contingency action. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of any development (except for demolition), details of a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The use of any part of the site shall not commence until the surface water drainage scheme has been implemented in accordance with the approved details. That scheme shall be maintained in accordance with the approved details at all times.
- 7) Prior to the commencement of any development above the damp proof course of the new building hereby approved, full details of a landscaping scheme and a programme for its implementation shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details and the programme for implementation. Any trees or plants forming part of that scheme which, within a period of five years of planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
- 8) Prior to any development above the damp proof course of the new building hereby approved, details of the colours of the materials to be used on the external faces of the building and its roof shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) Prior to the first introduction of any storage containers onto the site, details of their colour shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Prior to the commencement of any development above the damp proof course of the new building hereby approved, details of measures to promote decentralised, renewable and low carbon energy supply systems

for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and any renewable energy supply systems shall be permanently retained thereafter.

- 11) No external lighting shall be installed at the site until details have first been submitted to and approved in writing by the local planning authority. Details shall include their position, levels of illumination and spillage as well as details of their fixtures, and shall demonstrate consideration of guidance relating to impacts on bats. Any external lighting shall be installed and maintained only in accordance with the approved details.
- 12) Cycle parking shall be installed in accordance with details previously agreed in writing with the local planning authority prior to the first use of the site and shall remain available for that purpose thereafter.
- 13) Prior to the first use of the site, details of biodiversity enhancements shall be submitted to and approved in writing by the local planning authority. The approved enhancements shall include measures to promote birds, bats and hedgehogs, and shall be installed in full within a further six months of their approval in writing and shall remain thereafter.
- 14) Hours of operation, including deliveries, to the storage container compound and marine workshop and boatyard shall occur only between 08:00 and 18:00 Monday to Friday, and 08:00 and 13:00 on Saturdays, with no operation on Sundays and Bank Holidays.
- 15) Hours of operation, including deliveries, to the martial arts gym, shall occur only between 08:00 and 20:00 Monday to Friday and 08:00 and 18:00 on Saturday and Sunday, with no operation on Bank Holidays.
- 16) The storage containers on the site shall not be stacked, stored or otherwise positioned to a height exceeding 2.6m from the ground level.

End of Schedule