
Appeal Decision

Site visit made on 30 September 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2019

Appeal Ref: APP/L3815/W/19/3226868

Louene, 34 Birdham Road, Donnington PO19 8TD

- 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 P Cunningham against the decision of Chichester District Council.
 - The application Ref D/18/03126/FUL, dated 20 November 2018, was refused by notice dated 1 March 2019.
 - The development proposed is 1 no. dwelling and associated work.
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Decision

1. The appeal is allowed, and planning permission is granted for 1 no. dwelling and associated work at Louene, 34 Birdham Road, Donnington PO19 8TD in accordance with the terms of the application, Ref D/18/03126/FUL, dated 20 November 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Amended plans were submitted during the application process. The Council took its decision against those plans and my determination of this appeal is made on the same basis.
3. The appellant has supplied a signed unilateral undertaking which secures a financial contribution in connection with European protected sites. I shall return to this later.

Main Issues

4. The main issues in this case are:
 - a) whether the site provides a suitable location for a new dwelling;
 - b) the effect of the proposal on the character and appearance of the area; and
 - c) whether material considerations exist to outweigh any conflict with the development plan in respect of the above matters.

Reasons

Principle of development

5. The appeal site was formerly used as garden to 34 Birdham Road. This property is located on the northern side of Birdham Road (A286) on the western edge of Stockbridge. In policy terms, the site lies within designated

countryside, outside of the Settlement Boundary for Chichester. This boundary lies a short distance (approximately 25 m at its closest point) to the east.

6. Policy 2 of the Chichester Local Plan 2014-2029 (CLP) sets out a development strategy and settlement hierarchy whereby Chichester is identified as a Sub-Regional Centre. The city provides higher and further education and health facilities, and a broad range of employment, retail, entertainment and cultural opportunities which serve a wide catchment area. It is therefore the main focus for major development in the District. Development outside of settlements is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. CLP Policy 45 reflects this, but also supports sustainable development in the countryside, providing that certain criteria are met.
7. The proposal is for an open market dwelling. There is no suggestion that such development requires a countryside location, or that it is specifically intended to meet an essential local rural need. There would therefore be conflict with CLP Policies 2 and 45 and the spatial strategy of the local plan. A grant of planning permission would only be justified where material considerations indicate that a decision should be made otherwise than in accordance with the development plan.

Character and appearance

8. The proposal would add to the existing linear pattern of development fronting Birdham Road. The new dwelling would respect the building line set by Nos 30, 32 and 34. The building would be close to the northern boundary due to the tapering of the site towards its western end. However, this would not be apparent to the casual observer due to the screening effect of mature hedging which is shown on the plans as being retained.
9. The Council is concerned that the development would appear cramped, but in reality it would not read as such. The arrangement whereby the main area of garden is to the side of the dwelling would be no different to the previous layout of No 34. The scheme would provide on-site parking and turning, and private amenity space which is comparable to the gardens within the modern housing scheme to the east. It would not be out of character with the area.
10. The proposal would extend the short ribbon of housing development further to the west. Nos 34, 32 and 30 Birdham Road are all outside of the settlement boundary but there is no logical reason why this should be the case as they are contiguous with the existing built up area and directly opposite other housing which lies within the boundary. The proposed dwelling would have a backdrop of buildings and it would be viewed in the context of an established street frontage. In my opinion, the development would be a natural addition to the settlement, and it would not be seen as an incursion into the countryside; this starts with the fields beyond the access track leading to Mile Pond Farm.
11. The Council does not raise any objections to the appearance of the dwelling. I have no reason to take a different view. The proposal would add to the variety of architecture within the area, whilst taking design cues from other properties along this stretch of road. There would be no demonstrable harm to local distinctiveness and the retention of existing landscape features means that the development would assimilate quickly into its surroundings.

12. Accordingly, I conclude that there would be no material harm to the character or appearance of the area. There would be no conflict with CLP Policies 33, 45 and 48, insofar as these seek to promote highest standards of design which have regard to the character of the surrounding area and the local context.

Other material considerations

13. The parties are agreed that the appeal site constitutes previously developed land. The Framework encourages the effective use of such land, and I note that paragraph 19.23 of the CLP also provides support for the redevelopment of sustainably located previously developed sites in the countryside.
14. There is no suggestion from the Council that the proposal would conflict with paragraph 79 of the Framework by creating an isolated home in the countryside. The site is served by a footway which provides pedestrian access to the parish hall, a small supermarket and employment opportunities within a local business park. There are bus stops nearby, from which frequent services operate to the Witterings and Chichester. The railway station is on the bus route but is also within cycle range. Therefore, I find that the site is sustainably located in relation to the services and facilities of Stockbridge and Chichester as a whole.
15. The Council's statement asserts that the authority is able to demonstrate a 5.7 year supply of deliverable housing sites, but the position statement provided shows a figure of 5.3 years at 1st December 2017. Either way, there is no ceiling to housing delivery. Paragraph 7.9 of the CLP acknowledges that the current plan does not meet objectively assessed housing need and therefore it follows that additional housing delivery over and above that provided by the plan would be beneficial. National policy seeks to significantly boost the supply of homes and this is a factor of considerable weight.
16. Paragraph 68 of the Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. Local planning authorities are encouraged to identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare. Although the proposal's contribution to overall housing supply would be modest, it would nonetheless be beneficial. The weight that I attach to this consideration is increased greatly by the fact that the site is previously developed land, well related to the settlement and in a sustainable location. There would be no demonstrable harm to the character or appearance of the area, and the Council has not identified any other technical grounds for refusal.

Other Matters

17. The relationship of the proposed dwelling to neighbouring properties would be such that it would not be overbearing or result in an unacceptable loss of daylight or sunlight. Views from first floor windows towards the farmhouse at the rear would be oblique and the privacy of the occupiers of No 34 could be protected using a condition requiring the use of obscured glazing at first floor.
18. The scheme would make adequate provision for parking and turning, to enable vehicles to exit the site in forward gear. Visibility at the access is good due to the depth of the grass verge. Based on the information before me, there would be no adverse highway safety impacts.

19. I have given careful consideration to all other matters raised, but none is of such strength or significance as to alter my conclusions on the main issues.

Appropriate Assessment

20. The appeal site lies within the Zone of Influence of the Chichester and Langstone Harbour Special Protection Area. The effects of the proposal on this designation must be considered in combination with other plans and projects in the area. It is impossible to rule out likely significant effects through increased recreational disturbance. Appropriate Assessment is therefore required under The Conservation of Habitats and Species Regulations 2017 (the Regulations). This need be no more than proportionate to the case.
21. The appellant has submitted a signed unilateral undertaking which secures a financial contribution in accordance with CLP Policy 50 and the joint mitigation strategy outlined in Phase III of the Solent Disturbance and Mitigation Project. The contribution would be effective beyond all reasonable scientific doubt in mitigating or avoiding adverse effects on the protected site.
22. As competent authority for the purposes of Regulation 63 of the Regulations, I am satisfied that the proposal would not adversely affect the integrity of the European protected site, having regard to its conservation objectives. The planning obligation would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It would thus comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conditions

23. In addition to the standard time limit for commencement, I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of preventing pollution, ensuring highway safety and minimising disturbance to residents during construction, a condition is necessary to require the submission, prior to development commencing, of a Construction and Environmental Management Plan.
24. Conditions are needed to secure details of materials and landscaping, in order to safeguard the character and appearance of the area. Further conditions are necessary to secure the provision of the vehicular access, parking and turning areas and cycle parking spaces prior to the new dwelling being occupied. These are needed in the interests of highway safety, and to provide future occupiers with the opportunity to use sustainable transport modes.
25. Permitted development rights should only be removed in exceptional circumstances. However, it is reasonable to do so in this case, given the potential implications for the character and appearance of the area and the living conditions of neighbours. To protect the privacy of the occupiers of 34 Birdham Road, and with the agreement of the parties, I have attached a condition requiring obscured glazing in east facing first floor windows.

Conclusion

26. The planning system is plan led; the Framework makes clear that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. However, the particular circumstances of this case are such that there are material considerations to outweigh the policy

conflict arising from the location of the site outside of the settlement boundary. The proposal would constitute sustainable development, and this justifies a grant of planning permission.

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

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing nos 1144/SK01 Revision 01, 1144/SK02 Revision 02, 1144/SK03 Revision 02, 1144/SK04 Revision 02, 1144/SK05 Revision 02 and 1144/SK06 Revision 02.
- 3) No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:
 - (a) the anticipated number, frequency and types of vehicles used during construction;
 - (b) the provision made for the parking of vehicles by contractors, site operatives and visitors;
 - (c) the loading and unloading of plant, materials and waste;
 - (d) the storage of plant and materials used in construction of the development;
 - (e) the erection and maintenance of security hoarding;
 - (f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway;
 - (g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles;
 - (h) measures to control the emission of noise during construction;
 - (i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety;
 - (j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas; and
 - (k) waste management including prohibiting burning.
- 4) No development shall take place above slab level until a full schedule of all materials and finishes, and samples of such materials and finishes, to be used for external walls and roofs of the dwelling, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) The dwelling hereby permitted shall not be occupied until the vehicular access serving the development has been constructed (including a bound material between the carriageway edge and the site boundary to prevent gravel overspill) in accordance with plans and details which shall be first submitted to and approved in writing by the Local Planning Authority.

- 6) The dwelling hereby permitted shall not be 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.
- 7) The dwelling hereby permitted shall not be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details which shall be first submitted to and approved in writing by the Local Planning Authority. The cycle parking spaces shall be retained thereafter for their designated use.
- 8) The dwelling hereby permitted shall not be occupied until a scheme detailing hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include plans showing means of enclosure; car parking layouts; vehicle and pedestrian access and circulation areas; details and samples of the hard surfacing materials; and a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities and a programme for the provision of the hard and soft landscaping. The scheme shall be carried out in accordance with the approved details and, once provided, the works shall be retained in perpetuity.
- 9) The dwelling hereby permitted shall not be occupied until the windows at first floor on the east elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 10) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A-E of Schedule 2, Part 1 shall be erected or made on the application site without a grant of planning permission.

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