



Appeal Decision

Site visit made on 27 February 2023

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/L3815/W/22/3297668

132A Almodington Lane, Almodington, Earnley PO20 7JU

- 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 Mr and Mrs Clowes against the decision of Chichester District Council.
 - The application Ref E/22/00137/FUL, dated 17 January 2022, was refused by notice dated 22 March 2022.
 - The development proposed is Demolition of B2 workshop and erection of 1 no. live/work unit.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. During the appeal process the appellants submitted revised plan 5D, which corrects an anomaly in the proposal's internal layout. As I do not consider that anyone's interests would be prejudiced, I shall consider the revised plan.

Main issues

3. The main issues are:
 - whether the occupiers of the proposed development would have reasonable access to local shops and services by means other than the private car,
 - whether the loss of the existing employment site would be acceptable, and
 - the effect that the proposed development would have on the integrity of the Chichester and Langstone Harbours Special Protection Area (SPA) and the Pagham Harbour SPA.

Reasons

Access to shops and services

4. The appeal site is situated on the roughly north west side of Almodington Lane, roughly south west of the dwelling at 132A, which is within the control of the appellants. The site includes an existing building and its hard standing. It is outside any settlement boundary designated in the Chichester Local Plan: Key Policies 2014-2029 (LP), so it is, in policy terms, in the countryside.
5. 'The use of the land and buildings for a car repair business [Use Class B2]' is subject to the Council's certificate of lawful use or development ref E/09/07203/ELD dated 5 March 2010 on the basis that the use takes place

between 0800 hours and 1800 hours Mondays to Saturdays inclusive only. There are sporadic dwellings and a group further north east along the lane, the field to roughly north west includes caravan storage and the mostly open fields to roughly south west are stated to be similarly used.

6. LP Policy 1 reflects the presumption in favour of sustainable development in the National Planning Policy Framework (Framework). In line with LP Policy 1, LP Policy 2 sets out the settlement hierarchy for the District, and it explains that outside Chichester city and the designated Service Hubs, the Service Villages will be the focus for new development and facilities. In the Rest of the Plan Area outside the settlements listed in LP Policy 2, development is restricted to that which requires a countryside location or meets an essential rural need or supports rural diversification in accordance with LP Policies 45 to 46.
7. LP Policy 45 states that within the countryside, development will be granted where it requires a countryside location and meets essential small scale and local need which cannot be met within or immediately adjacent to existing settlements. As LP Policy 46 applies to proposals for the conversion or re-use of buildings in the countryside, it is not relevant to the proposal.
8. The dwelling would be a significant part of the proposal. There are barely any facilities in Almodington, and the city of Chichester and the outskirts of the settlement hub of East Wittering/Bracklesham are roughly 6 and 1.5 miles away respectively. The nearest bus stop is roughly 1.5 miles away, and largely reached by narrow unlit lanes without footpaths, which could be an unattractive prospect for cycling or walking in inclement weather or after dark. So, the occupiers of the proposal would be likely to be reliant on the private car for most trips.
9. The occupier of the work space would not need to commute to work, but that would be much outweighed by that occupier's social and domestic trips plus the trips of the 3 bedroom dwelling's other occupiers. As there is almost no evidence that the dwelling part of the proposal would need to be located in the rural area, it would be contrary to LP Policies 2 and 45. Because the proposal would have poor access to local shops and services, and it would be likely to increase trips and domestic activity in the rural area, it would fail to meet the social and environmental objectives of the Framework.
10. Therefore, I consider that the occupiers of the proposal would not have reasonable access to local shops and services by means other than the private car. It would be contrary to LP Policies 2 and 45, and the Framework.

Employment land

11. LP Policy 26 aims to retain existing employment sites to safeguard their contribution to the local economy, and to permit alternative uses on land or floorspace currently or previously in employment generating uses where it has been demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses.
12. The proposal would cause the loss of the existing vehicle repair workshop, which is on an existing employment site. Whilst the proposal would include a work space, at roughly 20% of its floorspace, its scale would be modest. It would be little different to a large reception room in a dwelling or an outbuilding in its grounds.

13. The appellants accept that there is a shortage of rural commercial floorspace. As the Council's economic development officers have received regular feedback from businesses concerning the lack of available commercial premises to operate vehicle servicing and repairs, they have raised concerns about the potential loss of employment floorspace. The existing building is less than ideal for vehicle repairs, but the Council has granted planning permission ref E/20/01454/FUL dated 11 September 2020 for a replacement commercial building, which is extant. The possibility of the replacement building could be attractive to a car repair or other local business seeking to expand. So, the present building and its grounds, or the permitted replacement, would provide welcome employment opportunities for local businesses.
14. The appellants may prefer not to live next door to commercial premises, but the living conditions of adjoining occupiers were found acceptable when the Council permitted the replacement building. Other reasons for the proposal include the appellants' personal circumstances and their wish to consider other options for the site. However, almost no evidence has been put to me to show that the existing premises have been actively marketed for sale or rent as a vehicle repair workshop or other acceptable business use, for a reasonable time at a reasonable price without success. So, there is almost nothing to show that there is no demand for the existing employment site.
15. The work space could be used by a relative, but as the proposal would cause a significant unjustified reduction in commercial floorspace at the site, it would not be an effective use of previously developed land. Also, as the dwelling part of the proposal would reduce the scale of the land and building in economic use, it would significantly diminish their potential to support the sustainable growth and expansion of all types of business in the rural area. Moreover, whilst the Framework recognises flexible working practices, and working from home has become more commonplace, LP Policy 3 was not a concern of the Council in its reasons for refusal. I see no reason to disagree.
16. Thus, I consider that the proposal would cause the unacceptable loss of the existing employment site. It would be contrary to LP Policy 26 and the Framework.

SPAs

17. The site falls within the 5.6 km zone of influence of the Chichester and Langstone Harbours SPA and within the 3.5 km zone of influence of the Pagham Harbour SPA. In determining this appeal, I am the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
18. The proposed development would increase the number of people living near the SPAs. So, this proposal, in combination with other plans and projects, would be likely to have a significant effect on the SPAs due to increased recreational disturbance. Because the proposal is not directly connected with or necessary for the management of the SPAs, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the SPAs in view of their conservation objectives. I could only grant planning permission if I were to ascertain in that appropriate assessment that the integrity of the SPAs would not be adversely affected. However, as the proposed development would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment.

19. Moreover, whilst the appellants say that a financial contribution towards the provision of access mitigation measures in respect of the SPAs would be made, there is no completed planning obligation before me to secure it.
20. Thus, I consider that the proposal would be likely to have a significant adverse effect on the integrity of the SPAs. It would be contrary to LP Policies 50 and 51 which require appropriate mitigations for the effects of development on SPAs, the Habitats Regulations, and the Framework which aims to conserve and enhance the natural environment.

Other matters

21. The Earnley Gardens development included 5 dwellings with garages, so the intention to provide live-work units there attracts little weight. The Brook Farm live-work unit was permitted subject to conditions for the work space to 'not be used other than an artists studio/workshop/ancillary display space and for no other purposes' and to limit private viewing and public community/education events, so it differs from the proposal before me.
22. The Council's evidence shows that it has 5.01 years supply of deliverable land for housing, and it postdates my colleague's findings in her appeal decision ref APP/L3815/W/21/3286315. However, for the purposes of this appeal, I attach greater weight to my colleague's finding of a 4.6 year supply because the evidence before her was tested at inquiry. So, the Framework's presumption in favour of sustainable development is engaged.
23. The Framework aims to significantly boost the supply of homes. However, even if appropriate assessment were to conclude that the proposal would not have a significant adverse effect on the integrity of the SPAs, as the unacceptable loss of the existing employment site, and the future occupiers' poor access to local shops and services, would significantly and demonstrably outweigh the benefits including the new home plus work space and employment during construction, when assessed against the policies in the Framework taken as a whole, planning permission should not be granted.

Conclusion

24. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
25. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR