



Appeal Decision

Site visit made on 3 June 2024

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

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/L3815/W/23/3322947

**Land north of Southfield House, Delling Lane, Bosham, West Sussex
PO18 8NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ms Carole Sinclair against Chichester District Council.
 - The application Ref is 22/02502/FUL.
 - The development proposed is Conversion of Old Poultry Buildings to form Habitable Accommodation (one dwelling) + Landscape Enhancements & Associated Works.
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Decision

1. The appeal is dismissed, and planning permission for Conversion of Old Poultry Buildings to form Habitable Accommodation (one dwelling) + Landscape Enhancements & Associated Works is refused.

Main issues

2. Having regard to the parties' principle concerns and the Council's purported reasons for refusal, the main issues are the effect that the proposed development would have on:
 - the Chichester Harbour Area of Outstanding Natural Beauty,
 - the integrity of the Chichester and Langstone Harbours Special Protection Area (SPA),
 - the integrity of the Solent Maritime Special Area of Conservation (SAC), and
 - the safety and function of the Strategic Road Network (SRN).

Reasons

Area of Outstanding Natural Beauty

3. The appeal site is situated outside any settlement boundary designated in the Chichester Local Plan: Key Policies 2014-2029 (LP) and the Bosham Parish Neighbourhood Plan 2014-2019 (NP), so it is, in policy terms, in the countryside. The site is also within the Area of Outstanding Natural Beauty, which has the highest status of protection in relation to landscape and scenic beauty. The primary purpose of the Area of Outstanding Natural Beauty designation is to conserve and enhance the natural beauty. In pursuing the primary purpose, account should be taken of the needs of agriculture, forestry, other rural industries and the social needs of local communities.

4. The site includes a drive from the roughly west side of Delling Lane, which also leads to the dwellings at Southfield House and Dolphin House that lie next door to roughly south, and a larger area of land to roughly north, which includes the existing buildings. An area of open land, which includes tall trees by its boundary with Delling Lane, lies roughly east, and beyond the lane lies mainly open countryside. The site includes access to the parking area of the modest industrial estate to roughly north, and the broadly flat and mainly open agricultural landscape lies to roughly west. So, the immediate area has a mainly rural character, which is important to the landscape and scenic beauty of the Area of Outstanding Natural Beauty.
5. LP Policy 1 reflects the presumption in favour of sustainable development in the National Planning Policy Framework (Framework). LP Policy 2 sets out the settlement hierarchy for the District, and it explains that outside Chichester city and the designated Settlement Hubs, the Service Villages will be the focus for new development. 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 local rural need or supports rural diversification in accordance with LP Policies 45 and 46. Whilst LP Policy 2 lists Bosham as a Service Village, NP Policy 1 aims to restrict development outside the settlement boundary unless it is supported by Development Plan policy or could not reasonably be located within the settlement boundary.
6. LP Policy 45 states that within the countryside, outside Settlement Boundaries, 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. So, it is not relevant to the proposal. LP Policy 46 aims to permit proposals for the conversion or re-use of buildings in the countryside where all of 6 criteria have been met.
7. The site is said to have originally been part of a poultry farm, and it includes the existing buildings referred to as the main barn (barn) and the annex, a garage attached to the annex, and a boat house. Whilst they are not traditional buildings of architectural or historic merit, the utilitarian forms of the barn and the annex are in keeping with the modern farm buildings that are sparsely dispersed within the wider countryside, so they respect its intrinsic character. As the trees near and within the site, some of which are subject to Tree Preservation Orders, form a significant landscape feature, which partly screens the buildings in views across the rural landscape, they contribute positively to the landscape and scenic beauty of the Area of Outstanding Natural Beauty.
8. The proposal would include the 2 bedroom dwelling in the barn, a gym, home working space and 2 bedrooms in the annex, and whilst the front outshoot to the garage would be removed, the form of the annex would extend over the remaining roofless part of the garage. So, the dwelling would include 2 single storey ranges roughly parallel to the lane separated by a narrow open space, with a separate boat house.
9. The existing buildings have since been used for workshops and storage, and they now include the partial wall and roof linings in the barn and the wall linings and ceiling in the annex, parts of which are damaged or decayed. There is almost no evidence to show that either or both of these buildings have since been used for agriculture. As the planning applications made in around 2001 and 2007 referred to 'Demolition of commercial buildings ...' and 'Demolition of

existing workshop and storage area ...' respectively, it is likely that the barn and/or annex have not been used for poultry for a considerable time.

10. The appellant's structural statement refers to the barn and the annex. The consultant has explained that their assessment is in respect of the building structures only in accordance with Part A of the Building Regulations, and that whilst recommending minor improvement works, the structural fabric of these buildings is largely adequate without significant alteration. Even so, assessment of the foundations in both buildings was not possible, it was presumed that there were purlins in the barn's roof void, and it was not possible to see the full extent of the structural frame in the annex, but several steel purlins had corroded and would require repair or replacement. So, apart from the floor slabs in both buildings, and the low walls in the barn, the appellant's structural evidence relates mainly to the visible parts of both buildings' frames.
11. The external and internal cladding of both buildings' roofs and walls would be replaced. So, little more would be left than the trusses and any purlins on the barn's stub walls and slab, and the annex's skeletal metal frame on its slab.
12. Considerable works would be needed for conversion for economic uses, including substantial areas of internal and external wall and roof finishes, rainwater goods, floor, wall and roof insulation, new doors and windows including security measures, damp proof measures, utilities, services, and fittings. So, I agree with the findings of the appellant's commercial viability report, that the buildings are in a very dilapidated condition and uninhabitable for economic purposes without significant expenditure. The form of the buildings would be little different. Even so, as most of the external envelope of both buildings would need to be replaced, and the structural members of both buildings would be likely to need some repairs and/or replacement, the existing buildings would not be capable of conversion. Instead, the proposal would amount to a rebuild.
13. Because the barn and annex would not be capable of conversion for economic uses without the need for significant rebuilding, the proposal would be contrary to criterion 1 of LP Policy 46. Moreover, as the proposal would not involve the re-use of a traditional building of architectural or historic merit, it would be contrary to criterion 5 of LP Policy 46.
14. As there would be insufficient reason for the dwelling to be sited within the Area of Outstanding Natural Beauty, the residential activity associated with it, along with the parked cars, related hard surfaces, and likely domestic paraphernalia, including sheds, garden furniture, washing lines, and so on, would damage the Area's natural beauty and detract from its special qualities. Moreover, whilst the proposal appears to aim for most of the existing trees to be retained or replaced, the protected trees by the west boundary are uncomfortably close to the annex. So, in time, due to the future occupiers' likely concerns, including a tree or trees failing, and the inconvenience of dealing with fallen branches and other detritus associated with the trees, the Council would be likely to come under pressure to allow most or all of the nearby trees to be severely reduced or felled, which it could find hard to resist if the dwelling were to be permitted. Thus, the proposal would be likely to erode this significant landscape feature.
15. Therefore, I consider that the proposed development would fail to conserve and enhance the landscape and scenic beauty of the Area of Outstanding Natural

Beauty. It would be contrary to LP Policies 1, 2, 45 and 46, NP Policy 1, and the Framework which aims to recognise the intrinsic character and beauty of the countryside.

SPA

16. The site is within the 5.6 km zone of influence of the 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).
17. The proposal would increase the number of people living near the SPA. So, this proposal, in combination with other plans and projects, would be likely to have a significant effect on the SPA, due to increased recreational disturbance. Because the proposal is not directly connected with or necessary for the management of the SPA, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the SPA in view of its conservation objectives. I could only grant planning permission if I were to conclude in that appropriate assessment that the integrity of the SPA would not be adversely affected. However, as the proposal would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment.
18. So, whilst the appellant has submitted a completed planning obligation in accordance with the joint mitigation strategy outlined in Phase III of the Solent Disturbance and Mitigation Project, which would satisfy LP Policy 49 which seeks to protect internationally designated sites, and LP Policy 50, I have not pursued the matter further.

SAC

19. Wastewater from the proposal would discharge into the Chichester and Langstone Harbours Catchment. In determining this appeal, I am the competent authority for the purposes of the Habitats Regulations.
20. It is Natural England's view that there is a likely significant effect on the internationally designated sites in the Chichester and Langstone Harbours Catchment due to the increase in wastewater from new housing. One way to address this is for new development to achieve nutrient neutrality. Nutrient neutrality is a means of ensuring that development does not add to existing nutrient burdens, and this provides certainty that the whole of the scheme is deliverable in line with the requirements of the Habitats Regulations.
21. The appellant's nitrate budget assessment report (assessment), dated 14 June 2023, has been carried out in accordance with Natural England's advice, using version 2.3 of Natural England's 2023 nutrient budget calculator. The assessment explains that parts of the site include commercial/industrial urban land in the form of hard surfaces, existing non-residential buildings and gravel, and poultry, in the form of the main poultry shed. It adds that the decrease in runoff between poultry and residential is due to the nitrogen-rich manure which poultry produce, and the liquid nature of the slurry, which must be washed away rather than manually collected. The assessment concludes that the proposal would result in a net decrease in nutrients discharged from the site, so there would be no need for mitigation.

22. However, despite the description given on the application form, and having regard to my findings in my first main issue, in around 2002, the site was described as being 'occupied by former egg production buildings, comprising a large timber shed, now used for woodworking, and a number of asbestos cement clad buildings used for builders' and general storage'. The appellant has also stated that latterly, the barn and annex had been used as a workshop and storage area, that the barn and annex have not been in agricultural use for a considerable period, and that it is unlikely that they would be brought back into such use. As there is almost nothing to show that the site and/or its buildings have recently been used or would be used for poultry, the existing nutrient load could not reasonably be partly assessed on that basis. So, the assessment attracts little weight.
23. My colleague found, in his appeal decision ref APP/L3815/W/22/3296444, that whilst part of the land had lawful use as a gypsy site it was not served by a suitable access and there was no evidence that suitable alternative access could be achieved, and that a lawful development certificate for the use of the land for agriculture had since been granted. As the circumstances of that scheme differ from those of the proposal before me, it provides little support for the proposal. Thus, there is insufficient evidence to show that the proposal would be nutrient neutral.
24. So, I consider that the proposal would be likely to have a significant adverse effect on the integrity of the SAC. It would be contrary to the Habitats Regulations, and the Framework which aims to conserve and enhance the natural environment.

SRN

25. LP Policy 9 states that the Council will work with partners, neighbouring councils, infrastructure providers and stakeholders to ensure that infrastructure is provided to support the development identified in the LP. The LP sets out a scheme of A27 improvements and contributions in accordance with LP Policy 9 and the Chichester District Council Planning Obligations & Affordable Housing Supplementary Planning Document (SPD). Whilst the SPD explains that major housing development proposed in the LP will generate additional traffic impacts on the A27 Chichester Bypass junctions which will require mitigation, the proposal is not major development.
26. The Council says that due in part to the notable delivery of housing in the south part of the District, the SRN is at or over capacity. As part of the evidence base for the Chichester Local Plan 2021-2039 Proposed Submission (Regulation 19) (eLP), the Council's transport studies have identified that further highway improvements will be required to mitigate the impact of development, particularly in relation to junction improvements on the A27 Chichester Bypass. The Council's recent Transport Study has also shown that the improvements needed to the A27 Chichester Bypass are no longer viable under LP Policy 9 and the SPD, with which National Highways agrees. So, the Council is seeking a financial contribution from all new housing development in accordance with eLP Policy T1 and its emerging supplementary planning document, to increase road capacity, reduce traffic congestion and improve highway safety, so that the proposed housing in the eLP can be delivered.
27. However, the highway authority has not objected to the proposal, and Planning Practice Guidance makes clear that policies for planning obligations should be

set out in plans and examined in public. So, whilst the Council's circumstances are appreciated, the contribution would not be necessary to make the development acceptable in planning terms.

28. Thus, I consider that the proposal would not be likely to have an unacceptable impact on the safety and function of the SRN. It would satisfy LP Policy 9.

Planning balance and other matters

29. As my findings regarding the SRN attract neutral weight, even if an appropriate assessment were to conclude that there would be no adverse effect on the SPA, it would not overcome the harm identified in my first and third main issues.
30. The Council cannot demonstrate a 5 year supply of deliverable land for housing, so Framework paragraph 11 d) is relevant. The Council's Interim Position Statement for Housing Development has been considered, and the benefits of the proposal would include a new home in a reasonably accessible location and jobs during construction. However, as the proposal would fail to conserve and enhance the landscape and scenic beauty of the Area of Outstanding Natural Beauty, and it would have a likely significant effect on the integrity of the SAC, the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed, so planning permission should not be granted.

Conclusion

31. 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.
32. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR