



Appeal Decision

Site visit made on 18 April 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2024

Appeal Ref: APP/L3815/W/23/3323712

Pampas Cottage, Claypit Lane, Westhampnett, Chichester PO18 0NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kamil Krasoski against the decision of Chichester District Council.
 - The application Ref is WH/22/02281/COU.
 - The development proposed is the change use of garage and workshop to guest/letting house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My site visit identified that the internal layout appears to be as shown on the plans, but the external site layout has not been completed. As such, I have made my determination based on the plans and not the 'as built' scheme.

Main Issues

3. The main issues are the effect of the proposed development:
 - on the character and appearance of the area; and
 - on the integrity of the Chichester and Langstone Harbours Special Protection Area.

Reasons

Character and Appearance

4. The site comprises a detached dormer style house and outbuildings, within a spacious plot on Claypit Lane. The dwelling is set back from the front boundary, with a side extension under construction. The subject of this appeal is a large cream rendered outbuilding within part of the site's frontage ('the annexe'). Its use is restricted to that of a garage and workshop for purposes that are ancillary to the residential use of the dwelling¹. The remainder of the front garden includes a gravelled parking area, some vegetation, and a small brick garage, with some trees and planting along the front boundary.
5. There are a range of sizes and styles of dwellings along the street. They are generally set back, and along with the front boundary treatments being predominantly natural, this gives the street a verdant and semi-rural character.

¹ As approved under WH/21/01434/DOM.

The proposal is for the change of use of the annexe to allow for overnight stays by paying guests. There would be an amended internal layout to that currently approved, but no physical changes to the building's exterior appearance. A specific parking space and an amenity space would also be created.

6. I am aware of the site's planning history, but my determination is based on the situation before me now, and not on the appellant's previous actions or intent. As such, the judgement to be made is whether the use of the annexe for paying visitors would cause a harmful material difference to the character and appearance of the area.
7. The Council considers that the proposal would intensify the use of the building and site, which would have an urbanising impact. This would cause it to be out of keeping with the semi-rural character of the area, and therefore it would have a negative impact. However, the Council has not provided any detailed description of what would generate this urbanising impact. I note that the site is not within a Conservation Area or in the setting of any listed buildings.
8. I find that if in maximum use by paying visitors every night, the proposal would result in multiple daily vehicle movements, and additional parked cars, albeit limited as the annexe would have only 2 bedrooms. The external amenity space could be intensively used by guests, including domestic paraphernalia. While no boundary treatment is identified for this area, it is not unreasonable to assume there may be some attempt to create privacy through screening. Overall therefore, as a 'maximum use scenario' there would be some intensified use of the site which would lead to physical changes, which would be visible due to their location at the front of the site.
9. However, I am unconvinced that these changes would be so material so as to harm the semi-rural character of the site and street. Moreover, even were I to agree with the Council that the impact would be harmful, there is a clear fallback position for the use of the annexe and the front of the property by the occupiers of the host dwelling. The Council has confirmed that this includes family and friends staying overnight in the annexe. I have not been made aware of any restriction on the number of cars which could be parked within the frontage, the occupants' ability to undertake activity within it, or the ability to add hard surfacing, screening, and other domestic paraphernalia.
10. As such, I therefore find that there would be no physically noticeable difference between this fallback of normal domestic use, and the scenario of tourist guest use. I therefore give this fallback significant weight as a material consideration in favour of the proposal, which outweighs any minimal level of harm which may exist.
11. Overall therefore, the proposed development would not cause harm to the character and appearance of the area. It would thus comply with Policy 30 of the Chichester Local Plan Key Policies 2014-2029 (LP) (2015), which requires tourist accommodation to be sensitively designed to maintain the tranquillity and character of the area, located so as to minimise impact on the natural and historic environment, be of high quality, and encourage an extended tourist season. It would also comply with the Framework paragraph 135 which requires developments to add to the overall quality of the area, and be sympathetic to the surrounding built environment.

Chichester and Langstone Harbours Special Protection Area (CLHSPA)

12. The appeal site lies within 5.6km from the CLHSPA, and therefore is within its 'Zone of Influence'. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of such protected sites. As the competent authority, I am required to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the CLHSPA, and whether measures could be put in place to avoid or mitigate these impacts.
13. The large, sheltered estuarine basins comprise extensive sandflats and mudflats exposed at low tide, important for wading birds and wildfowl. Very minimal evidence has been put before me relating to the proposal's potential impact. However, the LP Policy 50 does identify that residential development is likely to have a significant effect on the CLHSPA, either alone or in-combination with other developments, and that mitigation will therefore be required.
14. Policy 50 and its justification text identifies that evidence collected during the Solent Disturbance and Mitigation Project indicates that bird species in the CLHSPA are being adversely affected by disturbance, with human activity a major influence. Natural England advise that a likely significant effect from all new housing around the Solent in combination cannot be ruled out, and therefore new housing developments will need to provide for a package of avoidance and mitigation measures.
15. As the proposal would increase the number of overnight visitors within the area, I therefore find that a pathway of impact would be disturbance from human activity including recreational disturbance. Although the effect from one unit of visitor accommodation would be small, when combined with other plans and projects there would be likely to be a significant effect on the bird population of the site. On the evidence before me, my AA finding is that an adverse effect on the integrity of the SPA cannot be ruled out beyond all reasonable scientific doubt.
16. Required mitigation is identified as being a contribution in accordance with a joint mitigation strategy outlined in the Solent Disturbance and Mitigation Project, and/or a developer provided package of measures designed to avoid any significant effect on the SPA. Specific identified measures are required to be set out in a s106 legal agreement, which must be agreed by Natural England as being appropriate. They could include access management such as increased wardening, or the creation/enhancement of green infrastructure to improve local access in less sensitive areas.
17. No mitigation has been put forwards for the appeal proposal. While the appellant's evidence identifies that they intend to submit a legal agreement to secure a financial contribution that would address this required mitigation, no such legal agreement has been put before me. There is also no indication as to what type of mitigation any such contribution would be put towards.
18. I therefore find that the proposal would be likely to have a significant adverse effect on the integrity of the SPA, with no mitigation identified. It would conflict with the LP Policy 50, the Framework section 15 which aims to conserve and enhance the natural environment, and the Habitat Regulations.

Other Matters

19. The appellant has suggested the proposal's benefits would be its economic impact from additional tourists staying in the area, and meeting demand for tourist accommodation. There would also be a commitment to sustainable practices. However, these benefits would be small-scale, and would not outweigh the significant adverse effect on the integrity of the SPA.

Conclusion

20. The proposed development would conflict with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR