



Appeal Decision

Site visit made on 2 October 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/L1765/W/23/3332605

**Down Farm House, Down Farm Lane, Headbourne Worthy, Hampshire
SO22 6RG**

- 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 and Mrs S Browne, Meyrick Estates against the decision of Winchester City Council.
 - The application Ref is 22/02251/FUL.
 - The development proposed is Redevelopment of farm buildings to provide a detached dwelling, along with farm office and accommodation for use as a holiday let, including landscaping, the setting out of a domestic curtilage and provision of parking areas.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal is accompanied by a Revised noise Impact Assessment (August 2023) and an Ecological Assessment (October 2023). The Revised noise Impact Assessment directly relates to the third reason for refusal. Although the reports have not been subject to formal public consultation, the Council were given an opportunity to comment on them as part of this appeal. In light of this, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of the information. Therefore, having regard to the principles of Holborn¹, acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.

Background and Main Issues

3. The site falls within the catchment of the River Itchen Special Area of Conservation (SAC) and the Solent Special Protection Areas (SPA) which are subject to both nitrate and phosphate impacts. Although this does not form a reason for refusal on the Decision Notice, as the competent authority in relation to this appeal, I am required to consider this matter and the related duties under the Conservation of Habitats and Species Regulations 2017.
4. As a result, the main issues for the appeal are:
 - the effect of the development on the integrity of the SAC and SPA;
 - whether the site is a suitable location for the proposal having regard to the local development strategy; and,

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to noise.

Reasons

Integrity of the SAC and SPA

5. The proposal is required to mitigate the 'in combination' effects of the development upon the River Itchen SAC and the Solent SPA. These effects relate to increased levels of nutrients (nitrate and phosphates) from wastewater from new dwellings having a detrimental impact upon the water quality of the SAC and subsequently on the SPA.
6. The SAC is designated for its water courses, Southern Damselfly, Freshwater Crayfish, Brook Lamprey, Atlantic Salmon, Bullhead and Otter. The Solent SPA includes several Special Protection Areas and other sites designated for their environmental sensitivity, which are internationally important for breeding and non-breeding birds and their coastal and water course habitats.
7. Having had regard to the characteristics of the proposed development, I consider that likely significant effects on the qualifying features of these various protected areas, either alone or in combination with other plans and projects cannot be ruled out, having regard to nutrient neutrality issues, leading to an adverse effect on the integrity of the sites.
8. In light of the above, and as the competent authority, I have a duty to undertake an appropriate assessment to consider whether it would be possible to secure satisfactory mitigation measures. In accordance with Natural England guidance the appellants submitted an extract from the 'Nutrient Budget Calculator' with the planning application. However, I have been advised that Natural England have released an amended calculator and I do not have an amended calculation. In light of this I cannot be sure what levels of phosphorus and nitrogen need to be mitigated.
9. The appellant has confirmed willingness to comply with the mitigation. Notwithstanding, and while I note Natural England and the Council's preferred approach for dealing with nitrates is via the imposition of a Grampian type planning condition, I do not have details of the calculations. Furthermore, there are no detailed completed schemes of phosphate mitigation before me. In this regard, the Council have agreements with a couple of providers of phosphate mitigation but as availability is very limited, agreement to the securing of such mitigation prior to determination is required by the Council.
10. In light of the absence of the level of nitrogen to be mitigated, given the very limited availability of phosphate mitigation, and given the precautionary approach, I cannot be sure that adequate mitigation would be available in relation to the appeal proposal. Furthermore, I cannot be sure that phosphate mitigation would not require a Deed under s106 of the Town and Country Planning Act 1990. Although the Planning Practice Guidance² does not rule out the use of a condition to require an applicant/appellant to enter into a planning obligation or agreement, the proposal is not a particularly complex development scheme and there is no clear evidence that the delivery of the development would otherwise be at serious risk so as to amount to exceptional circumstances to justify this course of action.

² Paragraph: 010 Reference ID: 21a-010-20190723

11. Therefore, and in the absence of details of the mitigation levels and an appropriate mechanism to secure the phosphate mitigation as part of the appeal, likely significant effects to the ecological integrity of the SAC and SPA would not be avoided. As I am required to consider the situation at the time of the determination of the appeal, this is the case despite the enactment of the Levelling-Up and Regeneration Act 2023 requiring a statutory obligation to upgrade selected treatment plants by 2030.
12. In conclusion, in the absence of the necessary avoidance and mitigation measures in place, the development would have an adverse effect on the integrity of the SAC and SPA. As a result, it fails to comply with the Conservation of Habitats and Species Regulations 2017. It is also contrary to Policy CP16 of the Winchester District Local Plan Part 1 – Joint Core Strategy (March 2013) (LLP1). Amongst other things, this supports development which maintains, protects and enhances biodiversity across the District and has regard to protecting sites of international, European, and national importance from inappropriate development.

Whether appropriate location

13. The appeal proposal comprises three main related and physically joined new build elements: a dwelling, a farm office, and a holiday let. As part of the development, the proposal would also repair and bring two storage barns back into use and would restore and bring back into use an existing granary building (Staddlestone Barn).
14. I will initially deal with each main element in turn against the relevant development plan policies before returning to consider the proposal as a whole.

Dwelling

15. The appeal proposal seeks to replace an existing agricultural barn for which prior approval³ has been granted to convert to a residential dwelling. There is no dispute between the parties that the site is located within the countryside for planning purposes. I have no reason to disagree.
16. Under LPP1 Policies DM1 and MTRA4 development within the countryside is restricted to that which has an operational need for a countryside location; proposals for the reuse of existing buildings for employment, tourist accommodation, community use or affordable housing; expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need; and small scale sites for low key tourist accommodation.
17. The proposal for a new-build market home would not fall within any of these categories and consequently there is a clear conflict with LPP1 Policy MTRA4 and Policy DM1 of the Winchester District Local Plan Part 2 Development Management and Site Allocations (April 2017) (LPP2).
18. However, this appeal must be weighed against the fact that prior approval has been granted for change of use of one of the agricultural buildings to a dwelling. The principle established by the grant of prior approval and planning permission represents a genuine 'fallback' position. Even in the absence of the start of any construction works, there is every prospect that the building would

³ 22/01300/PNACOU

be converted to a dwelling should this appeal fail and a clear intent to develop the site has been demonstrated through the submission of the further application and appeal. The prospect of the 'fallback' being developed is therefore greater than theoretical.

19. One of the main purposes of restricting housing development in the countryside is to reduce the need to travel by private car in order to reduce carbon emissions. The site is a considerable distance from a range of everyday services and facilities accessed via some narrow unlit roads without pavements. Such journeys would thus generate additional car trips. However, any harm in this regard would be offset by the fact that an existing building could be used as a dwelling under the 'fallback'. The number of trips generated to and from the site from the residential element of the proposal would be comparable.
20. It follows from the above that in locational terms, in light of the 'fallback' position, the site is a suitable location for a new dwelling having regard to the local development strategy.

Farm office

21. LPP1 Policy MTRA4 permits the expansion or redevelopment of existing buildings to meet an operational need, provided development is proportionate to the nature and scale of the site, its setting and countryside location. The proposal forms part of the redevelopment of the site and as such is acceptable in principle subject to meeting an operational need.
22. In this regard, and although I note the presence of an existing office at Upper Farm, this is some distance from the site. I also note that an office was included and provided as the result of a 2014 planning permission⁴ within a new farmhouse. However, I have been advised that since the provision of the existing offices the farm has diversified and significantly increased its employee numbers. The employees include 15 staff related to the Golf Academy and 15 within its kitchen and has a need for training, CPD and mentoring space, board meeting space and space for attendees in relation to the farming operation. This indicates that additional/larger office space is required.
23. In light of the growth of the wider diversified farm enterprise I find that a need for an additional and larger farm office and associated space has been demonstrated. While I acknowledge that the location would be slightly divorced from the Golf Academy and other parts of the wider diversified farm, it would nonetheless be well located and easily accessible from them and it has been demonstrated that it would meet an operational need.
24. It follows from the above that in locational terms, the site is a suitable location for a farm office having regard to the local development strategy.

Holiday let

25. LPP1 Policy MTRA4 permits small scale sites for low key tourist accommodation appropriate to the site, location and the setting.
26. The appeal proposal comprises a single small holiday let that would provide further income for the wider diversified enterprise. Given the small size of the holiday let and associated appeal site, and despite the site forming part of a

⁴ 13/02891/FUL

larger enterprise, I consider that the proposal is on a small scale site. Given the small size of the single holiday let, I consider that it would be low key.

27. As LPP1 Policy MTRA4 supports tourist accommodation in the countryside, supports the re-use of existing rural buildings for tourist accommodation, and given that the proposal forms part of a wider re-development of existing buildings, I am satisfied that the proposal would be appropriate to the site, location and the setting.
28. It follows from the above that in locational terms, the site is a suitable location for a holiday let having regard to the local development strategy.

Conclusion on this main issue

29. Although I have found above that a dwelling, holiday let and farm office would be in a suitable location with regard to the local development strategy, I have had regard to the concerns from the Council regarding the scale of the development, particularly in relation to the proposed dwelling that would be larger than that granted as part of the 'fallback' and with a larger outdoor area.
30. While I acknowledge that the character and appearance of the immediate area would change slightly if the 'fallback' scheme was implemented, the extent of change from the 'fallback' scheme would be limited within the shell of one of the existing buildings such that the larger size and footprint of the appeal dwelling, and its outdoor space, would have a greater effect.
31. However, the proposal as a whole would result in a number of benefits over the 'fallback' position. These include visual and landscape improvements through the redevelopment of the wider site with the removal of large buildings of generally poor quality and appearance with smaller, better designed, high quality efficient accommodation utilising sustainable technologies, overall reduction in built form, providing improved efficiency of the wider enterprise and removal of a Pole Mounted Transformer. Furthermore, the proposal would restore and bring a granary and other buildings back into use allowing a better appreciation of them as part of the re-creation of a courtyard layout. These benefits, in addition to defining the size of the outdoor space for the dwelling, could be secured by condition should I allow the appeal.
32. Although there is nothing substantive before me to determine that that the granary and two cart sheds are listed or locally listed, they have some architectural and historic interest and there is benefit to their retention and refurbishment.
33. While I acknowledge that the other existing buildings are agricultural in form and to be expected in the countryside, they are nonetheless redundant, and the proposal would replace them with high quality new development imitating the original courtyard layout.
34. In light of the above, the proposal would result in betterment over the 'fallback' position. I find that these benefits justify a dwelling of a larger size and footprint to the 'fallback' position.
35. In conclusion in relation to this main issue, it follows from the above that the site is a suitable location for the proposal having regard to the local development strategy. As such, it would not conflict with LPP1 Policy MTRA4 and LPP2 Policy DM1, the aims of which I have outlined above.

Living conditions

36. The appeal is supported by a Revised noise Impact Assessment to address concerns from the Council's Environmental Protection Officer. The report assesses the impact from traffic noise from the A34 and nearby road planings processing yard. I understand that the assessment was carried out in accordance with a methodology agreed with the Council.
37. The report states that the only concern appears to relate to the internal sound levels of the proposed holiday accommodation. The report recommends that mechanical ventilation is fitted to the south facing bedrooms in order to provide a choice as to whether or not windows are to be opened. Given that the holiday accommodation would not be a permanent residence, this would ensure a suitable standard of accommodation. In addition, the report recommends that all of the proposed buildings are fitted with acoustic double glazing with a sound reduction capability of at least 25dB when closed to provide a suitable living environment. These recommendations could be secured by condition should I allow the appeal.
38. In addition to concerns regarding the report methodology, the Council's concerns also relate to the close location of the site to a MotoX site and other uses and to the lack of consideration of noise from these upon the occupiers of the proposed development.
39. In relation to this, I have been advised that the Council did not raise any concerns in relation to noise from the MotoX site or other uses in relation to the grant of planning permission for the existing farmhouse on the site or to the Class Q 'fallback' proposal in 2022. In light of this, given that there is no current MotoX operator, the presence of conditions covering noise levels and timings of activities within the planning permission for the MotoX, presence of significant planting between the appeal site and the MotoX site and other uses that would reduce noise levels, I am not convinced that any noise impacts would be harmful to an extent that would justify dismissing this appeal. Furthermore, at the time of my site visit the golf academy, dog kennels and associated training facility, planing site and A34 were operating with limited noise levels from these audible on site.
40. It follows from the above that I conclude that, subject to conditions, the proposed development would provide acceptable living conditions for future occupiers with particular regard to noise. As such, it complies with LPP1 Policies DM16, DM17 and DM20. Amongst other things, these permit developments provided it responds positively to the character surrounding the site in terms of its design, provide a safe and secure environment, and does not have an unacceptable impact on human health or quality of life.

Other Considerations

41. The provision of a suitable access, traffic levels, parking provision and lack of harm to the living conditions of nearby occupiers are neutral in my consideration given that they are requirements of local and national planning policy and guidance.
42. Paragraph 8 of the National Planning Policy Framework (the Framework) defines the three dimensions of sustainable development as performing economic, social, and environmental objectives. When judged against some of

the core planning principles of the Framework, the appeal proposal would perform well in that it would provide benefits with regard to visual and landscape improvements, burying of overhead cables, renovation of the granary building and retention of other storage buildings, use of sustainable technologies, benefits to the wider enterprise, and reduction in built form. The proposal would also provide construction jobs and associated spend. These benefits weigh in favour of the proposal.

43. I note the appellant's comments in relation to the processing of the planning application, however these have no bearing on my decision which is based on the planning merits of the development.

Conclusion

44. Although I have found no harm, subject to conditions, with regard to the location for the proposal and living conditions of future occupiers with particular regard to noise, the development would cause harm to the integrity of the SAC and the SPA that would outweigh the benefits. As a result, the environmental objective of the Framework would not be achieved. In my view, this is the prevailing consideration, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
45. There are no material considerations, including the Framework, that indicate that the proposal should be determined other than in accordance with the development plan. For the above reasons, and having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR