



Appeal Decisions

Site visit made on 12 May 2021

by **R J Perrins MA**

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

Decision date: 15 June 2021

Appeal A Ref: APP/L3815/C/20/3247181

Land east of Brook House, Pound Road, West Wittering, Chichester, West Sussex PO20 8AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Thomas Elliott against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered WW/49, was issued on 14 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the wooden building in the approximate position indicated on the attached plan, to use as a single dwellinghouse.
 - The requirements of the notice are:
 - i. Discontinue the use of the said wooden building as a single dwellinghouse;
 - ii. Remove the shower and kitchen from the building; and
 - iii. Break up and remove the block paving, hardstanding and concrete kerbing from the Land.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a),(b),(c),(d),(e),(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/L3815/W/20/3250807

Land east of Brook House, Pound Road, West Wittering, Chichester, West Sussex PO20 8AJ

- 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 Thomas Elliott against the decision of Chichester District Council.
 - The application Ref WW/19/02136, dated 19 August 2019, was refused by notice dated 25 October 2019.
 - The development proposed is the construction of new boat house with ground floor storage ancillary to first floor self-contained residential unit.
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Decisions

Appeal A Ref: APP/L3815/C/20/3247181

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/L3815/W/20/3250807

2. The appeal is dismissed.

Background relevant to both Appeals A & B

3. The site, the same for both appeals, comprises of a parcel of land within the West Wittering Conservation Area (WWCA) and the designated settlement for West Wittering. It is situated to the east of Brook House and west of Old House Mews. The locality is characterised by dwellings with a mixture of styles and sizes, generally set in ample gardens.
4. The site once formed part of the garden to Brook House and the wooden building embraced by the enforcement notice was used as an annexe to the Brook House for guest accommodation and office use. It consists of a living area, kitchen and bathroom. Following a change in personal circumstances the appellant sets out that the annexe was used as a permanent dwelling and the land on which it stands was separated from Brook House, which is also in separate ownership.
5. There is no dispute that, since March 2016, the site has stood on its own, separated from Brook House, with its own site boundaries, ownership and separate title. That is to say it is a planning unit in its own right. On the site is the annexe, which I will refer to as the Studio, and a shed. The site is enclosed with close boarded fencing and hedging with access via a shared gated drive from Pound Road.
6. The appellant suggests that the land is previously developed land as set out in the National Planning Policy Framework (the Framework). I disagree. It is clear from the appellant's own submissions that the land was part of the garden to Brook House. Whilst a fence has been erected, there is nothing before me to suggest that the land has remained anything other than in domestic use. The Framework is clear in that 'land in built-up areas such as residential gardens' are excluded from the definition of Previously Developed Land. I see no reason why that should not apply to this site.
7. The site is also situated within Flood Zones 2 and 3 as shown on the Environment Agency's (the Agency's) Flood Map for Planning.

Appeal A – S174 - APP/L3815/C/20/3247181

The appeal on ground (e)

8. I accept that the appellant's first name was incorrect and missing a letter 'h'. However, I see no reason to disagree with the view that this was a typographical error and his surname was spelt correctly. There is no dispute that the notice was served originally on the land and at the address detailed on the land registry. It was later served by hand to the appellant at an address in Chichester.
9. S172(2) of the Act provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and on any other person having an interest in the land, including mortgagees, tenants and sub-tenants, being an interest which, in the opinion of the Local Planning Authority, is materially affected. It appears to me all reasonable attempts were made to serve the notice in accordance with S172.
10. The appellant has been able to lodge an appeal against the notice. In addition, he has had the opportunity to add to his appeal, by way of an appeal statement. For these reasons I am unable to identify any prejudice; the

appellant was handed a copy of the notice and he has been able to appeal on all grounds. Therefore, the appeal on ground (e) must fail.

The appeal on grounds (b) and (c)

11. The arguments advanced by the appellant under these grounds are closely linked, such that I will deal with them together. The case for the appellant is, in essence, that the shower and kitchen have planning permission¹ and the hardstanding was constructed as permitted development associated with the ancillary building.
12. There can be no doubt that the planning permission drawings show a shower and kitchen and reflect what I observed on site. In the same vein Condition 2², attached to the planning permission, is clear in that the building was to be used ancillary to Brook House. That was highlighted in the planning officer's report which states "...it is clear this is a home office with associated kitchen and bathroom used in association with the main house."
13. However, as set out above, the studio no longer has any association to Brook House. The whole of the appellant's case is founded on it being used as an independent dwelling, a use which is no longer ancillary to Brook House. Reliance can simply not be placed on the previous planning permission which is inextricably linked to Brook House. That association was lost in 2016 when the property was subdivided.
14. Therefore, the use of the shower and kitchen must be viewed in the context of the use of the Studio as a single dwellinghouse; a development for which planning permission is required. In the apparent absence of any such permission, I find there has been a breach of planning control. In the same way, the appellant cannot seek to rely on any permitted development rights for the hardstanding as there is no longer any dwelling, associated with the planning unit, for such rights to apply.
15. Thus, the appeal on grounds (b) and (c) must fail.

The appeal on ground (d)

16. The Planning Practice Guidance (the Guidance) sets out an appellant is responsible for providing sufficient information to support an application for a Lawful Development Certificate, which is also the equivalent of ground (d) in an enforcement appeal. The Guidance says: "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability".
17. Those sentiments apply equally to an Inspector at appeal stage and the tests relate in substance to the use at issue in this appeal. Therefore, in this case, the onus is upon the appellant to demonstrate, on the balance of probabilities, that the material change of use in respect of the separate dwelling started

¹ Planning Application Ref: 13/02676/DOM "Retention of garden outbuilding".

² The development hereby permitted shall only be used as an ancillary outbuilding, home office and store in connection with Brook House, Pound Road, West Wittering, Chichester and for no other purposes whatsoever.

more than 4 years before the date of the original enforcement notice i.e. on or before 14 January 2016.

18. There is no argument that, due to the passage of time, the building is immune from enforcement action. With regards to the use, the appellant's case is founded upon a statutory declaration and the Council's records. Turning to the latter first, I accept that the email dated 6 November 2013 states that the Studio was "extended and converted into a residential unit in the Spring of 2013". However, it carries no weight given the author has not given evidence. I say that as it is not clear what is meant by the author given he goes on to set out that the Studio was used when Brook House was occupied by Bed & Breakfast customers and that "it is not now used at all". The email brings no clarity on the issue of whether or not the Studio was being used as a separate dwelling at that time.
19. The statutory declaration sets out the relevant dates for the Studio being constructed and its use since the appellant purchased the property in 2007. It was upgraded in 2010 and in 2013 was extended to include the shower and kitchen. A paved area for parking has also been in place since 2007. Since March 2013 it has been continuously used throughout each year as a residential dwelling and in 2016 as set out above the site was divided into two separate plots.
20. The declaration goes on to say that the Studio has been used as a home/base for the appellant and his daughters since 2013. A property was also rented in Chichester by the appellant when the Studio was being used by his daughters. The Studio has independent connections to all utilities.
21. Taken on its face, the statutory declaration would appear to demonstrate a continuous period in excess of four years. However, I must temper the weight I give to it. The appellant has not given evidence or been cross-examined, there is no confirmed date in respect of service connections and no utility bills or invoices to corroborate the statements made. I say that having considered the email dated 6 April 2016 which indicates the appellant had made some arrangements for services but at that time it seems, from the email and response, they were yet to be installed. It does not support the appellant's case.
22. Reference to car parking is also ambiguous and lacking in clarity, the declaration does not state specifically where that parking was. In the same way, the arrangements between the appellant and his daughters is unclear; I cannot be sure the Studio was occupied continuously throughout the four-year period given the rental of another property elsewhere. That also applies to the period since 2013 and before the land was sub-divided, there is simply insufficient information to corroborate the assertion that it was being used independently.
23. Moreover, the Council have put forward conflicting evidence including undisputed photographs of hardstanding being installed in September 2016. A water pipe being installed at the same time and further photographs of foul drainage piping. Whilst I accept the Studio would have had utilities supplied from Brook House before that time, such a shared supply does not add weight to the Studio being used independently.

24. In addition, the Council submit photographs showing the Studio apparently being used for storage and state the appellant informed them no-one was staying there (October 2016). Whilst I must temper the weight I give to this evidence, as it also has not been tested, the appellant's rebuttal that it was during a time of upheaval, with the room laid out normally but out of view, also goes untested. Alongside that, the Council's statement concerning what the appellant told them was not addressed in the rebuttal to any degree.
25. Alongside this is the representation (also untested) from the current owner of Brook House who states that since 2016 no-one has lived in the Studio and the block paving was laid in the Summer of 2017/2018. The claim that the Studio has been lived in is also contradicted by an adjoining neighbour to the east. Those representations are completely at odds with the appellant's assertions.
26. There is therefore, a not insignificant weight of evidence that contradicts that of the appellant. Thus, for the reasons set out, and as a matter of fact and degree, I find, on the balance of probabilities, that the burden of proof in respect of the four-year period is unfulfilled and the appeal on ground (d) should fail.

The appeal on ground (a)

Main issues

27. The main issues in this are the effect upon the character and appearance of the West Wittering Conservation Area (WWCA) and whether the development would comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

28. The appellant's case under ground (a) is partly founded upon; the use taking place in excess of four years; the shower and kitchen already having planning permission and; the hardstanding being constructed as permitted development. As rehearsed under the legal grounds of appeal above, I have found that not to be so. Thus, these arguments cannot weigh in favour of an appeal under ground (a).

Character and appearance

29. I recognise the site is within the settlement boundary and the building itself has become lawful through the passage of time. In addition, I recognise the Studio would enable the appellant to remain in the area and would provide a small-scale affordable housing unit. Policy 2 of the Chichester District Local Plan (LP) sets out a presumption in favour of sustainable development within the Settlement Boundaries including West Wittering. Small scale housing will be provided for and be consistent with indicative housing numbers set out in Policy 5.
30. Any new residential development should comply with Policy 33 which sets out the criteria that should be met including, amongst other things, that the proposal respects and where possible enhances the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale, neighbouring and public amenity and detailed design.

31. It seems to me that there can be no arguments that the building itself complies with that policy. It was granted permission when considered as an ancillary building and matters such as siting and massing would have been considered. However, I recognise the change in use would bring with it a change to the character of the site. An independent dwelling brings with it the associated domestic paraphernalia and parking provision. That is beyond what would have been expected for the use of an ancillary building to Brook House.
32. Whilst screened from public view, being close to the boundary and of a scale unlike any other dwelling nearby, it is also at odds with the character of other dwellings within the locality it does not respect the local layout of residential properties. That is to Policy 33 of the LP.
33. Furthermore, the erection of fencing, installation of hardstanding and the position of a new dwelling right up against the boundaries of adjoining residential properties to the rear, is at odds with the openness in the locality. I accept that landscaping could soften the fencing nevertheless, the development has not improved the character and quality of the WWCA to which, as the *WWCA Character Appraisal & Management Proposals* Document recognises, spacious gardens and openness contribute. That is contrary to Policy 47 of the LP which requires development to respect distinctive local character and sensitively contribute to creating places of a high architectural and built quality.
34. Thus, I find the development does not preserve the character and appearance of the CA. In relation to paragraph 196 of the Framework the harm to the significance of the CA would be less than substantial. Nonetheless, I must attach considerable importance and weight to that harm and in applying the test in paragraph 196 I note any benefits are mainly private, relating to a desire to live in the village. The dwelling would benefit the provision of affordable accommodation in the locality, albeit in a very limited way given its size. Accordingly, I find that there would be little public benefit to offset the identified harm.

Flood risk

35. There is no dispute that the area is within Flood Zones 2 and 3 and the appellant relies on the Flood Risk Statement (FRS) and Sequential and Exception Test (SET) prepared for the s78 application along with an appeal decision concerning land in East Yorkshire³.
36. Dealing with the appeal first, I recognise in that case the Inspector found that given the vastness of the sub area any other sites would be unreasonably distant from the settlement being considered and a search of the whole area would be significantly disproportionate. However, I am unable to compare the vastness of the sub area to that of Chichester District and I do not have any detail to compare what is meant by "significant connections to the settlement", to the appellant's own circumstances. Which, as I understand from the information before me are limited to owning and living in property within West Wittering for a number of years. Moreover, each case must be decided upon its own merits.
37. With regards to the FRS and SET, it is clear that they were carried out with regard to the proposed boat house considered for the s78 appeal. For

³ APP/E2001/W/17/3183296

example, the SET states that “the proposed building is considered a safe method of construction, offering flood resilient and water compatible residential accommodation in areas perceived to be at risk of flooding”. It goes on to say with regards to safe access and egress that “All residential accommodation will be located on the first floor and above, which remains in Flood Zone 1. As such, residents will be able to remain within the refuge of the building at times of flooding should they wish.”

38. That cannot apply to the ground floor accommodation of the Studio for a which a separate assessment should be carried out. For example, there is nothing before me to suggest that the Studio has been constructed incorporating flood proof and resilient construction as recommended for the boat house. Whilst I recognise the Studio was granted permission as an annexe it that does not automatically find it safe, in terms of flood risk, as a dwelling house.
39. The Guidance sets out that “Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds”. A sequential test particular to the Studio has not been carried out and I am unable to consider flood risk any further in respect of the change of use.
40. Therefore, I must find, the development is at odds with Policy 42 of the LP which seeks to direct development away from the areas of highest risk and that development will not be allowed unless certain criteria are met. That includes, amongst other things, that the development meets the relevant tests and has a risk assessment to demonstrate the development will be safe. The policy reflects Paragraph 155 of the Framework which is clear in that inappropriate development should be avoided by directing development away from areas at highest risk.

Other matters

41. Turning to the matter of living conditions, I accept that the change of use to a dwelling would result in an increased level of activity above and beyond that associated with an ancillary use. The ancillary use was associated with the family unit living at Brook House; the occupiers of the Studio are an addition to the comings and goings of Brook House and it is to be expected that noise and disturbance would increase to a certain extent. However, given the size of the property, which strictly limits the number of occupants, any disturbance is likely to be minimal.
42. In addition, given the layout and configuration of the Studio and presence of close boarded fencing any overlooking of Brook House would be minimal and it would not result in unacceptable harm. For these reasons I find there would not be an unacceptable effect to the living conditions of those living nearby. Nevertheless, that does not outweigh the harm I have found elsewhere.
43. The appellant has suggested that the use would help to achieve small scale affordable housing location in the area. While I do not doubt that there would be beneficial effects, these would not outweigh the harm I have found. In the same way I recognise the appellant’s desire to live in the area but personal preference rarely outweigh general planning matters; development remains longer after personal circumstances no longer apply.

44. Finally, the site is within the 5.6km zone of influence upon the Chichester and Langstone Harbours Special Protection Area (SPA) where increases in net residential development are likely to have a significant effect on the SPA. A Planning Obligation has not been submitted to address this matter. However, given my conclusions on the main issues, it is not necessary for me to consider the lack of mitigation as that would not affect the outcome of the appeal in any event.

Conclusion on ground (a)

45. For these reasons, and having considered all matters raised, the appeal on ground (a) fails.

The appeal on ground (f)

46. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. The requirements of the notice in this case seek the cessation of the use and removal of shower, kitchen, hardstanding and all resultant materials from the land. That covers everything in the alleged breach of planning control.
47. In my view the requirements are entirely appropriate to achieve the objective of restoring the land to its condition before the breach took place and fall within s173(4)(a). The appellant has not set out what lesser steps may be appropriate but suggests the hardstanding is permitted development. As set out above, I have found that not to be the case.
48. Therefore, I conclude, that no good reason is advanced by the appellant as to why the requirements of the Notice exceed what is necessary to restore the land to its condition before the breach took place and there are, in my assessment, no lesser steps that could be taken to achieve that objective. Thus, the appeal on ground (f) fails.

The appeal on ground (g)

49. I accept that it may be difficult for the appellant to find similar alternative accommodation in the area. However, I have no information at all about the availability of property within the area or what endeavours have been carried out to ascertain what is, or is not, available. In that light I see no reason to extend the compliance period beyond the current four months.
50. The appeal on ground (g) also fails.

Conclusion on Appeal A

51. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refused to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal B - s78 –APP/L3815/W/20/3250807

Preliminary matter

52. Submitted with the appeal are a number of revised drawings. The revisions include changes to the size, layout, siting, height and roof form. In addition, lower ground levels are proposed to reduce the height of the building. It is not clear what effect, positive or otherwise, the changes would have on the issue of flood risk. The drawings have not been subject to public consultation.
53. Within this context I am mindful of the Wheatcroft Principles derived from *Bernard Wheatcroft Ltd v SSE* (1982) which are further explained in Annex M of the *Procedural Guide: Planning Appeals – England (2021)*. The Guide states, amongst other things, that whilst amendments to a scheme might be thought to be of little significance, in some cases even minor changes can materially alter the nature of an application and lead to possible prejudice to other interested people.
54. There is no doubt in my mind that these are not minor changes to the proposal. It is therefore, my firm view, in the interests of fairness, that this appeal must be determined on the basis of the plans submitted to the Council and upon which it based its decision, which have been subject to consultation and not the suggested amendments. To do otherwise could prejudice unacceptably the interests of interested people and/or consultees who would not have been consulted on the amended plans and who may have observations to make.

Main Issues

55. The main issues in this case are the effect of the boat house upon; the character and appearance of the West Wittering Conservation Area (WWCA), and whether the development would comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Character and appearance

56. As set out above, I do not consider the land falls into the Framework definition of previously developed land. Indeed, the argument that one could divide a residential garden, sell on the part without a dwelling and recognise it as previously developed land suitable for sustainable development does not have any merit. I do accept though that the appellant has adapted the scheme to respond to previous reasons for refusal and that views of it from within the conservation area would be minimal. There is some inevitability that the design of the dwelling is somewhat dictated by the constraint of the site and its location within Flood Zones 2 and 3.
57. However, the constraints of site cannot be used to justify a development that would lead to harm. Whilst I accept that some of the properties in the locale are in close proximity on small plots, that is not the overall characteristic of the site or conservation area. Which as set out in Appeal A has characteristics of openness and spacious gardens. That is particularly the case in the vicinity of Brook House.

58. The boat house would be at odds with that. With two stories, and occupying the majority of the width of the site, it would appear cramped within its boundaries and appear as an overdevelopment of the site. Although I see no reason to disagree with the Council in that, given its design and setting, which unlike the Studio, would have a rear garden, it would not lead to unacceptable harm to the conservation area setting.
59. Nevertheless, for the reasons given, the boathouse would unacceptably harm the character and appearance of the area and be at odds with Policy 33 of the LP which requires developments to respect and enhance the character of the surrounding area. It would also be contrary to the Framework which seeks high standards of design as a component of sustainable development.

Flood risk

60. Section 14 of the Framework sets out national guidance for 'Meeting the challenge of climate change, flooding and coastal change.' Para 155 advises that 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.'
61. Paragraph 158 states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.
62. If following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for development to be located in zones with a lower probability of flooding, The Exception Test can be applied if appropriate. For the test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, and that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk overall and where possible, will reduce flood risk overall. Both elements of the test will have to be passed for development to be permitted (the Framework paragraph 161).
63. More detailed guidance is set out in the Guidance. Under the heading 'Manage and mitigate flood risk' the PPG advises that 'where development needs to be in locations where there is a risk of flooding as alternative sites are not available, local planning authorities and developers (should) ensure development is appropriately flood resilient and resistant, safe for its users for the development's lifetime, and will not increase flood risk overall.'
64. The EA have considered the flood risk assessment submitted with the application and have no objection subject to a number of conditions. Nevertheless, in accordance with the Framework a Sequential Test (ST) is required given the location within Flood Zones 2 and 3. The test is required to steer new development to areas with the lowest risk of flooding. To that end, in terms of defining the focus for available sites, the appellant relies again on the appeal decision from North Yorkshire. The circumstances are no different for this appeal in that each case must be decided upon its own merits and the cases are not comparable for the reasons set out in Appeal A.

65. I recognise that Chichester District covers the largest area in West Sussex and the search was restricted to Selsey, Funtingdon and Westbourne and that the appellant wishes to live in West Wittering where he has family ties and friendships. However, I do not accept that it is unreasonable to expect the search to go beyond that. A new dwelling is categorised as 'more vulnerable' development by the EA and policy is firm in that regard. Flood risk should not be offset against the personal desire to live in an area without an assessment of the risk and benefits.
66. To that end the starting point is the ST which should seek to identify sites which are lower risk and reasonably available. Appendix A of the Sequential and Exception Test Assessment Report identifies some 50 sites many of which have been discounted because there are 'no suitable alternative properties available for a ground floor boathouse with residential above'. However, I see no reason to disagree with the Councils' view that boat storage does not have to be linked to a boat house and other options could be available in single unit sites or for boat storage elsewhere.
67. Moreover, such opportunities would increase if the search was made wider. The argument that housing need is District wide and the search should reflect that is not without merit. In this District the majority of land is not at risk of flooding and the Council's view that applications for single properties in Flood Zone 1 are dealt with regularly is demonstrated at their Appendix LPA4. That is further supported by the appeal decisions⁴ referenced by the Council which reflect the requirement for all factors to be taken into consideration.
68. Therefore, whilst I am not convinced there are no sites within the area identified by the appellant to meet his needs, even if I am wrong it is reasonable to assume a district wide search would reveal available sites in Flood Zone 1 to meet the requirement for one dwelling. Thus, on balance, I am not satisfied that the ST has fully explored all of the options to meet the needs of the development in areas of lower risk. For these reasons the development would conflict with Policy 42 of the LP, which references the Framework requirements in this regard.
69. In that light I am not required to consider the Exception Test and whilst I recognise the EA did not object, they do not comment on the content or findings of an ST. Their advice cannot address whether or not a site would be sequentially preferable; that remains a matter for the local planning authority.
70. I have also considered the appeal decision (ref:APP/D0515/C/18/3196061) concerning the change of use of land for residential use of caravans. However, it is not comparable, in that case the Council accepted there were no other site available. For these reasons I find that the development would not comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Other matters

71. Turning to the matter of living conditions; I recognise concerns for those living nearby that the development would lead to a loss of outlook. There would be an inevitable impact on the outlook from the garden of Woodbine Cottage for example. However, the figures put forward by the Council regarding separation

⁴ APP/L3815/W/17/3191076 & APP/E1210/W/17/3175948

distances comply with that set out in Planning Guidance Note 3 *Design Guidelines for Alterations to Dwellings & Extensions*. Whilst the development is not an alteration or extension it is a useful guide in terms of privacy and amenity standards. Given the distances are beyond that recommended I see no reason to disagree with the Council's view that the development would not lead to unacceptable harm to the living conditions of those living in nearby properties.

72. The site is within the 5.6km zone of influence upon the Chichester and Langstone Harbours Special Protection Area (SPA) where increases in net residential development are likely to have a significant effect on the SPA. A Planning Obligation has been submitted with the appeal. However, given my conclusions on the main issues, it is not necessary for me to consider whether or not it would be sufficient to address the mitigation necessary to ensure that the development would not cause significant harm to the special interest features of the site.

Conclusion Appeal B.

73. The appellant has suggested that the development would have a positive effect by way of a new affordable dwelling. While I do not doubt that would be beneficial, it would not outweigh the harm I have found. For all the above reasons and having considered all matters raised I conclude the appeal should be dismissed.

Richard Perrins

Inspector