



Appeal Decision

Site visit made on 18 February 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

Appeal Ref: APP/Y9507/W/24/3347835

Studio Cottage, 17a Riverside Close, Liss GU33 7AE

- 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 D Graver against the decision of South Downs National Park Authority.
- The application Ref is SDNP/24/00602/FUL.
- The development proposed is described as change of use of garage building to 2 bedroomed dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form advises that conversion works to the building subject of this appeal ("the appeal building") begun in March 2023. I was able to see and access the appeal building during my site visit. It appeared to be occupied as a self-contained dwelling, with kitchen, WC and shower facilities as indicated in the submitted floor plans. I have therefore determined the appeal scheme as being retrospective in nature.
3. I also noted during my visit that the appeal building contains a side garden alongside No 17 Riverside Close that is wider than what is shown in the submitted plans, due to the existing positioning of the closeboard fence running at an angle away from the appeal building. I must however assess the appeal scheme based on the garden boundary as indicated in the submitted plans.
4. The submitted plans also show two bedrooms, one on each floor of the appeal building, served by the windows on its front elevation. The appellant states that through a simple case of internal partitioning, the building could be arranged as a one-bedroom dwelling. I must however determine the appeal based on the description of development which refers to two bedrooms.
5. The appellant's statement of case includes an amended site layout proposing additional garden space to the front of the appeal building. This would however involve readjusting the proposed car parking spaces serving the appeal building to be closer to those that serve No 17. The Procedural Guide for Planning Appeals advises that the appeal process should not be used to evolve a scheme. I am also concerned that the amended parking layout may require additional consultation with interested parties. My decision is therefore based on the plans before the National Park Authority (NPA) when the application was determined.
6. The officer report indicates that the appeal building was built not in accordance with the plans subject of planning permission Ref: 39906/FUL. The lawfulness of

the appeal building as a structure is however not a matter that can be considered under this Section 78 appeal.

Main Issues

7. The main issues are:

- whether occupiers of the appeal building experience acceptable living conditions in terms of noise, internal living space and private amenity space provision; and
- the effect of the development on the integrity of the Wealden Heaths Phase II Special Protection Area.

Reasons

Living conditions

- Noise

8. The appeal site comprises a detached dwelling (No 17) at the end of the residential cul-de-sac of Riverside Close. The appeal building lies to its side and rear, in close proximity to the Portsmouth to London railway line, with a line of dense vegetation between it and the railway.
9. The appeal building contains no side elevation openings at ground floor level facing the railway line, and there are two first floor rooflights on this same elevation serving a WC and shower room. Habitable windows at ground and first floor level are on the front and rear gabled elevations, roughly parallel to the railway line.
10. The appellant states that a noise survey has not been carried out because the appeal building has already been used as ancillary accommodation. Some other dwellings nearby are also in close proximity to the railway line. Use of the appeal building as a self-contained dwelling is however of greater intensity than an ancillary use to No 17. The planning context of the nearby dwellings is also not before me in respect of the local and national policies that they were subject to.
11. I must have regard to the current relevant policy requirements and the particular circumstances of the appeal site. Policy SD54(1) of the South Downs Local Plan (SDLP) states, amongst other things, that development proposals will be permitted provided that levels of noise do not have a significant negative affect on people now or in the foreseeable future.
12. During my site visit, I noted a train passing at speed which was clearly audible internally within the appeal building, despite the limited side elevation openings. Although my visit was a snapshot in time, ambient levels were otherwise low on account of the secluded location at the end of a residential cul-de-sac.
13. In the absence of a noise survey and assessment accounting for matters such as existing ambient noise levels, noise outputs from passing trains and resultant impacts on occupiers of the appeal building as a self-contained dwelling, I am not satisfied that this change of use avoids significant adverse impacts on living conditions of such occupiers in terms of noise disturbance. Particularly, during times when such occupiers are likely to be sleeping.
14. The overall supporting text to SDLP Policy SD54 does not give further advice on noise matters. However, for the above reasons it has not been demonstrated that

occupiers of the appeal building experience acceptable living conditions in terms of noise. In this respect, the change of use is contrary to SDLP Policy SD54(1), the relevant requirements of which are already set out above.

- Internal living space

15. SDLP Policy SD5 lists a number of design principles that should be adopted as appropriate for development proposals. Although the Nationally Described Space Standards¹ (NDSS) are not specifically referred to in this policy, one of the Policy SD5 design principles (listed under i)) refers to, amongst other things, provision of sufficient internal space to meet the needs of a range of users.
16. Whilst not statutorily binding, Section C14.3 of the NPA's Adopted Design Guide Supplementary Planning Document (SPD) (2022) advises that new residential development, including conversions of existing buildings, is expected to meet the NDSS.
17. The main parties dispute the appeal building's internal floor area figure. The appellant states that this is 53sq m using the definition set out in paragraph 8 of the NDSS², whereas the NPA calculates this as 39.5sq m when discounting space that has less than 1.5m in headroom. The status of the NDSS for the purposes of this appeal are as part of the supporting guidance to the SDLP, rather than adopted development plan policy. I nonetheless find the NDSS to be a useful indicator in assessing the quality of habitable floorspace.
18. The NDSS requires a two-storey dwelling containing two bedrooms to have a minimum gross internal floor area and storage of 70sq m. It also states at paragraph 10 f. that any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage.
19. Whilst I found the stairway to be of sufficient head height, the first-floor head height is noticeably restrictive due to the pitched roof slopes along the entire floor, in particular the tight access space between the WC and the lounge room. Although the sloping roof can accommodate beds, its pitch significantly limits overall usability of the first floor as internal space, including furniture and circulation. I therefore find the NPA's floor area calculation to be a more accurate reflection of the quality of habitable floor space available for occupiers of the appeal dwelling.
20. I accept that the appeal building is within a sustainable location, including direct rail access to London, and may be deemed to be adequate accommodation for some occupiers. However, for the above reasons I conclude that the internal living space as a two-bedroom dwelling does not provide acceptable living conditions to meet the needs of a range of occupiers. The change of use is therefore contrary to Policy SD5 j) of the SDLP, the relevant requirements of which are already set out above. It also does not meet the abovementioned SPD guidance.

- Private amenity space

21. Although Policy SD5 of the SDLP does not include specific minimum outdoor amenity space standards, one of its design principles states at paragraph h) that

¹ Department for Communities and Local Government, published March 2015.

² This defines the Gross Internal Area of a dwelling as "the total floor space measured between the internal faces of perimeter walls that enclose the dwelling. This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs."

development proposals should, as appropriate, provide high quality outdoor amenity space appropriate to the needs of its occupiers or users.

22. Section C.10.1 of the SPD guidance advises that houses with two and more bedrooms should usually have a private amenity space of at least 60% of the internal floor space of the house. The glossary to the SPD does not provide a definition of internal floor space. In any event, I have assessed both the rear and side amenity areas (as indicated in the submitted plans provided to the NPA for their determination) in terms of their specific layout, as well as their overall size.
23. The space rear of the appeal building is laid out as a patio and included two chairs and potted plants at the time of my visit. This forms a functional small patio space. Views across unallocated countryside are also possible, which may be superior to many other situations. However, the patio provides limited circulation space due to its shallow depth. Positioning of a boundary along and near to the side elevation facing No 17 would be very limited in size and function as amenity space.
24. I therefore conclude that the change of use subject of this appeal would not provide acceptable private amenity space for occupiers of the appeal building, contrary to the abovementioned requirements of Policy SD5 h) of the SDLP. The lack of overlooking does not mitigate the harm that I have identified.
25. The third reason for refusal cites conflict with Policy 9 of the Liss Village Neighbourhood Development Plan. This policy however reads to me as a design policy and it does not make any reference to garden or other amenity spaces. I have therefore found no conflict with this policy.

Wealden Heaths Phase II Special Protection Area

26. It is not disputed that the site lies within 5km of the Wealden Heaths Phase II Special Protection Area (SPA). This SPA was designated as such because it is used regularly by three species³ listed under the Birds Directive. Having regard to the UK list of SPAs⁴, the Wealden Heaths Phase II SPA is still known to provide breeding habitat for the above listed bird species. The most important identified impacts and activities with high effect on the SPA include recreational activities. Natural England's stated conservation objectives⁵ for this SPA is to ensure that the integrity of this site is maintained or restored as appropriate.
27. SDLP Policy SD9 applies a hierarchy of site designation for consideration of development proposals. Such schemes within Special Protection Areas which have the potential to impact these sites will be subject to a Habitats Regulations Assessment (HRA). Where likely significant effects may occur, development proposals will be subject to Appropriate Assessment.
28. SDLP Policy SD10 states that development proposals resulting in a net increase in residential units within 5km of the boundary of the SPA will be required to submit a screening opinion to the Authority for a project-specific HRA which, in consultation with Natural England, will determine whether a likely significant effect on the integrity of the site will result. Likely significant effects would be assessed through the HRA and any requirement for mitigation identified.

³ Nightjar, Woodlark and Dartford Warbler

⁴ Joint Nature Conservation Committee (JNCC), last updated 25 October 2024.

⁵ European Site Conservation Objectives for Wealden Heaths Phase 2 Special Protection Area Site Code: UK9012132, published 21 February 2019.

29. The appellant contends that the proposal should be assessed in terms of its scale and scope, in the context of the addition of a single dwelling within a building that is already part of a residential use. It is also put to me that the Local Plan allocates 150 houses in Liss within the 5km range of the SPA. The full details of these allocations are not before me.
30. In any event, upon my reading of Policies SD9 and SD10 as a whole, their abovementioned requirements apply to changes of use to self-contained dwellings such as the appeal scheme. In the absence of a HRA for the appeal scheme, I cannot be certain that the self-contained residential use would not adversely affect the integrity of the SPA. I must therefore take a precautionary approach and conclude that the appeal scheme will significantly harm the integrity of the SPA, thus contrary to SDLP Policies SD9 and SD10 as set out above.

Planning Balance

31. I have found that the change of use subject of this appeal provides unacceptable living conditions in terms of noise, internal living space and private amenity space provision, contrary to Policies SD5 h), SD5 j) and SD54(1) of the SDLP. In the absence of a HRA for the appeal scheme, I must also take a precautionary approach and conclude that the appeal scheme will significantly harm the integrity of the SPA, contrary to SDLP Policies SD9 and SD10. The change of use is therefore contrary to the development plan as a whole and I afford significant weight to the totality of policy conflict in which I have identified.
32. Set against this, the scheme provides one small dwelling within acceptable walking distance to the train station and facilities in Liss centre. As set out in its Authority Monitoring Report (AMR) dated April 2025, the NPA has a 5.9-year supply of deliverable housing sites. The AMR does not however break down this housing supply in terms of number of bedrooms, and I accept that smaller houses would be sought by certain households. I afford moderate weight to the economic and social benefits arising from the addition of one small two-bedroomed dwelling to the local housing supply within an existing settlement area.
33. The National Planning Policy Framework (the Framework) seeks to significantly boost the supply of housing provision in accessible locations that reflects local needs. It also states that small sized sites can make an important contribution to meeting the housing requirement of an area. However, Framework Paragraph 135 f) seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users. Framework paragraphs 194-195 also seek to protect habitats sites, including SPAs. The change of use subject of this appeal is therefore not a form of sustainable development as identified by the Framework.
34. The appeal scheme conflicts with the development plan as a whole and the material considerations before me do not indicate that a decision should be made otherwise than in accordance with the development plan.

Conclusion

35. For the reasons given above, the appeal is dismissed.

R Cahalane

INSPECTOR