
Appeal Decision

Site visit made on 6 July 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 07 August 2017

Appeal Ref: APP/L3815/W/17/3169516

Woodpeckers, 18 Lavant Road, Chichester PO19 5RG

- 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 Elberry Properties Ltd against the decision of Chichester District Council.
 - The application Ref CC/16/03484/FUL, dated 10 August 2016, was refused by notice dated 22 December 2016.
 - The development proposed is demolition of existing property (Woodpeckers) and the proposed construction of 3no new dwellings, with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing property (Woodpeckers) and the proposed construction of 3no new dwellings, with associated access, parking and landscaping at Woodpeckers, 18 Lavant Road, Chichester PO19 5RG in accordance with the terms of the application, Ref CC/16/03484/FUL, dated 10 August 2016, subject to the conditions in the attached annex.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Character and appearance

3. The existing detached dwelling, like others in the vicinity sits within a large plot, set well back from the street behind mature front boundary trees and other vegetation. Those other dwellings, comprising mainly detached dwellings but also some flatted developments and a terrace adjacent to the junction of Lavant Road with Hunters Way, vary in size and separation from their neighbours. They also often fill a significant proportion of their plot widths. The fundamental sense of spaciousness in the streetscene is largely influenced by the degree of set back of the buildings, albeit to varying degrees, and the verdant street frontages.
4. The proposed two frontage dwellings would be set well back from the street, and although two new accesses would be created to replace the existing one, most of the frontage trees would be retained and additional planting is also proposed. The dwellings would be close together but their design, including

greater separation at first floor level between the front elevations would lessen the massing effect. In any case, they would be seen in the context of the variety of designs, sizes and degrees of separation of other properties in the vicinity and the plots would still be fairly wide, of similar width to that relating to the adjacent property at No 16. I have also had regard in this respect to an extant planning permission for two dwellings at No 22 Lavant Road, that would replace an existing dwelling, and would be side by side in fairly close proximity, including at first floor level.

5. Therefore, although the proposed northern access drive would cause the two frontage dwellings to be closer together than they might otherwise be, in the above context they would not appear incongruous within the streetscene or cramped within what would still be fairly large plots.
6. The proposed third dwelling to the rear of the site would be close to the existing mature vegetation along the eastern site boundary. However, it would have a chalet style design with its roof sloping away from that boundary and from a fairly modest eaves height. Such a design would ensure that it would not dominate those trees. It would also be set off the shared boundary with the proposed two frontage properties.
7. That third dwelling, in a back-land position, would also not appear unusual in the context of other existing back-land development in the vicinity, including at No 20a Lavant Road. It would also not be clearly visible from Lavant Road due to the intervening dwellings. It would be seen from Baytree Close to the north-east of the site. However, again in the context of other close-by dwellings of that street and No 20a, and with significant screening or softening by intervening boundary trees, it would not be a dominant or jarring feature. It would have a relatively small rear garden area compared with the other two proposed dwellings and others in the area. However, it would still be of a good size and would not in itself indicate a cramped form of development, particularly in the context of varying local plot sizes.
8. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area. As such, in respect of this issue, it would accord with policies 1, 10, 33 and 47 of the Chichester Local Plan: Key Policies (the Local Plan) which together, amongst other things, require new residential development to be of the highest standard of design, of an appropriate density, and to respect and where possible enhance the character of the surrounding area and site. It would also accord with the National Planning Policy Framework which, in paragraph 17, states that planning should, amongst other things, always seek to secure high quality design and take account of the character of different areas and which in section 7 relates to requiring good design.

Other matters

9. A Unilateral Planning Obligation (UPO) has been submitted by the appellant during the appeal process in relation to securing a financial contribution towards measures to mitigate any potential adverse effect of the proposal on the integrity of the Chichester and Langstone Harbours Special Protection Area (SPA). This relates to access management in respect of the Solent Disturbance Mitigation Project.

10. There is a need to protect the ecological integrity of the SPA from potential pressure caused by the recreational activity of residents of the proposed new dwellings. This is given that the site lies within the 5.6 kilometre zone of influence relating to the SPA. Policy 50 of the Local Plan sets out the requirements to ensure such protection, relating to preventing the disturbance of birds.
11. The Framework confirms in paragraph 119, that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. In this case the proposed contribution would provide mitigation to make it unlikely that the proposed development would have a significant effect on the SPA. As such, no further consideration of appropriate assessment under the Habitats Regulations is required and the preclusion on applying the presumption in favour of sustainable development under paragraph 119 does not come into effect.
12. For the above reasons I am satisfied that the UPO would meet the tests set out in paragraph 204 of the Framework. Furthermore, the Council confirms that the UPO would address the concerns relating to the second reason for refusal relating to the absence of such mitigation.
13. The proposed rear dwelling would be fairly close to the boundary of the property immediately to the east, known as The Light House, fronting onto Chestnut Avenue. However, it would be separated from that neighbouring dwelling by the fairly long rear garden of that property. Again its roof would slope away from the boundary between the two, and there would also be the softening effect of intervening trees and vegetation. Therefore, despite the existing presence of the Baytree Close development and mature trees adjacent to The Light House, the proposal would be unlikely to materially add to any existing enclosing effects or cause an unacceptable loss of daylight or sunlight to that property. The only first floor windows that would face that adjacent property would be high level rooflights and one serving the proposed stairwell. Together with the degree of separation between dwellings and the presence of some intervening vegetation, it is therefore unlikely that there would be any overlooking that would amount to a harmful loss of privacy to the residents of The Light House.
14. Each dwelling would be provided with significant amounts of space for parking comprising garages and driveways. I have no substantive basis for considering such provision to be insufficient in terms of preventing reliance on on-street parking. Furthermore, the additional traffic generated by the net addition of only two dwellings would be unlikely to materially affect the efficiency and safety of the local road network, including Lavant Road.
15. I have had regard to concerns raised about additional noise and disturbance. However, the activity relating to the development once occupied would be of a residential nature, and only relating to two additional dwellings. It is therefore unlikely that it would cause unacceptable or uncharacteristic levels of noise and disturbance to surrounding residents once occupied. Furthermore, activity during the construction phase could be controlled through conditions to secure appropriate working hours and management of the site. That would also ensure appropriate provision for the parking and turning of vehicles associated with the construction.

16. The appellant's Ecological Appraisal (the EA) identifies the potential for bat roosts in the Cherry tree labelled as T03 in that document. That tree is shown on the submitted plans as proposed to be removed and the EA recommends a full survey to inspect potential roost features within the tree, followed by emergence/re-entry surveys should they be deemed necessary. There is therefore current uncertainty as to the presence of bats in that tree, and furthermore the tree is located where the driveway for plot 2 is shown. It is therefore important to ensure full certainty in respect of this issue in order to establish whether or not the tree could be removed and if any mitigation measures would be necessary. If it was found necessary to retain it, that would have a bearing on the layout of the driveway.
17. The parties agree that the tree could be retained without prejudice to the appeal proposal, and I have no basis to consider otherwise. However, this would still require an amended site layout plan in respect of the proposed driveway, even if not fundamentally altering the proposal. Therefore, and because any such amendment would not prejudice neighbouring residents, I consider that it would be appropriate to secure further bat survey work and any necessary mitigation measures by condition. This would need to include the submission of an amended site layout plan were it concluded that the tree would need to be retained in the interests of protecting bats. With such a condition in place, it is unlikely that the proposed development would adversely affect bats.

Conditions

18. The Council has suggested eleven conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended some of the wording and added two.
19. The standard time condition is required in this case and for the avoidance of doubt and in the interests of proper planning, a condition, in addition to those suggested by the Council, requiring that the development is carried out in accordance with the approved plans would also be required.
20. In the interests of the character and appearance of the surrounding area, conditions would be necessary to secure: details of the external materials for the proposed dwellings and the driveways; details of tree, hedge and shrub protection measures during construction, justification for any lost and details of any new planting, and the implementation of approved landscaping; details of screen walls and/or fences, also required in the interests of protecting the privacy of prospective and existing residents; and details of refuse and recycling storage facilities.
21. In the interests of protecting the amenities of neighbouring residents, conditions to control the hours of construction and to secure the submission for the Council's approval of a Construction Method Statement, the latter also in the interests of highway safety.
22. With regard to highway safety, conditions to secure the construction of the proposed accesses and parking and turning provision on the site, as approved, would be necessary. In respect of that relating to the accesses the Council also includes reference to a requirement for details of a skid cover for an inspection chamber cover. However, I have received no evidence relating to such a

requirement, including from the Highways officer and so have not included it in the condition. In the interests of encouraging the use of sustainable modes of transport, a condition to secure details of cycle parking for the proposed dwellings would also be necessary.

23. Finally, as referred to above, in the interests of protecting bats, a condition to secure further survey work in relation to Cherry tree T03 and any necessary mitigation, including the submission of an amended site layout plan should it be found that the tree would need to be retained, would be necessary.

Conclusion

24. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

ANNEX - Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Notwithstanding the terms of condition 12, the development hereby permitted shall otherwise be carried out in accordance with the following approved plans: 01 Rev A, 03 Rev L, 04 Rev G, 05 Rev D, 06 Rev D, 07 Rev D.
- 3) 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 driveway surfacing materials, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Prior to the commencement of the development hereby approved, a comprehensive method statement and mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The document(s) shall confirm the trees and retained vegetation will be protected as far as practicable during the construction of the development and shall include:
 - (i) details of suitable protection measures for all trees, hedges and shrubs to be retained;
 - (ii) details of proposed excavations, foundations and surfacing treatments for those aspects of the development within the root protection zones of trees identified on Lizard Landscape Design plan LLD969/02, including which areas are to be hand dug to protect roots;
 - (iii) justification for the removal of any trees, hedges or shrubs within the development site; and
 - (iv) any proposals for additional or replacement planting within the development site.Once approved, the proposed method statement and mitigation strategy shall be implemented in full accordance with the approved details unless the Local Planning Authority consent in writing to any variation.
- 5) 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, unless the Local Planning Authority gives written consent to any variation.
- 6) Prior to first occupation, details of screen walls and/or fences shall be submitted to and approved in writing by the Local Planning Authority and no dwellings shall be occupied until such screen walls and/or fences associated with them have been erected. Once erected they should be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

- 7) No part of the development shall first be occupied until such time as the vehicular accesses serving the development have been constructed in accordance with the approved drawings.
- 8) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time other than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 9) Notwithstanding the details shown on the approved plans, no part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.
- 10) Notwithstanding the details on the approved plans, no part of the development hereby permitted shall be occupied until refuse and recycling storage facilities have been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.
- 11) No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.
- 12) No development shall commence until a survey of the Cherry tree (labelled as T03 within the Preliminary Ecological Appraisal by Lizard Landscape Design dated 31 March 2016) has been undertaken to inspect potential bat roost features followed by activity surveys, and the results, including any necessary mitigation strategy, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any such mitigation strategy. Should it identify the need for the tree to be retained, that mitigation strategy shall include an amended site layout plan relating to the proposed driveway of plot 2.
- 13) 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.