
Appeal Decision

Site visit made on 18 July 2016

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 23 August 2016

Appeal Ref: APP/B9506/W/16/3145644
Seagers Farm, Stuckton, Fordingbridge, SP6 2HG

- 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 Robert Wilson against the decision of New Forest National Park Authority.
 - The application Ref 15/00852, dated 30 October 2015, was refused by notice dated 29 December 2015.
 - The development proposed is conversion of barn to live-work unit; 4 No. new parking spaces; partial demolition of cart store.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development description set out within the application form differs from that contained in the appeal form. I consider that the latter more accurately reflects the proposal and therefore, I have included the appeal form description in the banner above.
 3. The Council's third reason for refusal, relates to the proposal not making provision for affordable housing and public open space, through a planning obligation. After the parties had provided their evidence, the court of appeal judgement '*Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441*' was published. Following the judgment, new and updated Paragraphs 013-017, 019-023 and 031 have been added to the Government's Planning Practice Guidance (the PPG) section on planning obligations. These paragraphs set out the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development. This includes developments for 10 dwellings or less. Given that the proposal is for less than 10 dwellings, the views of both parties were sought on this matter and the Council accepted that the proposal is now not required to make provision for affordable housing and public open space. I have therefore not considered these matters further in my decision. However, the Council has maintained its concern with regard to Policy CP11 of the New Forest National Park Authority Core Strategy and Development Management Policies (2010) (the CS&DMP). I have considered this matter further below.
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Main Issues

4. Having regard to the preliminary matters above, I consider that the main issues of the appeal are: whether the scheme complies with the development plan and national policy in terms of its location and proposed use; and whether the proposal would cause harm to protected species.

Reasons

5. The appeal site is located in the village of Stuckton and outside of any settlement boundary or defined village. The site consists of an existing barn that sits close to a group of brick and slate cottages. The appeal site lies within the Western Escarpment Conservation Area and the associated Conservation Area Appraisal identifies the group of buildings as being of local historic importance and on this basis the Council are of the view that the existing barn is an undesignated heritage asset and the appellant has not contested this view. The proposal seeks to convert the barn from an existing employment use to a live/work unit. I observed that the barn is currently vacant, although I understand that it has fairly recently been used as a joiners.
6. Policy DP19 of the CS&DMP sets out that the re-use of buildings outside of the defined villages will be permitted provided that the development would not result in the loss of an employment use and the proposal would not involve residential use, other than in accordance with Policy CP12 of the CS&DMP. Policy CP12 addresses new residential development and sets out a number of criteria where development will be acceptable, which includes the provision of affordable housing outside of the defined villages in accordance with Policy CP11 of the CS&DMP. The proposal being for an open market dwelling with an associated work unit does not meet any of the criteria set out within Policy CP12 of the CS&DMP and therefore conflicts with this policy, as well as running contrary to Policy CP11 of the CS&DMP.
7. Turning back to Policy DP19 of the CS&DMP, it is evident that the policy is seeking to support the local rural economy. The proposal seeks to retain an employment use, in the form of an office. I understand that the barn covers an area of approximately 128 m². The drawings indicate that some 109 m² would serve the residential part of the scheme and 19 m² (excluding the cloakroom, which would also be used by the residential part of the scheme) would be used for an employment use. The scheme would therefore result in the direct loss of some 109 m² of employment floorspace on the site. The appellant suggests that as long as an employment activity is retained on the site, the proposal would comply with development plan policies. However, I share the view of the Council, that the proposed employment use appears to be little more than an ancillary home office, albeit a fairly large one, that are common in many residential dwellings. This is supported by the appellant's reference to Policy CP14 of the CS&DMP, which relates to home working being supported in areas outside of the defined villages. Although, when considered with other development plan policies, I agree with the Council that this appears to be aimed at existing residential dwellings.
8. The Planning Statement supporting the planning application refers to the fact that the previous use may have generated approximately 3 employees and that the proposed office space could potentially accommodate 2-3 employees. However, I am of the view that it is highly unlikely that the proposed office would be utilised by anyone else other than the occupants of the dwelling and

the appellant's final comments confirms that is the intention. Consequently, it is highly unlikely to generate 2-3 employees as suggested by the appellant. This adds to my view that the office would simply be used as an ancillary home office to the dwelling. Further, such a comparison does not take into account the potential number of employees that could be accommodated if the entire barn was used as an office.

9. Given the significant loss of employment floorspace on the appeal site and my concerns in relation to the office being simply an ancillary home working space, I consider that there would not be any meaningful employment use on the appeal site. Given this, I am of the view that the proposal would run contrary to Policy DP19 of the CS&DMP. Even if I were to accept the appellant's view that the retention of an employment use on the site no matter how limited would ensure compliance with Policy DP19 a), the proposal nonetheless includes residential development that does not accord to Policy CP12 of the CS&DMP and therefore runs contrary to criterion b) of Policy DP19 of the CS&DMP. The scheme would also conflict with Policy CP15 of the CS&DMP, which seeks to retain existing employment sites throughout the National Park to contribute to the sustainability of local communities. Further to this, I consider that the proposal would run contrary to Section 3 of the National Planning Policy Framework (the Framework), which seeks to support a prosperous rural economy.
10. The parties are in disagreement over whether the proposed employment use could be secured in the long-term by a planning condition. However, given my findings above, this matter is not decisive.
11. I acknowledge that Paragraphs 55 and 140 of the Framework are material considerations to the appeal. Paragraph 55 of the Framework sets out that new isolated homes in the countryside should be avoided unless there are special circumstances such as: (amongst others) where development would represent the optimal viable use of a heritage asset; or would be appropriate enabling development to secure the future of a heritage asset; or where development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
12. Dealing with the latter of these first, the proposal would not result in any significant changes to the external appearance of the barn. However, the change of use would result in some domestication of the appeal site, associated with additional car parking and domestic paraphernalia. Consequently, I consider that given the rural location of the appeal site, the proposal by virtue of the domestication, would not lead to an enhancement to the immediate setting.
13. Turning to whether the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset, Paragraph 140 of the Framework expands on this matter. This sets out that decision makers should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
14. The appellant has not provided any substantive evidence to suggest that any significant marketing has been undertaken to try and find an alternative employment use for the appeal site in its entirety. The appellant has pointed

out that none of the relevant development plan policies set out that marketing information is required. I accept this view, however, such information would be a material consideration that may demonstrate that a departure from the relevant development plan policies is appropriate.

15. It is suggested within the appellant's appeal statement that the appeal site's location means that it is not suitable for a more intensive office use, due to the number of additional transport movements it would create. This is not, however, supported by any highway evidence to suggest that this would create any harm. The appellant also sets out that all other use classes would not be appropriate. However, I see no reason why the site could not accommodate a B2 use, one example would be a Blacksmiths, as suggested by the Council. Whilst the appellant has set out that this would require planning permission, it would secure a continued employment use of the site in accordance with development plan policies. I accept that due to the proximity to other residential properties some industrial uses (B2) would not be appropriate, but that does not mean that all such uses should be automatically ruled out without more detailed further investigation, which has not been undertaken in the evidence that is before me.
16. The appellant has also referred to conversion costs and the time that it would take to get a return on that investment. But again, this appears to be based on estimates, rather than being supported by any robust evidence. Given all of this, I am not suitably persuaded that all avenues to secure a continued and acceptable employment use of the site in its totality has been examined to suggest, at this point in time, that there are any material considerations that support a departure from the above development plan policies. Consequently, I cannot be sure that the proposal is the optimal viable use. In addition, I observed that the existing barn is not in a state of disrepair and the supporting Heritage Report acknowledges this matter. I am therefore not satisfied that the proposal is appropriate enabling development to secure the future of the heritage asset. Given all of this, I am of the view that there are no benefits of the scheme that outweigh the disbenefits that would arise from departing from the above development plan policies. The Council has also referred to several other example developments in relation to this matter. However, I am mindful that each proposal must be considered on its own individual merits.
17. In conclusion on this main issue, the proposal would not comply with Policies DP19, CP11, CP12 and CP15 of the CS&DMP. The scheme also runs contrary to Section 3, Paragraph 55 and Paragraph 140 of the Framework. Further, I consider that there are no material considerations that outweigh the identified development plan conflict.

Protected species

18. The Ecology Report that supports the proposal identifies that the existing barn accommodates a day roost for common/soprano pipistrelle bats, as well as a feeding area for long-eared bats. The Council are of the view that the scheme is unlikely to meet the three tests associated with a European Protected Species Licence that must be considered prior to granting permission, in accordance with Regulation 9(5) of the Conservation of Habitats and Species Regulations (2010). These tests are also largely reflected in Policy CP2 of the CS&DMP.

19. The first test relates to whether there are imperative reasons of overriding public interest and Natural England advise that if a proposal is in accordance with the development plan it may meet this test. The second test relates to there being no satisfactory alternative, including the option of not undertaking the development. I have found above that the existing building is not in a state of disrepair and I am not satisfied that it has been demonstrated that the scheme would be the optimal viable use of the non-designated heritage asset. Consequently, I agree with the Council that the first two tests are unlikely to be met.
20. The third test is that the maintenance and favourable conservation status of the species should be safeguarded. The proposal is supported by a Phase II Bat Report, which includes a number of recommendations to mitigate any potential impacts. I consider that these could be secured by planning conditions and would be suitable to ensure that this test would be met.
21. Given that two of the three tests are unlikely to be met, I agree with the Council that the scheme runs contrary to Policy CP2 of the CS&DMP. However, I fully accept the appellant's view that this concern follows on from my above findings, in relation to the first main issue and that should such concerns be overcome then this matter would fall away and would not be a reason to withhold planning permission.

Conclusion

22. For the reasons set out above and having regard to all matters raised, I consider that there are no material considerations that individually or in combination outweigh the development plan conflict. Therefore, the proposal does not constitute sustainable development and the appeal is dismissed.

Jonathan Manning

INSPECTOR