



Appeal Decision

Site visit made on 16 April 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/Y9507/W/23/3331537

The Old Mechanics, Church Lane, Coldwaltham RH20 1LW

- 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 Brent Dowson (Fairfax Designs Ltd) against the decision of South Downs National Park Authority (the Authority).
 - The application Ref is SDNP/21/03962/FUL.
 - The development proposed is conversion of light industrial building to holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form gives the name of the appellant as Mr Brent Dowson whereas the application leading to this appeal was made by Fairfax Designs Ltd. I am advised that Mr Dowson is a director of Fairfax Designs Ltd and so I am satisfied the appeal has been lodged by a legitimate person.
3. The description of development provided by the appellant refers to a light industrial building. The Authority and other parties contend that such a use of the appeal site is unlawful. However, it is not in my remit with this appeal to arrive at conclusions on the lawful use of the building. It is open to the appellant to apply for a lawful development certificate in order to establish certainty on the matter. I note that the appellant's submissions indicate the building is not currently in active use.
4. The appellant has provided an amended existing and proposed plans and elevation drawing, numbered 2117 100 rev P2. This was not with the Authority at the time it determined the planning application. The revisions are fairly minor alterations to the height of the building and position and size of proposed fenestration. Also, the Authority and interested parties have had an opportunity to comment on the revised plan through the appeal process. As such, taking the drawing into account would cause no injustice to any interested party.
5. A revised version of the National Planning Policy Framework (the Framework) has been published since the Authority issued its decision. The appeal process has provided all interested parties with the opportunity to submit comments on the Framework.

Main Issues

6. While not referred to in its refusal reasons, the Council's submissions mention the effect of water usage associated with the proposal on the integrity of the

Arun Valley Special Area of Conservation, Arun Valley Special Protection Area and Arun Valley Ramsar site (hereafter referred to as the habitat sites). In light of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations), I am required to take this matter into account and to obtain the views of Natural England (NE) as the relevant statutory nature conservation body. The Authority and the appellant have had the opportunity to respond to the comments submitted to me by NE. I have taken all of the correspondence into account in my assessment of this appeal.

7. Therefore, the main issues are (i) the effect of the development on the integrity of the habitat sites, (ii) whether the proposal would represent a sustainable form of tourism development having regard to the policies of the South Downs Local Plan 2019 (LP) and the development's location, (iii) its effect on the character, appearance and tranquillity of the area, and (iv) its effect on ecosystem services and the biodiversity value of the appeal site

Reasons

Effect on habitat sites

8. The appeal site lies in the Sussex North Water Supply Zone (SNWSZ). A position statement from NE states that it cannot be concluded that groundwater abstraction within the SNWSZ is having no adverse effect on the integrity of the habitat sites. There is no indication that the use of the building as it stands draws on groundwater. The proposal would result in a kitchen, toilet and bathroom being provided and so it would increase water usage and potential groundwater abstraction. Therefore, on adopting a precautionary approach, I find it likely the development, either on its own or in combination with other projects, would have a significant effect on the integrity of the habitat sites. Consequently, it is necessary for me to conduct an appropriate assessment under the terms of the Regulations.
9. The NE's position statement advises that one way for new development to avoid harm to the habitat sites is to achieve water neutrality. The appellant's water neutrality statement sets out the anticipated additional demand for water from the development. Also, it explains how this demand would be reduced through the incorporation of water reduction measures within the holiday let. I am satisfied that the provision and retention of such measures could be reasonably secured through the imposition of a planning condition. Such a condition would directly relate to the proposal and it would be enforceable by the local authority.
10. The appellant accepts the proposed water efficiency measures as part of the holiday let would be insufficient in themselves to achieve water neutrality. To address the issue, details are provided of water efficient fixtures and fittings that would be installed at another property near Rusper that is owned by the appellant. It is suggested that these measures would more than offset the extra water usage from the holiday let and that they could be secured through the imposition of a planning condition.
11. However, I have concerns over the condition suggested by the appellant. The property near Rusper is a significant distance away from the appeal site. A planning condition that in effect requires the installation and retention of fixtures and fittings at a property far from the appeal site is not relevant to the proposed development. I note the appellant's commitment to implement the

offsetting measures but there can be no certainty that the proposed holiday let and the property near Rusper would remain in the same ownership. If the Rusper dwelling was sold to another party it is unclear how any future occupants would be aware of the requirements of the suggested condition. In these regards it would be unreasonable. Therefore, the condition as proposed would not meet the relevancy and reasonableness tests of planning conditions as set out at paragraph 56 of the Framework.

12. The appellant has highlighted a planning permission granted by Horsham District Council with a similar condition to that suggested. I do not have the full details of this development but the wording of the condition in that case refers to offsetting works at a property with the same address as the application site. It would therefore seem that the offsetting works relate more closely to the proposed development compared to the situation with this appeal proposal. Also, I note the Authority's officer's report on the application leading to this appeal indicates the proposed offsetting measures would need to be secured through a legal agreement. No such agreement is before me.
13. NE is content that the measures as set out in the appellant's water neutrality statement are sufficient to avoid an impact on the habitat sites. However, for the above reasons, these would not be appropriately secured through the imposition of the suggested condition. Without sufficient certainty on the implementation of the offsetting measures, I am unconvinced the development would avoid an increase in water usage and groundwater abstraction in the SNWSZ. Therefore, I conclude the development would adversely affect the integrity of the habitat sites. As such, Regulation 63(5) of the Regulations precludes the proposal from proceeding unless there are no alternative solutions or imperative reasons of overriding public interest and compensatory measures. No case is made that such circumstances apply.

Whether a sustainable form of tourism and location

14. The appeal site lies in a cluster of residential properties at the end of Church Lane. The site and its neighbours lie close to but outside the Coldwaltham settlement boundary as defined in the LP. Strategic policy SD25 from the LP states that development will be permitted outside of settlement boundaries where it complies with relevant policies. In this case, LP strategic policy SD23 is relevant as it relates to sustainable tourism development. Part 1 of this policy states proposals for visitor accommodation will be permitted provided they comply with a list of criteria.
15. Criterion 1(b) requires the location of development to minimise the need for travel by private car and to encourage access and/or subsequent travel by sustainable means. Nearby bus stops on London Road would provide convenient access for guests at the holiday let to local bus services. However, submissions from interested parties indicate that Coldwaltham is only served by 2 bus services that offer limited connections 3 days a week. This is not disputed by the appellant and no contrary bus timetable information has been provided. As such, there would only be very limited potential for visitors to travel by bus to and from the development. Coldwaltham is not served by a railway and so it seems highly probable that guests would travel to and from the holiday accommodation by private car. I note that the Authority's officer considered that the appeal site would be in a sustainable location for tourist accommodation. However, I am not bound to arrive at the same conclusion.

16. In addition to criterion 1(b), part 1(g) of LP strategic policy SD23 sets out the requirements for visitor accommodation proposals outside settlement boundaries. The site is close to public rights of way and so the development would accord with part 1(g)(ii) of the policy. Also, the appeal plans show the provision of hedgerow, trees and wildflower planting on the site. These features would represent fairly minor enhancements to the area but nonetheless they mean the scheme would make a positive contribution to the natural beauty of the National Park. Also, a nature pond as well as bird and bat boxes would potentially enhance the wildlife value of the site. As such, the development would accord with part 1(g) of LP strategic policy 23.
17. For the above reasons, I conclude the location of the proposal would not minimise the need for travel by private car. In these respects, the proposal would not represent sustainable tourism development and it would be contrary to part 1(b) of LP strategic policy 23. At the same time, the development would accord with part 1(g) of LP strategic policy 23. Acceptability in these regards tempers the harm caused by the identified conflict with part 1(b) of the policy.

Character and appearance

18. Existing dwellings and their gardens would be adjacent to the development. The holiday let use would generate activities similar to the residential nature of the neighbouring properties and so it would respect local character. Moreover, the development proposes only minor alterations to the building. The holiday let would appear in keeping with the nearby residences and associated outbuildings. Also, the proposed planting would enhance the natural and visual qualities of the site. Given the context provided by the nearby residences, I am satisfied the development would avoid unacceptable harm to dark night skies.
19. The proposal would introduce visitor activity on the site, although I find no reason why this would harm the tranquillity of the area any more than the adjacent residences. It is likely the proposal would lead to more cars coming to and from the property compared to the current situation but any increase would be minor given the small scale of the proposal. Moreover, I would expect Church Lane already experiences a level of vehicular movements given the dwellings and school that it serves. Within this context, the development would avoid an unacceptable effect on the tranquillity of the area.
20. For these reasons, I conclude the proposal would have an acceptable effect on the character, appearance and tranquillity of the locality. In these regards, it would accord with LP policies SD5 and SD7. These seek to ensure development respects local character and conserves or enhances tranquillity.

Ecosystem services and biodiversity value of the site

21. Given its close proximity to local footpaths, the proposed holiday let would provide opportunities for visitors to access the natural aspects of the National Park that contribute to its special qualities. Also, in doing so, it would improve peoples' health and well-being. In these regards, I conclude the development would have a positive impact on the ability of the natural environment to contribute services as advocated under LP core policy SD2. Therefore, I conclude it would have an acceptable impact on ecosystem services.
22. While no detailed ecological information or appraisal has been provided, I am satisfied the proposed planting, pond and bat and bird boxes would preserve

and indeed would potentially enhance the biodiversity of the site. In these regards, I conclude the development would accord with LP strategic policy SD9.

Other considerations and planning balance

23. The proposal would bring a redundant building back into use. In these respects, it would represent an effective use of land and promote the development of under-utilised buildings as supported under paragraphs 123 and 124(d) of the Framework.
24. Part 2 of LP core policy SD1 sets out the purposes of the National Park. The development would help fulfil the second purpose as it would promote opportunities for visitors to understand and enjoy the National Park's special qualities. Moreover, the development would accord with the first purpose as I have found it would conserve and to a minor degree enhance the natural beauty and wildlife of the area.
25. Also, the development of tourism facilities including quality accommodation is supported under policy 43 of the South Downs National Park Partnership Management Plan 2020-2025. The proposal would help address a need for tourist accommodation.
26. Therefore, I find the benefits of the development would outweigh the minor harm I have identified in terms of the conflict with LP policy SD23 part 1(b). However, the overriding factor is the detriment I have identified regarding the effect on the integrity of the habitat sites. In light of this harm and the provisions of the Regulations, I am unable to permit the development.

Conclusion

27. For the reasons given above, the appeal should be dismissed.

Jonathan Edwards

INSPECTOR