



Appeal Decision

Site Visit made on 28 October 2021

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021

Appeal Ref: APP/L3815/W/21/3273367

Land North of Swan Cottage, Selsey Road, Sidlesham PO20 7QX

- 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 Huseyin Ay against the decision of Chichester District Council.
 - The application Ref SI/20/01389/FUL, dated 4 June 2020, was refused by notice dated 1 December 2020.
 - The development proposed is Erection of two storey dwellinghouse, garage and vehicular access off Selsey Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect that the proposed development would have on:
 - the character of the surrounding rural area
 - highway safety in Selsey Road, and
 - the Chichester and Langstone Harbours and Pagham Harbour Special Protection Areas (SPAs), regarding recreational disturbance impacts, and waste water impacts.

Reasons

Rural area

3. The appeal site is a piece of land on the roughly east side of Selsey Road. It is outside any Settlement Boundary designated in the Chichester Local Plan: Key Policies 2014-2029 (LP) so it is, in policy terms, in the Rest of the Plan Area. Most of the site's roughly west frontage is open to the road but it includes an existing field access roughly mid-way along it. The site adjoins a pumping station and the good-sized back garden of the dwelling at The Police House to roughly north, the grounds of the dwelling at Swan Cottage to roughly south, and there is agricultural land to roughly west and east. The site slopes gently down from roughly east to west.
4. LP Policy 1 reflects the presumption in favour of sustainable development in the National Planning Policy Framework (Framework). LP Policy 2 aims for new residential development to be located within settlement boundaries and restricts development in the Rest of the Plan Area to that which requires a countryside location, meets an essential local rural need, or supports rural diversification in accordance with LP Policy 45. LP Policy 45 aims to permit

sustainable development in the countryside where all of 3 criteria are met, including that the proposal is well related to a group of buildings or located close to an established settlement.

5. The site was previously part of the back garden of The Police House, but it was separated from that garden long ago when the pumping station was built. As the site's former use has since blended into the landscape, I do not consider it to be previously developed land in terms of the Framework.
6. There is a modest cluster of development including a church and a public house within the Conservation Area in Churchfarm and Church Lanes. Even so, Sidlesham is mainly characterised by detached dwellings of various ages, types and styles widely dispersed through the surrounding largely flat mostly agricultural landscape. So, although The Police House is part of that cluster, due to its siting on the busy Selsey Road, and due to its distance from The Police House and Swan Cottage, the site is poorly related to these dwellings. Instead, the site is an open gap in a loose-knit ribbon of sporadic development along Selsey Road. Its present open character and undeveloped appearance, set in farmland to roughly east and west, contributes positively to the rural character of the surrounding area.
7. Because most dwellings in Churchfarm Lane are largely screened from Selsey Road, the present open gap at the site is important to the rural character of the intermittent dwellings in Selsey Road, and because the site is not a narrow gap in an otherwise built-up frontage, it could not reasonably be considered to be an infill plot, or within or next to an established settlement or group of buildings.
8. The proposal includes a good-sized 2 storey dwelling in the north part of the site, a tall detached triple garage fairly close to its south boundary, with an inset gated access from the road between the 2 buildings. So, the dwelling, its garage, parked cars on its drive, and the associated domestic paraphernalia in its gardens, would be spread across the width of the site. Due to its suburban character, scale, bulk and built-up appearance, the proposal would unacceptably consolidate the gap between the existing dwellings, harmfully extending development along Selsey Road and encroaching into the countryside. Whilst its materials could be controlled by condition, that would not overcome the harm.
9. Thus, I consider that the proposal would harm the character of the surrounding rural area. It would be contrary to LP Policies 1 and 2, LP Policy 33 which seeks a high standard of design and respect for context, LP Policy 45, and Framework chapters 12 and 15 which seek to achieve well-designed places and to conserve and enhance the natural environment respectively.

Highway safety

10. Previously, the site would have been reached by the field access from Selsey Road, but little information has been provided about the former use of the access. The only nearby footpath is on the opposite side of Selsey Road, so although the few facilities in the locality could be reached by walking or cycling, the reality is that most journeys would be made by private motor vehicle. So, there is a reasonable likelihood that the proposal would increase the use of the access, but no technical data has been provided about the likely number of daily vehicle trips.

11. The nearby part of Selsey Road is subject to a speed restriction of 30 mph, but due to the broadly straight stretch leading up to the slight bend before the site from roughly south, some vehicle speeds above that limit could reasonably be expected. Moreover, visibility for oncoming vehicles could be restricted to roughly north by the geometry of the road and the shallow verge and tall vegetation on the same side as the site. Due to the lack of information on the plans it is not clear whether the proposed access would be in the same place as the existing access, what visibility could be achieved, and, in the absence of any up-to-date speed data, whether that visibility would be adequate.
12. Moreover, the highway authority made clear that its comments were made on the basis of a desktop study. It advised that additional information should be provided so that the authority could be consulted again, but almost no further information has been submitted with the appeal. There is insufficient evidence before me to show that adequate visibility splays at the proposed access could be achieved within land controlled by the appellant. This is not a matter that could reasonably be dealt with by the imposition of a pre-commencement planning condition because, should it be necessary to move the access to another place to achieve sufficient visibility, that could materially alter the proposal's layout, and thus, its character and appearance.
13. In his appeal decision, ref APP/L3815/W/16/3146820, regarding an outline application including 2 dwellings, my colleague stated that the Council suggests that access to the site is likely to be considered satisfactory subject to details to be submitted at reserved matters stage. However, as I have little information about that scheme, I have dealt with the proposal before me on its merits and in accordance with its site specific circumstances and relevant local and national policy and guidance.
14. I consider that there is insufficient evidence to show that the use of the proposed access to the development would not be likely to endanger highway safety in Selsey Road. It would be contrary to LP Policy 39 which seeks safe and adequate means of access.

SPAs: recreational impacts

15. The appeal site is within the zones of influence of the SPAs, which are statutorily protected Natura 2000 sites designated under the Habitats Directive. As the proposal would include a net increase of one dwelling, recreational disturbance is an issue that needs to be addressed.
16. LP Policies 50 and 51 explain that net increases in residential development, which incorporate appropriate avoidance/mitigation measures, which would avoid any likelihood of a significant effect on SPAs, will not require an appropriate assessment. Avoidance/mitigation measures for applications within those zones are set out in the Chichester District Council Planning Obligations & Affordable Housing Supplementary Planning Document (SPD).
17. The SPD explains that off-site access management mitigation will be funded from planning obligations, and where the zones of influence overlap contributions towards the mitigation of both may be sought. The financial contribution secured by the planning obligation would be directly related to the development, necessary to ensure that the development would not have a significant adverse effect on the SPAs, and fairly and reasonably related in scale and kind to the development because the contribution would be in

accordance with the published criteria. The Planning Inspectorate's letter to the Council dated 13 September 2021, regarding Environmental Impact Assessment, also explains that 'This direction does not affect any duties of the appellant under other legislation, including The Conservation of Habitats and Species Regulations 2017'.

18. Although the contribution would meet all 3 statutory tests in Regulation 122 of The Community Infrastructure Levy Regulations 2010 as amended, and in Framework paragraph 57, and whilst the appellant says he would be prepared to make the contribution, no completed planning obligation towards off-site access management mitigation for the proposal has been put to me.
19. Thus, I consider that the proposal would be likely to have a significant adverse effect on the integrity of the SPAs regarding recreational impacts. It would be contrary to LP Policies 50 and 51, the SPD, and the Framework.

SPAs: waste water impacts

20. Furthermore, in respect of waste water impacts on Solent European sites, the advice of Natural England is that proposals that comprise new development with overnight accommodation will have waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017. This only applies to developments where the treated effluent discharges into any Solent European site, which includes Chichester and Langstone Harbours SPA, or any water body that subsequently discharges into such a site. If so, Natural England's advice is that the nutrient content of the discharge needs to be considered, in combination with other nutrient inputs, for impacts on the receiving site.
21. As the competent authority, I would be required to seek further information so that I could carry out appropriate assessment in respect of the waste water impacts of the proposed development. However, as the harm identified in my first 2 main issues and with regard to recreational impacts on the SPAs is sufficient reason to dismiss the appeal, I have not pursued the matter further with the parties.

Other Matters

22. As the Council cannot demonstrate a 5 year supply of land for housing, the self-build dwelling would make a welcome but modest contribution to local housing need. Even so, because habitats sites are included in footnote 7 to Framework paragraph 11, and the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, the presumption in favour of sustainable development is not engaged.
23. As the roughly C18 mainly hipped roofed mostly 2 storey listed building at Swan Cottage is partly screened from the site by an outbuilding in its grounds, and as the proposed dwelling would be some distance from it, its setting would be preserved. Whilst the appellant's other points have been considered, including the potential contribution that the proposal could make to the vitality of the rural community, they would not outweigh the harm that the proposal would cause.

Conclusion

24. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
25. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR