



Appeal Decision

Site visit made on 24 September 2024

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2024

Appeal Ref: APP/L3815/W/23/3330904

Outbuilding South of 101 First Avenue, Almodington, Earnley, West Sussex PO20 7LQ

- 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 J Sullivan against the decision of Chichester District Council.
 - The application Ref is E/23/00788/FUL.
 - The development proposed is construction of detached workshop building along with associated hard standing fence and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.
3. The description of development in the banner heading is taken from the decision notice and appeal form which provide a more accurate description of the proposal than that on the application form.

Main Issues

4. The main issues are:
 - The impact of the proposal on the living conditions of the occupiers of nearby dwellings, with particular regard to noise impacts; and
 - Whether the appeal site is a suitable location for the proposal, having regard to the Council's settlement strategy.

Reasons

Living conditions

5. The appeal site is located near the western end of First Avenue, which is a long no-through road, which serves a number of dwellings and horticultural and other business enterprises. The road is a private unadopted highway. It is narrow and single track, with few opportunities for vehicles to pass each other

- along its length. As such, any traffic would be likely to be slow-moving. Moreover, it also acts as a public footpath.
6. The appeal site lies to the south of the road and obtains vehicular access from it, in a position close to the dead-end termination of the road. The prevailing area around the appeal site is predominantly characterised by scattered dwellings and horticultural and agricultural land uses, including land developed with glass houses and undeveloped open fields.
 7. The locality around the appeal site has a notably tranquil character due to the surrounding land uses and the location of the appeal site at the western end of First Avenue where there is a low volume of passing traffic.
 8. The existing use of the site has evolved from its original status as part of a wider horticultural smallholding which was subsequently sub-divided. The former agricultural buildings obtained commercial use under Permitted Development. Having regard to this fall-back position, consent was then granted to replace the former buildings with the current purpose-built light industrial workshop building with an associated gravelled hardstanding vehicle parking and turning area¹. Permission was later granted for a separate new access track to serve this development².
 9. The proposal would provide an additional detached light industrial workshop building to the north-west of the existing 3-unit light industrial building. It would also expand the existing hardstanding parking and turning area. Vehicular access would be from First Avenue via the existing access.
 10. The use of the proposed light industrial workshop building could be restricted by condition, in a similar manner to that of the existing building, to that falling within Use Class E(g), which is that which can be carried out in a residential area without detriment to its amenity.
 11. However, the proposed additional workshop building would result in a notable intensification of use of the appeal site through the introduction of a new business unit with a floor area equivalent to around 50% of the existing commercial floorspace. In the absence of evidence to the contrary, this, together with a large increase in the amount of associated outdoor parking space, is reasonably likely to result in a significant increase in traffic movements to and from the appeal site.
 12. The existing approved access track is long, and it is finished in shingle. Consequently, as I observed during my site inspection, vehicular and pedestrian movements over this surface give rise to levels of noise that are markedly noticeable within the generally peaceful local environment.
 13. As such, the position of the track located between dwellings at Nos. 102 and 103 First Avenue and having an access point within the vicinity of nearby dwellings at Nos. 101, 101A and 101B, would reasonably give rise to noise impacts that would have a detrimental impact upon the living conditions of the occupiers of those residences.
 14. The appellant states that the proposal would enable an existing motorhome and caravan repair and restoration business, which, based on the information

¹ LPA Ref 21/02267/FUL

² LPA Ref 21/03593/FUL

before me, appears to occupy all 3 of the existing units, to expand. The appellant advises that this would involve an increase in customer movements but no associated increase in staff. I have taken this into account, together with the appellant's confirmation that customer vehicle movements would be limited to dropping off and picking up their vehicles with a gap of at least a week between the two.

15. However, the appellant has provided no details of the existing number and type of vehicle movements associated with the current use of the appeal site and their daily and weekly occurrences, including the number of staff, customer, delivery vehicles and their nature, as well as the numbers and types of vehicles to be repaired/restored, and how these would be altered as a result of the proposal.
16. Moreover, motorhomes and caravans are large vehicles which would reasonably generate a significant amount of noise traversing over the access drive to the site. As such, even a small increase in traffic movements could have a significant impact upon local noise levels. There is also a reasonable chance that towed vehicles would access the premises, thereby exacerbating the noise levels associated with such trips to and from the site.
17. Also, whilst there is evidence before me that the existing business seeks to extend into the proposed workshop unit, there is no demonstrative evidence or mechanism before me to guarantee that this would be secured, should the appeal be allowed, or that, if the current business does move into the new unit, that this arrangement would continue thereafter.
18. As such, in the absence of cogent evidence to the contrary, I must determine this appeal based on the potential for an additional commercial unit with increased outdoor parking potential to operate on the appeal site as well as the existing 3-unit workshop. This could potentially mean 4 independently operating businesses, each generating individual associated traffic movements.
19. Such an intensification of the use of the appeal site would reasonably be likely to lead to additional vehicle movements along First Avenue and the site access track, resulting in a diminishing of the tranquillity of the area and additional noise and disturbance to the residents of First Avenue. Those properties close to the road termination area and the site access point would be most affected, most notably Nos.102 and 103, which are sited either side of the access track.
20. These properties are particularly susceptible to noise associated with the impact of vehicles upon the shingle surfacing of the access track, in addition to any associated impacts linked to factors such as vehicle engines revving, drivers' voices and noise from in-vehicle entertainment systems. In the case of No.102, the dwelling is sited very near the access drive, and it has opening windows on the side facing the track and a private outdoor living space lies immediately adjacent to the boundary with the access drive. The garden of No.103 abuts the appeal site access. These properties are therefore highly sensitive to noise impacts arising from any additional traffic movements to and from the site.
21. My concerns in respect of this matter are supported by third party appeal submissions which refer to existing noise disturbance emanating from the vehicular access use in connection with the existing business use of the site,

- including noise associated with the shingle track, loud music emanating from vehicles and the opening and closing of the access metal gate.
22. I have no reason to doubt the third-party anecdotal evidence, which has not been refuted by the appellant. Neither has the appellant provided any noise reports or referred me to any specific measures to address the neighbour concerns, such as restricting the hours of use of the access drive.
23. For the above reasons, I therefore conclude that it has not been satisfactorily demonstrated that the proposal would not cause material harm to the living conditions of the occupiers of nearby dwellings, with particular regard to noise impacts. For this reason, I conclude that the proposal would not accord with Policy 26 of the *Chichester Local Plan: Key Policies 2014-2029* (2015) (the Local Plan). This policy aims, amongst other things, to ensure that employment proposals do not result in a material increase in noise levels resulting from vehicle movement which would be likely to unacceptably disturb occupants of nearby residential properties.
24. This is generally consistent with Paragraph 135 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health, and well-being for existing and future users.
25. The Council's second reason for refusal also cites Local Plan Policy 33. This Policy specifically relates to new residential development and is therefore not directly relevant to my determination of this appeal.

Location

26. The appeal site is located outside of, and a significant distance from, any settlement boundary designated in the Local Plan. As such, it is, in policy terms, in the countryside.
27. Local Plan Policy 1 reflects the presumption in favour of sustainable development in the Framework. Policy 2 sets out the settlement hierarchy for the district, stating 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: Small Villages, hamlets, scattered development and countryside, development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with Local Plan Policies 45 and 46. These policies are broadly consistent with the Framework aims of promoting sustainable development in rural areas and building a strong, competitive economy.
28. Policy 46 refers specifically to proposals for alterations, change of use and/or re-use of existing buildings in the countryside outside the designated settlement boundaries. As such, this policy is not directly relevant to the appeal scheme.
29. The proposal does not, therefore, comprise a form of development that is specifically supported by Local Plan Policies 2 and 45, unless the appellant can demonstrate that the proposal requires a countryside location or that it meets an essential, small-scale, and local rural need which cannot be met within or immediately adjacent to existing settlements.
30. Having regard to the former, a light industrial use does not, in itself, require a rural location. The appellant argues that the proposal would meet the latter. In

this respect the appellant refers to a general demand for small light industrial units within the Manhood Peninsula, which, it argues, cannot be met within the defined settlement boundaries within this area due to a lack of such premises available to rent. Submitted evidence to support this comprises a Rightmove search in respect of small commercial premises to rent within and close to the settlement boundaries of Birdham, Selsey and East Wittering, which was undertaken prior to the submission of the planning application in March 2023.

31. The appellant also refers to a high number of enquiries and the swift renting out of the existing light industrial units on the appeal site following their construction, which also took place prior to March 2023. This evidence is generalised and is only supported by a very limited amount of data. Moreover, it dates to more than 18 months ago. As such, I do not find that it is sufficiently robust to demonstrate an essential need for the appeal scheme in the location of the appeal site.
32. The appellant also cites the requirements of a current occupier of the existing light industrial building on the appeal site in support of an essential, small-scale, and local need. The appellant has confirmed that this business, which carries out the repair and restoration of motorhomes and caravans, had been forced to relocate from their previous site. Due to the unavailability of sufficiently large premises, they moved into their current premises on the appeal site which are not as large as their previous unit and are constraining the business from operating to its full potential. Having occupied the appeal site since January 2023, and citing a limited availability of sufficiently large units within the area, they have expressed a desire to extend the business premises at the appeal site to enable them to take on more jobs at any one time.
33. I do not doubt the intention of this business to expand into larger premises, and that it may be desirable and convenient for this to take place on the appeal site. However, there is no cogent evidence before me that the business has local connections, having regard to its established customer base which is stated to cover a wide area including Sussex, Hampshire, Surrey and the South Coast. Moreover, the business was previously located in Woodgate which is not within the immediate locality of the appeal site.
34. As such and having regard to a lack of evidence to the contrary, based on the information before me, it is reasonable to assume that there would be a large customer catchment area for this business within which other suitable alternative sites within the settlement boundary or adjacent to it could be sought.
35. Also, there is no cogent evidence before me that, should the appeal be allowed, this business would be guaranteed to expand into the proposed additional unit as well as the unit it currently occupies. Neither has up-to-date empirical evidence been submitted in respect of the search that this business carried out for alternative premises.
36. The letter attached as Appendix 1 of the appellant's statement was compiled more than 12 months ago, prior to the refusal of the application. It is not supported by factual evidence of the stated limited availability of suitable light industrial units. Neither has any such evidence been submitted with the appeal.

37. I have had regard to the existing purpose-built light industrial units adjacent on the appeal site. However, the planning history before me indicates that these commercial units were established because of a fall-back position following Permitted Development approvals of the change of use of the former agricultural buildings which occupied the site. As such, no compliance with Local Plan Policies 2 and 45 was required as part of the establishment of the existing commercial units.
38. Considering the above, I am unable to conclude, on the basis of the evidence before me, that the proposal meets the aforesaid requirements of Local Plan Policies 2 and 45. As such, the appeal site is not a suitable location for the proposal, having regard to the Council's settlement strategy.
39. The Framework recognises that some local businesses may need to be located beyond existing settlements and in locations that are not well-served by public transport (Paragraph 89). However, this is subject to the development being sensitive to its surroundings and not having an unacceptable impact on local roads.
40. I have found that there would be a resulting materially harmful impact upon the living conditions of nearby residential occupiers. Moreover, an expansion of commercial activity on the site would reasonably lead to an increase in light industrial associated traffic movements along First Avenue, the means of access to the site, which would be detrimental to the long narrow, single width unadopted road which also acts as a public footpath. As such, the proposal would not accord with Paragraph 89 of the Framework.

Conclusion

41. There would be some economic benefits as a result of the proposal. However, there is no evidence before me that such benefits would be greater than modest in scale, given the modest size of the proposed workshop. As such, these benefits would not justify or outweigh the harm I have identified in respect of the two main issues.
42. The proposed development would conflict with the adopted development plan when considered as a whole, and there are no material considerations, including the Framework, that indicate that the proposal should be determined other than in accordance with the development plan.
43. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR