



Appeal Decision

Site visit made on 26 March 2024

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/Y9507/W/23/3320809

**Land South Of Cote Nurseries, Cote Street, Salvington, Worthing,
West Sussex, BN13 3EX**

- 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 Mrs Hilary Kepa against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/22/02746/FUL.
 - The development proposed is a proposed new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken directly from the original planning application form.
3. The appellant's design and access statement refers to an LVIA (Landscape Visual Impact Assessment). However, an LVIA was not submitted with the appeal, nor was one seemingly submitted to the Local Planning Authority (LPA) for consideration as part of the original application submission
4. A revised version of the National Planning Policy Framework (the Framework) was issued on 19 December 2023. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has therefore not been necessary to seek their views, while the revised version has been referenced in my decision.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area, having regard to its location within the South Downs National Park;
 - Whether the appeal site is a suitable location for the proposed dwelling having regard to the policies of the local development strategy;
 - The effect of the proposal on biodiversity; and
 - Whether the proposal would accord with the Authority's development plan policies in respect of mitigating the impacts of climate change.

Reasons

Character and Appearance

6. The appeal site is located within the South Downs National Park (the National Park). National Parks are designated for the purposes of a) conserving and enhancing natural beauty, wildlife and cultural heritage, and b) promoting opportunities for their understanding and enjoyment of their special qualities by the public. Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (the Act) places a duty upon me to have regard to these purposes in this decision, and where there is a conflict greater weight should be given to purpose a).
7. Meanwhile, paragraph 182 of the Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
8. The appeal site is a roughly square shaped parcel of land, located on Cote Street. It has previously been in use as a horticultural nursery and it was evident from my site visit that it contains areas of hardstanding, building debris, as well as an outbuilding/workshop near the site entrance from Cote Street.
9. Cote Street is accessed off the A27 and is a rather narrow country lane containing ribbon development of predominantly residential properties. The street is more densely populated by buildings near its entrance from the A27, but on the whole has a rather low density. Additionally, as you travel further along the street towards the appeal site, the density of built form reduces with dwellings positioned mainly within large plots and frequently interspersed by paddocks or agricultural fields.
10. Although located off the busy A27, on the outskirts of Worthing, Cote Street retains a rather verdant, rural character. This is in part due to the narrow lane being significantly bordered by mature vegetation, including hedgerows, and an absence of streetlights, pavements and suburbanising features along much of the street. The rural character is further reinforced by the sporadic low density development and the wider landscape heavily consisting of agricultural fields and woodland.
11. Indeed, from my observations, Cote Street aligns with some of the key characteristics of the Angmering to Clapham Wooded Estate Downland Landscape Character Area (LCA) as identified by the LPA. Namely, it is a low-density dispersed settlement, characterised by historic farmsteads.
12. The appeal site, despite the presence of an existing outbuilding/workshop and areas of hardstanding, remains largely open and predominantly vegetated. As a largely undeveloped gap between existing properties, it therefore contributes positively towards the dispersed pattern of development along Cote Street and its rural character.
13. The proposed introduction of a dwelling would have a domesticating impact on the site and intensify development along this section of the street, thereby eroding the historic dispersed layout of dwellings that help define the landscape character of this area.

14. Whilst dwellings along Cotes Street vary in their precise design and appearance, they retain a traditional character in terms of their form, detailing and use of materials. In contrast the proposed dwelling, due to its design (particularly its mono-pitched roof arrangement) and rather diminutive size would be entirely at odds with the scale and character of the surrounding more traditional properties.
15. The proposed dwelling may unashamedly seek to be more modern and contrast with its surrounding built form, whilst still incorporating local materials. However, I find that the highly simplistic design and form of the proposed building, with a notable lack of detailing, would not result in a high-quality contemporary designed dwelling.
16. I appreciate that the positioning of built form along Cote Street, including the nature of building frontages onto the highway, varies along the street. As such, I do not find the position of the proposed dwelling within the site itself to be harmful. Public views of the proposed dwelling are also likely to be extremely limited due to the presence of existing mature vegetation, and the distances to nearest public vantage points. Consequently, the proposed dwelling would be unlikely to result in any significant visual harm.
17. Nevertheless, the proposed development, would still adversely affect the landscape character of the area. While it is not appropriate to rely on the presence of vegetation to screen otherwise unacceptable development, particularly as the continued retention of the vegetation cannot be assured.
18. The appellant has indicated an intention to operate a smallholding from the site and suggests that this would help to restore the local landscape character and cultural heritage of Cote Street. However, very limited details of the smallholding are provided and there can be no guarantees that the operation of a small holding at the site would endure.
19. Overall, I find that the proposed development would cause harm to the character and appearance of the area. The proposed development would therefore be contrary to Local Plan Policies SD1, SD4 and SD5 and guidance contained within the LPA's Design Guide Supplementary Planning Document (Adopted 2022). Amongst other matters, these policies and guidance seek to ensure that development conserves and enhances the landscape of the National Park and promotes high-quality design that respects local character. It follows that the proposal would also conflict with the first purpose of the National Park under the Act.
20. The appeal scheme is also contrary to the aims of the Framework, which seeks to achieve well-designed and beautiful places, with sympathy for local character, including landscape setting.

Location

21. Regardless of whether the site historically (c. 50 years ago) was within a settlement boundary within the Adur and Worthing Borough Council area, the proposal is located outside a defined settlement boundary within the current Local Plan. For planning policy purposes, it is therefore in the open countryside.
22. Local Plan Policy SD25 outlines the spatial strategy for the National Park. To protect its landscape, the policy seeks to encourage development to take place within defined settlements. The policy further outlines that development will be

exceptionally permitted outside of defined settlements, where it complies with relevant policies of the Local Plan and meets specified listed criteria.

23. The appellant indicates that the appeal site has been used for a range of business uses in the past, including an agricultural repair/garage building and a packaging plant operating in association with an agricultural nursery. It is also indicated that a residential caravan was permanently occupied at the site in the past. The appellant therefore advances that the proposal involves an appropriate reuse of a previously developed site and complies with criterion 2d) of Local Plan Policy SD25. However, there is no robust evidence to verify the appellant's claims of the previous activities on the site or whether they would result in the land being in a use other than agricultural/horticultural use. Instead, from the available evidence, notably details of the site's planning history provided by the LPA, it seems that the last demonstrable use of the site was as a horticultural nursery.
24. Policy SD25, nor its supporting text set out a definition for a previously developed site, albeit it states that it excludes residential gardens. I therefore find the use of the definition of previously developed land (PDL) in the glossary to the Framework to be appropriate in this instance. This establishes that PDL is land which is, or was, occupied by a permanent structure but excludes land that is, or was last, occupied by agricultural or forestry buildings. Furthermore, the definition of 'agriculture' under Section 336 of the Town and Country Planning Act 1990 (as amended) includes horticulture, fruit growing, market gardens and nursery grounds.
25. Based on the evidence before me, I therefore do not consider the appeal site to be a previously developed site, nor can I deem the proposal to involve the reinstatement of a dwelling on the site as suggested by the appellant. Even if the appeal site was deemed to be a previously developed site, criterion 2d) of Policy SD25 still requires that the proposal conserves and enhances the special qualities of the National Park. For reasons previously set out, the proposal would still not conform to criterion 2d).
26. Through the appeal, the appellant has also set out that the proposed dwelling is required to advance a small holding enterprise that would involve organic market gardening. It is said that this would include the growing of a variety of fruit and vegetables, as well as the rearing of a small herd of goats for production of dairy products. The appellant therefore suggests that there is an essential need for the proposed development in a countryside location and accordingly it meets criterion 2b) of Policy SD25.
27. Notwithstanding, that the appeal process should not be used to evolve a scheme¹, the appeal proposal is for a self-build dwelling rather than a rural workers dwelling tied to an agricultural enterprise. Additionally, given the scale of the site and nature of activities specified, I am not convinced that the enterprise would result in an essential need for a rural worker to live permanently at the site. Accordingly, I do not consider the proposal to draw support from Criterion 2b) of Policy SD25.
28. To promote sustainable development in rural areas the Framework promotes that housing should be located where it will enhance or maintain the vitality of rural communities, this includes where there are groups of smaller settlements,

¹ As advised by the Procedural Guide: Planning Appeals – England (Update 2024)

development in one village may support services in a village nearby. However, in this instance, the limited economic benefits that the appeal scheme would deliver to the vitality of the rural community would not outweigh the harm caused by its unsuitable location.

29. Overall, the appeal site would not be a suitable location for the proposed dwelling having regard to the policies of the local development strategy. Indeed, I find the proposal conflicts with Local Plan Policies SD1, SD4, SD5 and SD25 and relevant elements of the Framework which seek to protect the character and intrinsic beauty of the countryside. It would also conflict with the First purpose of the Act.

Biodiversity

30. Local Plan Policy SD9 requires new development proposals to conserve and enhance biodiversity. Amongst other matters, the policy highlights that up-to-date ecology information should be submitted alongside development proposals. This is to demonstrate that priority species will be protected and that opportunities for net gains in biodiversity are incorporated. Local Plan Policy SD2, amongst other matters, also seeks for development to protect natural habitats.
31. No detailed ecological survey of the site (i.e. a preliminary ecological appraisal) has been submitted by the appellant. Consequently, I cannot be satisfied as to the site's baseline position in terms of its ecology value, including its suitability or importance to any protected species. The presence of boundary hedgerows, a priority habitat orchard, and grassland areas, however, suggests there is a reasonable likelihood that protected species may be present on site, even if not encountered by the appellant during previous maintenance works.
32. I understand that the appellant has previously undertaken extensive planting of vegetation on the site. The appellant has also highlighted an intention to integrate features within the development that could encourage biodiversity, including log piles, a pond, and bird/bat boxes, details of which could be secured by a condition on the grant of a permission. However, without a detailed understanding of the existing ecological value of the site I cannot be sure that these proposed mitigation measures would suitably address any harm to protected species and conserve or enhance biodiversity.
33. Additionally, Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development is established before planning permission is granted. It would therefore not be appropriate to apply a condition to the grant of any permission requiring the undertaking of ecology survey work.
34. The onus is on the appellant to demonstrate the effects of the proposal are acceptable. In the absence of the appropriate ecology survey work I cannot conclude that the proposal would conserve or enhance biodiversity at the site. Accordingly, I must find the proposal to conflict with Local Plan Policies SD2 and SD9. Likewise, the proposal is deemed to conflict with the first purpose of the Act and be contrary to the Framework in respect of conserving and enhancing the natural environment.

² Biodiversity and Geological Conservation

Climate Change

35. To mitigate against the impacts of climate change, Strategic Policy SD48 seeks to encourage high standard of sustainable building design and construction. Unless it can be demonstrated not to be feasible or viable, the policy requires new residential development to incorporate energy efficiency measures to enable a 19% carbon reduction improvement against Part L (2013) Building Regulations Approved Document. It also expects new residential development to incorporate features to improve water efficiency to limit total mains consumption to no more than 110 litres per person per day.
36. The appellant has indicated an intention for the proposed development to incorporate renewable energy technologies, as well as significant thermal insulation properties. However, no robust details have been provided to demonstrate that this would result in the proposed development meeting the overall energy efficiency standards outlined under Policy SD48. Additionally, I have no detailed evidence as to whether the proposal would meet the expected water efficiency standards.
37. It has also not been demonstrated that residential development at the site could not feasibly or viably comply with the standards expected under Policy SD48. However, without any detailed information as to whether the development, as proposed, would be capable of meeting the energy and water efficiency targets, it would not be appropriate to seek to secure these matters via condition on the grant of a planning permission.
38. Given the lack of suitable information, I am unable to find that the proposal accords with the Authority's relevant development plan policy, SD48, that seeks to mitigate the impacts of climate change. The proposal would also be contrary to the aims of the LPA's Sustainable Construction Supplementary Planning Document (adopted 2020) and the Framework in respect of planning for climate change through the detailed design of new development.
39. The Council has also indicated a conflict with Policy SD22, as the proposed development does not include electrical vehicle charging facilities as is expected under this policy. I am satisfied though that this matter could be reasonably dealt with by a relevant condition on the grant of any permission. This, however, does not overcome my above concerns.

Other Matters

40. The scheme would provide socio-economic benefits associated with the delivery of a new self-build dwelling. However, given the scale of the proposal these would be limited and do not outweigh the harm that has been identified.
41. The appellant also suggests that there would be environmental benefits given that the proposal would reduce the need to commute to and from the site to run the smallholding. Notwithstanding, that very little details of the enterprise have been provided, I am not convinced that the proposal would result in any significant environmental benefits. From my observations there are limited facilities and services within the near vicinity of the site. The site's context, notably a lack of pavements, streetlighting and the distances involved to facilities and services, is also not conducive to support sustainable means of travel. As such, future residents of the proposed development are likely to be

heavily reliant on the use of private motor vehicles for most of their travel needs.

42. It has also been indicated that there are social and cultural benefits that would arise from activities that would take place on the smallholding. However, I consider the benefits would be limited in nature, whilst such benefits do not appear to be reliant on the presence of the proposed dwelling at the site. Accordingly, this also does not overcome my above concerns.
43. I recognise that the appellant may have invested considerable time and energy into clearing the site of waste and improving its general appearance/condition, but this does not warrant the proposed development.
44. Support or a lack of objections from neighbouring residents to the proposal, is also not a reason to allow otherwise unacceptable development.

Conclusion

45. The proposal conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. Therefore, for the reasons given above and taking account of all other matters raised, the appeal is dismissed.

Lewis Condé

INSPECTOR