
Appeal Decisions

Site visit made on 15 December 2020

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2021

Appeal A Ref: APP/L3815/W/20/3259675

113 Second Avenue, Almodington, Earnley, PO20 7LF

- 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 Strachan against the decision of Chichester District Council.
 - The application Ref E/20/00998/FUL, dated 16 April 2020, was refused by notice dated 12 June 2020.
 - The development proposed is described as erection of 2no semi-detached 4bed chalet bungalows - alternative to planning permission – E/18/00578/FUL for change of use to 2no dwellings and external works.
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Appeal B Ref: APP/L3815/W/20/3259676

113 Second Avenue, Almodington, Earnley, PO20 7LF

- 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 Strachan against the decision of Chichester District Council.
 - The application Ref E/20/01575/FUL, dated 24 June 2020, was refused by notice dated 26 August 2020.
 - The development proposed is described as erection of 2no semi-detached 3bed bungalows - alternative to planning permission – E/18/00578/FUL for change of use to 2no dwellings and external works. Resubmission of E/20/00998/FUL.
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Decisions

1. Both Appeal A and Appeal B are dismissed.

Procedural Matters

2. These appeals relate to two separate proposals for the same appeal site. For simplicity, both appeals have been included in the same decision letter.
3. The appeal site lies within the Zones of Influence of the Chichester and Langstone Harbours and the Pagham Harbour Special Protection Areas (SPAs). The Council's second reason for refusal in respect of both appeals related to the absence of a contribution towards mitigation measures for the likely effects of the proposed developments on the integrity of these designated habitats sites. However, during the appeal process the appellant has submitted Unilateral Undertakings (UUs) for both appeals. I return to this matter below.
4. There is a discrepancy in the appellant's evidence for the Appeal B application as to whether or not the proposed dwellings would have accommodation at first floor level. For the avoidance of doubt, I have determined Appeal B on the basis of the submitted plans, which do not show first floor accommodation.

Main Issue

5. The main issue in both appeals is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal property is located at the end of Second Avenue, a long, narrow dead end road serving a number of detached dwellings and horticultural enterprises. Second Avenue was originally developed in the 1950's as Land Share Association plots, each with a dwelling, glasshouses and outbuildings. Over time there have been changes on the original plots, but the pattern of development reflects the original layout of characteristically generous plots. These plots predominantly have detached dwellings to the front facing Second Avenue, some with ancillary glasshouses or other buildings behind.
7. Second Avenue is a public footpath which continues to the north-west of the appeal site and from which there is a limited view of it through a gap in vegetation. The wider area comprises pasture and arable land and horticultural enterprises.
8. The site is occupied by a glasshouse forming part of a larger site in horticultural use, trading as 'Orchid Answers', with a larger complex of glasshouses immediately to the south-west of the appeal site. A new replacement dwelling located nearer Second Avenue was under construction at the time of my site visit and another dwelling is sited further to the south-west.
9. The larger site has a lengthy planning history. This includes the granting of prior approval under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the glasshouse on the appeal site from agriculture to 2 no. Dwellings (C3 Use Class) in 2018. Planning permission was subsequently granted later in 2018 for amendments to the approved scheme comprising changes to fenestration, rooflights, canopy porches and flues. These remain extant and establish the principle of the development of 2 dwellings on the appeal site. In this respect, this proposal differs from that before the Inspector in the previous appeal for another site in Almodington to which the Council draws my attention¹.
10. The site is currently largely hidden from wider public view by the existing dwelling to the frontage, the other glasshouses and a tall evergreen hedge to the north and east. However, there is no guarantee that the glasshouses or hedge would be retained in perpetuity. In any event, landscaping or the retention of existing features cannot be a means of hiding a development that is otherwise unacceptable.
11. Both schemes would result in new dwellings in a location where, notwithstanding the extant permissions, new residential development would not normally be expected or allowed. The existing dwelling set back from Second Avenue to the south-west of the site is at odds with the prevailing linear pattern of development along Second Avenue. Both appeal schemes would consolidate the residential development at the end of Second Avenue, not conform with the historic pattern of ancillary buildings deeper in the plots and thus exacerbate this uncharacteristic 'in depth' development.

¹ APP/L3815/W/17/3167253

12. Both schemes are set out as a main building with projecting wings either side, intended to reflect a converted farm courtyard. Although the appellant considers these to be a higher quality design than the approved scheme, no evidence has been provided that such a form of development is characteristic of this predominantly horticultural area. Semi-detached dwellings are not common in the locality. The use of materials sympathetic to the rural location would not be sufficient to overcome the harm arising from the incongruous siting and design of either appeal scheme.
13. I therefore conclude that both appeal schemes would be harmful to the character and appearance of the area, particularly if the hedge was removed. Accordingly, in this respect, they would conflict with Policies 33, 47 and 48 of the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) which, amongst other things, seek to protect local character. Consequently, the proposals would not comply with Policy 1 of the Local Plan which promotes sustainable development as advocated by the National Planning Policy Framework (the Framework). These are relevant policies for the purposes of paragraph 11 d) of the Framework.
14. Policy 2 of the Local Plan restricts development outside the settlements listed in the policy, which do not include Almodington or Earnley, to that which satisfies certain criteria. Policy 45 of the Plan sets out criteria for development in the countryside. As neither appeal proposal requires a countryside location both proposals are in conflict with Policies 2 and 45 of the Local Plan. However, as the principle of 2 dwellings on the site has already been established, I give this conflict little weight and it has not been determinative in my decision.

Other Matters

The Chichester and Langstone Harbours and Pagham Harbour SPAs

15. The habitats of the SPAs provide essential feeding and roosting grounds for an assemblage of internationally and nationally important numbers of water birds, including Dark-bellied brent goose, Common Tern and Little tern. These birds comprise the qualifying features of the SPAs. The conservation objectives for the SPAs are, in summary, to ensure that the integrity of the site is maintained or restored as appropriate by maintaining or restoring the qualifying features' habitats, populations and distribution within the sites.
16. It is known that the birds are vulnerable to disturbance from recreational activities by the occupiers of new dwellings within the Zones of Influence of the SPAs, thus threatening their survival and the achievement of the conservation objectives for the sites. Either of the proposed developments would result in the creation of 2 new dwellings within those Zones and I therefore conclude that, in combination with other residential projects, either would have a likely significant effect on the SPAs through associated additional recreational activity.
17. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites. This falls to me in the context of this appeal.

18. Therefore, had I reached a different conclusion on the main issue, it would have been necessary for me to undertake an AA and give further consideration to the likely effectiveness of mitigation measures. In doing so I would have had regard to the UUs submitted by the appellant during the course of this appeal and whether these would have secured effective mitigation. However, as I am dismissing both appeals for another reason, this has not been necessary.

Other considerations

19. The development approved by the extant prior approval and planning permission represents a fallback position should permission be withheld for both of the proposals before me, although the main parties differ on the weight that should be attached to that position. I concur that the previous approvals represent a valid fallback position. Both schemes would represent a significant reduction in footprint compared to the existing glasshouse and would be of a lesser volume than the approved scheme.
20. However, both appeal schemes would be of a fundamentally different appearance and character to the approved scheme. The latter would largely retain the form and appearance of the existing glasshouse and would thus be more in keeping with the existing pattern and form of development along Second Avenue. In contrast, either appeal proposal would be incongruous for the reasons I have identified above. The approved scheme would therefore be less harmful to the character and appearance of the area and so I give the fallback position only modest weight.
21. I acknowledge the appellant's desire for greater insulation. However, I have no evidence that the insulation of the approved scheme would be unsatisfactory and I therefore give this desire little weight in my decisions.
22. The appellant draws my attention to a number of other permissions for the development of dwellings following a Class Q approval where an increase in height of up to 2.5 m was allowed. However, I am not confident that these are comparable to the appeal proposals in terms of their contexts. I therefore give little weight to these other approvals. In any event, I have determined each of these appeals on their own merits.

Conclusion

23. I have found that both appeal schemes would conflict with the development plan, taken as a whole. There are no considerations, including the fallback position, that outweigh that conflict. Accordingly, I conclude that both Appeal A and Appeal B should be dismissed.

Martin Small

INSPECTOR