



Appeal Decision

Site visit made on 19 October 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/Y9507/W/21/3289720

Birchwood, Lye Lane, East Ashling PO18 9BB

- 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 Charlotte Egerton against the decision of the South Downs National Park Authority.
 - The application Ref SDNP/21/03816/FUL, dated 20 July 2021, was refused by notice dated 19 November 2021.
 - The development proposed is described as the conversion of the stable for ancillary residential accommodation for disabled mother.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The main parties agree that in 1996 the main dwelling, Birchwood, was converted, under approval 96/0086/FUL, to a house of multiple occupancy (HMO) and its maximum occupancy is 6 persons. Due to this use, the South Downs National Park Authority (NPA) have considered the proposal as an independent residential dwelling in the countryside. The appellant has confirmed their mother currently lives in the HMO and maintains that the proposal would constitute ancillary accommodation.
3. The main issues are, therefore, whether the proposed development would constitute ancillary accommodation; is appropriate to the countryside location regarding local and national policy; and its effect on the character and appearance of the area with regard to the natural beauty of the South Downs National Park (SDNP).

Reasons

Whether the proposal would constitute ancillary accommodation

4. The proposal would seek to create a separate living unit which would include 2 bedrooms, a bathroom, sitting room and kitchen. These facilities would support independent living from the HMO, including accommodation for the proposed occupant's future carers, and therefore the proposal could potentially be occupied as a separate dwelling. Indeed, I note that the appellant states in the appeal documents that the unit will be self-sufficient.
5. It is appreciated the proposal would share access, parking, and garden space with the HMO. However, as an HMO is a number of individuals living as a singular household, it is unclear how any future occupant of the proposal would live as part of the existing household on a day to day basis.

6. Consequently, I find the evidence before me fails to justify the ancillary nature of the accommodation proposed and so the proposal is, therefore, tantamount to a separate dwelling. Going forward I have considered it as such.

Location

7. It is not disputed by the main parties that the appeal site is outside of any settlement boundaries and that Policy SD26 of the South Downs Local Plan (LP) provides for housing to be delivered on land previously unallocated or identified.
8. However, the suitability of location is not limited to its ability to deliver additional housing and LP Policy SD25 sets out when development outside of the settlement boundaries would be appropriate. Amongst other things, if the appeal site is not allocated, then the proposal must have an essential need for a countryside location or is an appropriate reuse of a previously developed site.
9. There is nothing before me which states that there is an essential need for a new dwelling to be in the countryside, but I am satisfied the appeal site would be considered previously developed. This is because it sits within the developed land around the HMO, the stable, a detached garage, access, parking, and gardens, including both formally landscaped and informal grassed areas. It is therefore necessary to consider whether a new dwelling in this location would constitute an appropriate reuse of the site, and a key factor for dwellings within the countryside is accessibility to services.
10. The appeal site, although adjacent to the HMO, is in the open countryside. It is clearly separate from the nearest settlements of West Stoke and East Ashling. Neither of these villages have services which would support day to day living such as retail, health, or educational facilities. The nearest services of this nature are limited to a farm shop approximately 3.7km away, and around 5km away is Chichester, where there is a more comprehensive range. The linkage between these locations and the site is limited to unlit, narrow country roads with no pavements and there are no obvious public transport options available nearby. Any future occupants of the proposed dwelling would therefore be heavily reliant on the private car to access services, and there are no obvious safe, convenient, or practical routes for pedestrians and cyclists.
11. Consequently, from the information before me, I do not find that the location of the proposal would enable or promote alternative transport modes and is likely to result in high car dependency for future occupants. This location is therefore not suitable in relation to the accessibility of services and facilities. Hence the proposal would not be appropriate development for a countryside location regarding local and national policy, specifically LP Policy SD25 and the Framework, as far as it seeks new development to reflect current needs in terms of accessibility, amongst other things.
12. The NPA has referred to LP Policies SD27, SD28 and SD29, however they are not determinative in respect to this issue.

Character and appearance

13. National Parks are designated for the purposes of a) conserving and enhancing natural beauty, wildlife and cultural heritage, and b) promoting opportunities for the understanding and enjoyment of their special qualities by the public. Section 11A (2) of the National Parks and Access to the Countryside Act 1949

places a duty upon me to have regard to these purposes, and where there is conflict greater weight should be given to purpose a). Paragraph 176 of the Framework requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of a National Park.

14. The area is characterised by small groupings of buildings, either dwellings or farms, scattered throughout the open countryside. The proposal would not introduce an additional building to Birchwood, nor would it alter the overall size, shape, or design of the stable building. It is not proposed to change the road access, areas of hardstanding, the boundary hedges, or any other parts of the wider Birchwood property. The lack of meaningful views through or out of the site due to the boundary hedging would not, therefore, be altered by the proposal. Thus, its visual impact on the surrounding area would not be altered.
15. Due to the residential nature of Birchwood as an HMO, the site is already being used by multiple occupants. I, therefore, consider it unlikely the addition of a singular small dwelling, as proposed, would significantly increase the existing domestic activity, and associated vehicle movement, to such an extent as to harm the overall character of the area. Thus, I am satisfied that in this case the proposal would not constitute an unacceptable urbanisation of the area. Nor would it significantly change the visual or aural environment of the immediate vicinity.
16. Consequently, the proposal would conserve the surrounding landscape character and appearance and the visual integrity of the SDNP would be preserved in accordance with LP Policy SD5, which seeks to ensure the design of new development is sympathetic to the surrounding landscape; and LP Policy SD6, which seeks to safeguard views. It would also conserve the relative tranquillity of the area, in accordance with LP Policy SD7.
17. Although not providing any enhancement, the proposal would conserve the landscape character and natural beauty of the SDNP and would not alter the experiential and amenity qualities of that landscape as set out above. Accordingly, it would comply with the requirements of LP Policies SD1 and SD4, as far as they seek to conserve the SDNP.
18. In conclusion I find the proposal would not harm the character and appearance of the surrounding area and would have a neutral effect on the natural beauty of the SDNP neither harming or enhancing it. It would therefore accord with LP Policies SD1, SD4, SD5, SD6 and SD7 as well as the overarching conservation requirements of the Framework.

Other Matters

19. The appellant has referred to several other policies from the Local Plan. I have had regard to these, but they do not overcome the fundamental flaw identified in the main issues relating to the location of the proposal.
20. The appellant has also directed me towards 4 other appeals¹. All 4 relate to annex or ancillary accommodation for dwellings used by a single household and none are located within a National Park, not least the SDNP. Consequently, I do not find them comparable to the scheme before me.

¹ APP/W1145/W/17/3190326; APP/Z5060/W/18/3199611; APP/B3438/A/12/2188171; APP/F1610/A/09/2101500

21. I empathise that the proposed occupant can no longer live in a property where the bathroom is on an upper floor and that proximity of a care assistant is important. I also note should the stable be converted to accommodation then there would be some economic and social benefits for the future occupant from re-letting the rooms they currently occupy, as it is stated that the additional funds would go towards the cost of their care.
22. However, it has not been clearly demonstrated why the conversion of the stable is the only financially and practically viable option to provide for these personal needs. Nor why suitable adaptations or alterations cannot be made to the existing HMO. It also has not been evidenced how fiscally relevant the off set of re-letting the rooms would be to the ongoing care costs, as I note the current occupancy of the HMO is only 3. Consequently, this limits the weight I can give to the private benefits the proposal would have for the appellant.
23. The appeal site falls within the buffer of the Chichester Harbour Special Protection Area. It is an area which, as designated by Natural England, needs action to be taken concerning nutrient neutrality. Nevertheless, as I am dismissing the appeal for other reasons, I am not required to pursue this matter further.

Planning Balance and Conclusion

24. Whilst I have found the proposal would not harm the character and appearance of the area, and would have a neutral effect on the SDNP, which would also constitute a lack of harm, these matters would be incapable of weighing for or against the scheme. For the reasons above I have, however, given limited weight to the private benefits of the proposal. Nevertheless, this does not outweigh the harm I have identified regarding the location of the appeal site and its accessibility.
25. In making this decision I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Nevertheless, it does not follow from the PSED that the appeal should succeed, and for the reasons set out above, I find the appeal scheme would conflict with the development plan as a whole.
26. As there are no material considerations worthy of sufficient weight, which would indicate a decision otherwise, the appeal is, therefore, dismissed.

RJ Redford

INSPECTOR