



Appeal Decision

Site visit made on 20 June 2016

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2016

Appeal Ref: APP/B9506/W/16/3145434

Ivy Cottage, Barrow Hill Road, Copythorne, Hampshire SO40 2PH

- 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 Palmerston Homes Ltd against the decision of the New Forest National Park Authority.
 - The application Ref 15/00431, dated 2 June 2015, was refused by notice dated 26 August 2015.
 - The development proposed is described as "*Use of Ivy Cottage as a live-work unit*".
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: - (i) the effect of the proposal on the character and appearance of the area, particularly in relation to the principles of sustainably located development having regard to the National Planning Policy Framework (the Framework) and development plan policy; and (ii) whether the proposal should make provision to mitigate its effect upon public open space and European nature conservation designations.

Reasons

3. The appeal site lies outside any of the New Forest village boundaries defined within the Core Strategy and Development Management Policies Development Plan Document (CS&DMP), which was adopted in 2010. It lies within the New Forest National Park (NP) and also within the Copythorne Character Area for the Forest North East Conservation Area (CA). The site is set behind some sporadic dwellings that front onto Barrow Hill Road, and is occupied by a part two-storey, part single-storey building used as a day centre for adults with learning disabilities and for office purposes. Access from Barrow Hill Road is along a narrow drive that is shared with a residence known as The Hollies.
 4. The proposal is to change the use of the property to a live-work unit. This would involve an entirely integrated floor space with the ground floor shared between a living, kitchen and dining/entrance hall with an office and separate
-

- workspace, to include a shower room, and with two bedrooms and a bathroom at first floor.
5. Although there is no identified end user for the business space I have no reason to doubt that the proposal is for a genuine mixed use. Be that as it may, part of the proposal would comprise residential development that would create a new home in the countryside. CS&DMP Policies CP12: *New Residential Development* and DP19: *Re-use of Buildings outside the Defined Villages* are therefore both relevant.
 6. In order to meet the area's strategic housing needs Policy CP12 permits new residential development within the NP to maintain the vitality of local communities and support local services but subject to meeting any one of five criteria. None of the given criteria are met by this proposal.
 7. Policy DP19 permits the re-use of buildings outside defined villages subject to satisfying four criteria. Given the existing use of the premises it may be argued that the proposal would result in the loss of a community facility and thereby fail to satisfy criterion a). Even if I were to consider that such loss would be balanced by the business element of the proposal, it would still involve a residential use that would unambiguously conflict with the policy's criterion b).
 8. Policies CP12 and DP19 are broadly consistent with the Framework as it seeks to promote sustainable development within rural areas. Although the appeal site is not remote, given its relationship with some other nearby properties, I have not been directed to any reasonable level of services or facilities nearby that would suggest that it is not in a fairly isolated location. In this context the proposal would amount to development within the countryside for the purpose of the Framework wherein paragraph 55, the relevance of which is accepted by the appellant, advises that new homes should be avoided unless there are special circumstances.
 9. The speculative nature of the proposal indicates that there is no special need for a rural worker to reside at the property. The building is not redundant nor is it dis-used and there would be no particular enhancement to its setting. There are no proposed works to the building that would be of exceptional quality or truly innovative in their nature. The proposal would not amount to an enabling development to secure the future of a heritage asset. In relation to paragraph 55 that only leaves the question of whether the proposal would represent the optimal viable use of a heritage asset?
 10. The Authority has pointed out that the building is not included as being of local significance in the published CA Character Appraisal. Be that as it may, it is an attractive building of Victorian origins that I consider to be reflective of the area's original development pattern and is one that is worthy of retention. It therefore has some degree of significance that merits consideration. That said, the appellant's view that the proposed mixed use represents the building's optimal use is entirely unsupported by any evidence or objective analysis. The building is currently lawfully occupied and maintained, and previously had a planning permission for office use that, although no longer extant, would remain to be supported, in principle, by current policy.

11. I acknowledge that the Framework supports economic growth in rural areas but it is important to recognise that the development plan is equally supportive in its approach to the re-use of buildings in such locations. Although the proposal is for a mixed use, the residential element and policies relating to it cannot simply be set aside. In relation to the new home that would be created outside of any defined village I find clear conflict with the Framework and development plan policy.
12. The appellant has argued that the proposal would represent a much less active and more appropriate use for the site than when compared with the existing, and one that would ultimately be more sustainable.
13. There is no question that the existing use generates levels of activity on the site, with up to 10 people permitted to use the premises at any one time. However, that restriction, together with others that are imposed by condition on the relevant planning permission from November 2013 (Ref 13/98818), is important. The permitted hours of use are limited to between 0800 and 1900 Mondays to Saturdays only, and do not include recognised public holidays. The control of hours has its origin in a 2005 permission that was granted on appeal for use of the building as an office (Ref: APP/B1740/A/05/1179024). The Inspector found this necessary to reduce the impact of traffic in the evening, when he recognised the area was likely to be most quiet, and the impact of lighting during the hours of darkness. In this context it is worth noting that the Inspector, although acknowledging that this was not a wilderness area of the NP, did recognise that it was a sensitive area. The relatively tranquil nature of the area is also recognised by the appellant in the application's supporting Planning Statement and my own assessment is that nothing in its character has significantly changed during recent years.
14. I have noted that an original assessment of traffic likely to be generated by the existing use was 17 vehicle movements each day. However, I have no information based on the current use of the site to suggest that this actually occurs. Moreover, no movement to or from the site is likely into the later evenings and none on Sundays or public holidays due to the existing restrictions on its use.
15. There is no information or reasoned estimate of likely traffic levels from the proposed mixed use although I note that the potential for the business element to attract possibly one or two employees is not ruled out by the appellant. In addition, movement associated with more than one resident of the building could occur independent of any business use and furthermore, residential occupancy would prevail on the site on a permanent basis.
16. Overall, based on the information I have, I cannot be certain that the proposal would lead to any beneficial change to current traffic movement to and from the site during the current permitted hours of operation that would lend weight in support of the proposal. Regardless, traffic to and from the site would be introduced on a permanent basis and at hours not envisaged by the previous Inspector or by the Authority when granting permission for the current use. In my opinion this would have the very real potential to lead to some intensification of use.

17. During my visit I saw that the grounds resembled, to a degree, a residential curtilage. I saw a small shed and other storage containers along with garden furniture, a small set of football goals on a lawn, and general soft landscaping. Nevertheless, I have little information over how the existing use operates, particularly in relation to the garden. In any event, this too is time limited and at other times the space around the building would be dormant and quiet, reflective of the area's general tranquillity. Residential occupancy of the building, even just part of it, would alter use of the site, introducing associated activity on a permanent basis.
18. The appellant has argued that the proposal would not have the character of a normal dwelling but one of a mixed use. I find this difficult to imagine. Windows would be regularly illuminated during later evening hours and at night time with associated activities during these times and throughout weekends and bank holidays, with potentially further residential paraphernalia in the garden and on a permanent basis. In my opinion this would make the appeal site more noticeably urbanised. When this is also taken with the absence of any clearly expressed concerns by any nearby residents over the existing use of the premises, I am unable to share the appellant's view that the proposal would represent a less active use of the site or one that would be beneficial.
19. Circumstances today are somewhat different to those considered by the Inspector in 2001. However, despite the passage of time, my findings overall are similar in that I consider the creation of a permanent residence on this plot, regardless of its original purpose, would have an additional suburbanising effect through additional impacts that would fail to enhance local character and distinctiveness. It would therefore be contrary to the aims and objectives of Policies DP1: *General Development Principles* and CP8: *Local Distinctiveness* of the CS&DMP.
20. I note that the appellant considers the CS&DMP's absence of any formal policy relating to home working to be out of step with the Framework. Regardless, I find no support for such use within the Framework that would place it over other considerations, including also from any government publications aimed to boost productivity in rural areas.
21. Turning to matters relating to nature conservation. The Authority has identified the need for the proposal to make contributions towards the mitigation of environmental impacts on the New Forest and Solent Special Protection Areas (SPAs) and towards the provision of public open space (POS).
22. Under the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended) planning permission is to be refused where development would be likely to have significant adverse effects on a European Site such as the SPAs. However, I have been provided with no other information from the Authority on this matter although I note that the appellant does not contest this. Although reference is made by the appellant to the provision of a planning obligation to address these matters no such obligation is before me.
23. Given the limited information I have, I cannot be certain that the proposal would not affect the integrity of an internationally important site for nature

conservation. In this regard I find that the proposal would conflict with CS&DMP Policy CP1: *Nature Conservation Sites of International Importance*.

24. Matters as they relate to POS are similarly vague. The Planning Practice Guidance advises that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development. This follows the order of the Court of Appeal dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. This includes within National Parks where there is a threshold of five dwellings below which affordable housing and tariff style contributions should not be sought. In these circumstances, based on the information I have, I am not persuaded that any contribution should be required for the provision of POS in the locality.

Conclusions

25. The Authority's policies do not place an embargo on all new homes outside the defined limits of villages. Consistent with the Framework however they do seek to strictly control development in such locations. The proposal would introduce a new home in the countryside in circumstances that would conflict with the development plan and national policy.
26. I am not persuaded that the proposal would bring forward any benefits to the use of the site or to the wider area. On the contrary, I find that there would be a likely intensification of use at certain times that would consolidate the sporadic form of the residential enclave in this part of the NP. This would fail to conserve the landscape and scenic beauty of the NP, which is afforded the highest status of protection by paragraph 115 of the Framework.
27. Although not directly raised as an issue by the Authority, Under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) special attention shall be paid to the desirability of preserving the character or appearance of the CA. It follows from the harm that I have identified that the character and appearance of the CA would be neither preserved nor enhanced. Although the harm to the CA as a heritage asset may be less than substantial, I have not identified any public benefit to the proposal that would outweigh the harm. The proposal would therefore also conflict with the Framework insofar as it seeks to conserve and enhance the historic environment.
28. I recognise that the Framework places a presumption in favour of sustainable development. However, the conflict with local and national policy with respect to new residential development in this location, combined with the harm to the character and appearance of the area, and the absence of mitigation from any impact on the SPAs, combine to significantly and demonstrably outweigh any possible benefits. When seen in the round, I am not satisfied that the proposal would bring forward the environmental gains that are necessary to achieve a sustainable development in this instance. Therefore for these reasons, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR