

Appeal Decision

Site visit made on 13 March 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 22 March 2017

Appeal Ref: APP/L3815/W/16/3159926

Moola House, Main Road, Nutbourne, West Sussex PO18 8RN

- 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 Davies against the decision of Chichester District Council.
 - The application Ref CH/16/01087/FUL, dated 24 March 2016, was refused by notice dated 14 September 2016.
 - The development proposed is the construction of 5 no. dwellings and associated works including access and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of 5 no. dwellings and associated works including access and landscaping at Moola House, Main Road, Nutbourne, West Sussex PO18 8RN in accordance with the terms of the application, Ref CH/16/01087/FUL, dated 24 March 2016, subject to the Schedule of Conditions to this Decision.

Preliminary Matters

2. Since the Council determined the application the Chidham and Hambrook Neighbourhood Plan (CHNP) has been made. The Council did not rely on any emerging policies of the CHNP in its reasons for refusal. Accordingly, I have considered the appeal principally on the basis of the specified policies of the Chichester Local Plan: Key Policies 2014 – 2029 (CLP). However, I have also had regard to the CHNP, where relevant to the proposal before me, as it now forms part the development plan for the area.
3. The Council advises that the planning history for the site includes a number of applications for residential development, including previous appeal decisions. It has also been put to me that the planning history sets a precedent against the development of the site. I have had regard to this however, no significant details or reference numbers of the appeals have been provided, and I have made my decision on the basis of the merits of the scheme and the policy framework before me.

Main Issues

4. The main issues are i) the effect of the proposed development on the character and appearance of the area and ii) whether the proposed development would be safe from flooding.
-

Reasons

5. Moola House is a large detached property set in substantial mature gardens. The property is situated on the main A259. The site is largely surrounded by existing residential development except for the western boundary of the existing rear garden, which abuts open fields. The site lies within the defined settlement boundary of Nutbourne, which the Council has identified as a service village in a generally accessible location. On this basis the Council has raised no concerns with the principle of residential development here.
6. It is proposed to demolish Moola House and its outbuildings and erect five detached houses on the site, with a new access onto Main Road. The front property (Plot 5) would be two-storey and would be set facing the road, adjacent to neighbouring Bourne House. The access drive would run approximately adjacent to the rear boundaries of nearby properties in Pottery Lane. Plots 1 – 4 would be chalet-type detached houses and would front onto the drive and parking area.

Character and appearance

7. The proposed layout would result in a similar pattern of development to properties in nearby Pottery Lane, which runs perpendicular to Main Road, with the front house facing onto Main Road and those behind facing onto the access road. The density of development proposed would be somewhat higher than in Pottery Lane, but not clearly perceptibly so as each property would be provided with garden space around it and a degree of separation between the houses. Moreover, this arrangement would not be out of keeping with the general layout, scale and density of other built form in the wider vicinity.
8. From Main Road, the detached house at Plot 5 would be the most prominent element in the street scene. This house would be of a scale and design consistent with the mixed character and appearance of houses in the local area, and its detached nature and degree of setback from the road would be generally consistent with nearby properties. There would be a view into the site extending along the drive from Main Road. Plots 1 – 4 would appear well set back from the road and not unduly cramped. From the adjacent fields, the development would be viewed against the backdrop of the built form of Nutbourne and would not have a significant impact on the wider landscape. For these reasons, I consider that the development would be generally consistent with the prevailing pattern of development in local area, and would not result in the overdevelopment of the site.
9. The proposed site plan indicates elements of existing hedging and trees to be retained around the edges of the site. Some trees and other plants within the existing garden area would be removed, but these are not protected specimens and, being set mainly behind Moola House, they do not contribute significantly to the street scene. The scheme makes provision for proposed planting, the details of which could reasonably be secured by condition. While there would not be space available to fully compensate for the loss of existing garden vegetation, there would be sufficient scope for a landscaping scheme to soften the development and help to integrate it into its surroundings.
10. I conclude that the proposed development would not harm the character and appearance of the area. It would accord with adopted Policy 33 of the CLP, which sets out criteria for new residential development, including that it should

be in keeping with the character of the surrounding area and its setting in the landscape and provide an appropriate density of development.

Flooding

11. The site lies within Flood Zone 1 as identified on the Environment Agency flood maps, the area at lowest probability of flooding. A number of representations have identified surface water flooding problems locally, including photographs of flooding in nearby Pottery Lane. While it is apparent that there are some existing surface water drainage issues in the locality, the evidence before me is principally anecdotal and in the main, including the photographic evidence of Pottery Lane, relates to the nearby area, not specifically to the appeal site. Furthermore, even if there were significant surface water drainage issues within the site, no substantive evidence has been provided to indicate that it would not be practicably possible to adequately drain the proposed development, or that it would increase flood risk elsewhere.
12. The appellant's preliminary drainage statement identifies that shallow soakaways are likely to be feasible to avoid any increase in surface water run-off and, on the basis of the information before me, I see no substantive reason to disagree. As such, I am satisfied that a pre-commencement drainage scheme condition, along the lines suggested by the Council, would reasonably address the matter in this case and that the development would therefore not be likely to increase the risk of flooding at the site or elsewhere.
13. I am therefore satisfied that the proposed development would be safe from flooding and I find no conflict with adopted Policy 42 of the CLP, which among other things seeks to ensure that there would be no net increase in surface water run-off, giving priority to sustainable drainage systems to manage surface water drainage.

Other Matters

14. The site lies within 5.6km of the Chichester and Langstone Harbours Special Protection Area (SPA), where it is established that development resulting in a net increase in the number of residential dwellings, without avoidance or mitigation measures, would be likely to have a significant effect on the SPA within the meaning of the Conservation of Habitats and Species Regulations 2010. I note that Natural England has no objection to the proposal, subject to a financial contribution to mitigate the potential adverse effects of the development on the integrity of the European designated site. A signed S106 Unilateral Undertaking, dated 24 May 2016, provides for a financial contribution towards access management measures in respect of the SPA. The Council advises that the contribution has been received, and that it is satisfied that the proposal complies with Policy 50 of the CLP and Policy EM2 of the CHNP. I am therefore satisfied, in the absence of any significant evidence to the contrary, that there would be no likely significant effects arising from the development and that it would not affect the overall integrity of the SPA.
15. I have had regard to the various other representations from interested parties, including in relation to access for a refuse lorry, highway safety and conflict with the cycleway; air pollution and noise; the effect on local services; increased footfall in the nearby Area of Outstanding Natural Beauty (AONB); and the relationship to nearby properties including in relation to overshadowing and privacy.

16. I consider that the appeal scheme would include adequate parking, access and turning provision. The local highway authority has raised no objection and there is no significant evidence that it would be harmful to road conditions in the locality, including the cycleway along this part of the A259. The level of vehicle movements associated with a development of this size would be limited and would not be likely to materially affect air quality or vehicle noise nearby. The modest scale of the development is such that it would be unlikely to have a significant effect on local services or visitor numbers to the AONB.
17. There would be reasonable separation between the new houses and nearby properties such that no significant harm would arise to living conditions from overlooking, subject to a condition to remove permitted development rights for additional windows in the east, south and north elevations. Plot 5 would be positioned adjacent to Bourne House where some overshadowing of the side elevation would result. However, the side ground floor window at Bourne House is secondary in nature and is currently significantly overshadowed by the boundary hedge. I am therefore satisfied that no significant harm to living conditions in relation to overshadowing would arise.
18. I have also considered the view that the development would constitute unnecessary 'garden grabbing', principally because since 2014 planning permissions have been granted for more than the indicative number of 25 houses identified for the parish in the CLP. The site is not specifically allocated for housing but lies within the defined settlement boundary, where the principle is accepted. The proposal is for fewer than ten units and is therefore also supported in principle as windfall development by Policy LP1 of the CHNP. Furthermore, there is no substantive evidence before me that the development plan for the area places a cap on the level of housing development to be delivered in identified service villages.
19. I conclude that none of the matters discussed in this section of my decision add materially to the case for or against the appeal.

Conditions

20. I have considered the list of conditions suggested by the Council, together with conditions suggested by others during the course of the application. Where necessary, I have altered the suggested conditions for clarity or accuracy. I have not imposed a condition to remove national permitted development rights for extensions and other alterations as it has not been justified that such a level of control is necessary, as set out in the Planning Practice Guidance. I have also not imposed a condition to specifically restrict the use of the garage building for the same reason.
21. In addition to the standard time limit, I have imposed a condition specifying the approved plans, as this provides certainty. A drainage condition is necessary to ensure the satisfactory operation of the completed development and avoid the risk of flooding. A condition requiring a construction method statement is necessary in the interests of highway safety and local amenity. A condition relating to contamination is necessary in the interests of human health. Conditions relating to materials, walls and fences and landscaping are necessary in the interests of character and appearance. Conditions relating to vehicular access, parking and turning provision, and visibility splays are necessary in the interests of highway safety. Conditions relating to cycle and bin storage are necessary to ensure the satisfactory and sustainable operation

of the development. A condition relating to hours of construction is necessary in the interests of the living conditions of nearby occupiers. A condition removing permitted development rights for additional windows and openings is necessary in the interests of privacy.

22. Conditions 3, 4 and 5 require details to be approved before development commences. This is necessary because these conditions may affect the design of the scheme.

Conclusion

23. For these reasons, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 0867/DPA100 Rev 1; 0867/DPA101 Rev C; 0867/DPA102 Rev C; 0867/DPA103 Rev C; 0867/DPA104 Rev C; 0867/DPA105 Rev C; 0867/DPA106 Rev A; 0867/DPA107 Rev C; 0867/DPA108 Rev C; 0867/DPA109 Rev A; MBSK151012-1; and LLD894/02 Rev 01.
- 3) Development shall not commence until full details of the proposed surface water drainage scheme and foul water disposal have been submitted to and approved in writing by the local planning authority. The surface water design should follow the hierarchy of preference for different types of surface water disposal systems as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual groundwater levels and Percolation testing to BRE365 will be required to support the design of any infiltration drainage. The foul water scheme shall include all necessary on site and off site works. No building shall be occupied until the complete surface water drainage system serving the properties and the foul water disposal details have been implemented in full accordance with the agreed details.
- 4) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) wheel washing facilities;
 - (vi) measures to control the emission of dust and dirt during construction;
 - (vii) turning on site of vehicles;
 - (viii) the location of any site huts/cabins/offices.
- 5) The development hereby permitted shall not commence until a scheme to deal with contamination of land or groundwater has been submitted to and approved in writing by the local planning authority and until all measures approved in that scheme have been implemented. The scheme shall include the following unless the local planning authority dispenses with any such requirement specifically and in writing:
 - (1) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site.

- (2) A site investigation carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:
- (i) A desk-top study has been completed, satisfying the requirements of paragraph (1) above.
 - (ii) The requirements of the local planning authority for site investigations have been fully established, and
 - (iii) The extent and methodology have been agreed in writing with the local planning authority.
- (3) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be submitted to and approved in writing by the local planning authority prior to commencement, and all requirements shall be implemented and completed to the satisfaction of the local planning authority by a competent person. No deviation shall be made from this scheme without the express written agreement of the local planning authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (2) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (3) above.

The dwellings hereby permitted shall not be occupied unless and until a Verification Report has been submitted to and approved in writing by the local planning authority.

- 6) Prior to the construction of the dwellings hereby approved, a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings and windows and doors, and road surfacing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to first occupation of the development, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance to the approved details. This scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. All existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall include seeding with a Native British Wildflower Flora mix appropriate to the soil and climate of the site and shall make particular provision for the conservation and enhancement of biodiversity on the application site. The scheme shall be designed to achieve levels of shelter/windbreak, shade and drought resistance to accord with the expected climate changes during the design life of the development.

- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Details of walls and fences shall be submitted to and approved in writing by the local planning authority. The approved walls and fences shall be erected prior to first occupation of the dwellings and shall be maintained and retained thereafter.
- 10) No part of the development shall be occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawings, including details to be submitted to and approved in writing by the local planning authority regarding the skid cover for the inspection chamber cover.
- 11) No part of the development shall be occupied until the existing vehicular access onto Main Road has been physically closed in accordance with plans and details to be submitted to and approved in writing by the local planning authority.
- 12) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 0700 hours and 1800 hours on Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 13) Notwithstanding the plan hereby approved, details shall be submitted to and approved in writing by the local planning authority for:
 - i) refuse bin storage (sufficient for 2 no. 240 litre wheeled bins);
 - ii) secure cycle storage in the form of a covered building or other structure available on a 1 to 1 basis for each dwellinghouse hereby permitted.

Once approved, the aforementioned storage shall be provided prior to the first occupation of each house and shall thereafter be kept permanently available for the stated purpose.
- 14) No part of the development shall be occupied until vehicle parking and turning spaces have been constructed in accordance with the approved plans. These spaces shall thereafter be retained for their designated use.
- 15) No part of the development shall be occupied until pedestrian visibility splays of 2 metres by 2 metres have been provided at either side of the proposed site vehicular access onto Main Road (A259) in accordance with the approved plans and details. These visibility splays shall thereafter be kept free of all obstructions over a height of 0.6m above the adjoining carriageway level.
- 16) No part of the development shall be first occupied until visibility splays of 2.4 metres by 81.6 metres have been provided at the vehicular access onto Main Road (A259) in accordance with the approved drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level.

- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting or amending that Order) no windows or other openings other than those shown on the plans hereby approved shall be formed at first floor level in the east, south and north walls and roof slopes of plots 1, 2, 3 and 4.