



Appeal Decision

Site visit made on 5 September 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/Y9507/W/22/3306153

Dadkhah Stud, Park Lane, Upper Swanmore S032 2QQ

- 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 Nass Dadkah against the decision of South Downs National Park Authority.
 - The application Ref SDNP/20/04015/FUL, dated 16 September 2020, was refused by notice dated 17 March 2022.
 - The development proposed is for the construction of detached 3 bedroom chalet dwelling with office space and laboratory for owner/operator of Dadkhah stud.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and brevity, the description of development has been taken from the Authority's decision notice, which is a shortened version of that on the application and appeal form.
3. The proposal includes a series of site layout plans showing various locations for the proposed new dwelling. During the site visit the appellant has confirmed it is intended the dwelling would be located near to the existing barn, as shown on the grey scale Site Location Plan, and broadly illustrated on the Google Earth overlays.
4. The National Planning Policy Framework (the Framework) was updated on 5 September 2023. The main parties have, in their evidence, referred to previous iterations. However, the sections pertinent to this appeal have not materially altered, as such I have referenced the revised version in this decision.

Main Issues

5. The main issues are whether the appeal site is a suitable location for the proposed development having regard to relevant policies relating to the countryside; and the effect of the proposal on the South Downs National Park (NP), and the Solent Catchment Special Protection Area (SPA).

Reasons

Location

6. Paragraph 80 of the Framework provides specific circumstances when an isolated home in the countryside would be acceptable. In regard of this case, Paragraph 80a) allows for the provision of such a home for the essential need

of a rural worker to live permanently at or near their place of work in the countryside.

7. It is evident the main parties agree that the use of the appeal site for commercial equestrian purposes, namely breeding and rehabilitation, would be appropriate for its countryside location; and that there is a reasonable potential that as the business develops there could be a need for permanent occupation of the site by the owner or member of staff to ensure the welfare and safety of the horses under the care of Dadkah Stud.
8. However, the information before me is anecdotal. It is not supported by evidence showing how the business would develop to such an extent as to warrant an onsite residential presence, nor whether the business envisaged would be financially viable to permanently support the occupants of that new dwelling.
9. Therefore, taking a precautionary approach, as the proposal would permanently and irrevocably alter the appeal site, I am not satisfied that an existing essential need for a rural worker to live permanently on the appeal site has been demonstrated. The proposal would consequently fail to comply with Paragraph 80 of the Framework.

NP

10. 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 in this decision. 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.
11. These national objectives have fed into the South Downs Local Plan (LP) which in Policies SD4 and SD5 sets out design principles requiring new development to conserve and enhance the landscape and, through a landscape-led approach, respect local character through high quality design.
12. Park Lane is characterised by an open agricultural landscape with groupings of buildings nestled into various hollows along its length, often screened by a mix of established trees and mature hedgerows. These buildings, in the main pertain to farming or equestrian uses often with an associated residential dwelling. The appeal site consists of a group of fields and a barn located within a dip in the land to one side of Park Lane. The site is largely open with boundaries delineated by fencing and some hedging towards the lane and along one side. The rear boundary has numerous mature trees providing reasonable screening of the appeal site from that direction.
13. The proposed new dwelling would be located close to the existing barn in a hollow close to the road. It would therefore follow the pattern of sporadic development along Park Lane and spatially retain the character of this part of the NP. However, with extremely limited details before me relating to the final design, scale, finish, external layout, and landscaping of the proposal I am unable to satisfactorily conclude that visually it would conserve and enhance the landscape and scenic beauty of the NP.

14. It is appreciated the appellant is open to discussions with the Authority in relation to design matters and envisages the dwelling to be energy efficient and promote reuse and recycling, but this is not born out in the details of the proposal before me.
15. Consequently, I find the proposal would fail to comply with LP Policies SD4 and SD5 and to conserve and enhance the natural beauty of the NP.

SPA

16. The appeal site falls within the East Hampshire district which is within the catchment area for the SPA. It is an area which, as designated by Natural England, needs action to be taken concerning nutrient neutrality. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 require an appropriate assessment (AA) to ensure that the development would not adversely affect the integrity of the SPA.
17. However, clause 63(1) of that regulation states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. An AA is not, therefore, necessary where there is no intention to grant permission. As I am dismissing the appeal for other reasons, I am not required to pursue this matter further.

Other Matters

18. Although not specified as a reason for refusal, it is noted that the Burton Knowles evidence refers to LP Policy SD32, which states, amongst other things, that agricultural workers dwellings should not exceed 120m² of habitable floor space. It is acknowledged that the appellant considers the proposed larger size would allow for the accessibility needs of one of the proposed occupants of the new dwelling who would require a ground floor accessible bedroom and wet room. However, the submitted plans do not show this type of accommodation, and I am bound to determine the appeal in relation to the scheme before me.
19. The appellant has referred to LP Policy SD24, which relates to equestrian uses. The proposal is for the erection of a new dwelling and the facilities to support the equestrian use are ancillary to this and not independent of it.
20. It is noted that the Authority have raised concerns in relation to the lawful use of the appeal site, however as I am dismissing this appeal, I have not pursued this matter.

Planning Balance and Conclusion

21. It is acknowledged that the Framework seeks to boost the supply of homes. The proposal would provide a net increase of 1 home, and this would contribute to the windfall element of the Authority's five-year housing land supply. However, housing provision should not be inappropriately located nor come at the cost of good design or the protection of National Parks and protected habitats such as the SPA, a position supported by the Framework. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.
22. 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.

23. Nevertheless, it does not follow from the PSED that the appeal should succeed, and for the reasons set out above, the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR