



Appeal Decision

Site visit made on 17 May 2022

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

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/L3815/W/21/3286625

Land To The North Of Sunnybrook, Highleigh Road, Sidlesham PO20 7NN

- 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 Craig Kings against the decision of Chichester District Council.
 - The application Ref SI/20/02858/FUL, dated 6 November 2020, was refused by notice dated 18 August 2021.
 - The development proposed is a single storey private dwelling house.
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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 and appearance of the surrounding area,
 - future occupiers' safety from flooding,
 - biodiversity interests on and near the site, and
 - the Chichester and Langstone Harbours Special Protection Area (SPA) and the Pagham Harbour SPA.

Reasons

Character and appearance

3. The appeal site is a mostly flat irregularly shaped paddock on the roughly east side of Highleigh Road, roughly north of the dwelling at Sunnybrook House. The site is outside the settlement boundary of any settlement designated in the Chichester Local Plan: Key Policies 2014-2029 (LP), so it is, in policy terms in the countryside. The site is partly edged by hedgerows, with open fields to north and east. The wider mainly flat countryside landscape includes open fields and polytunnels, a network of hedgerows and drainage ditches with occasional groups of trees, and some horse-related paddocks. Close by, and roughly south of the modest cluster of development at Highleigh, there is a thin scatter of dwellings on the west side of the road but, apart from Sunnybrook House, the land on the east side is mainly open paddocks.
4. LP Policy 1 reflects the presumption in favour of sustainable development in the National Planning Policy Framework (Framework). In line with LP Policy 1, LP Policy 2 sets out the settlement hierarchy for the District, and it explains that outside Chichester city and the designated Settlement Hubs, the Service Villages will be the focus for new development and facilities. In the Rest of the

Plan Area outside the Settlement Boundaries of the settlements listed in LP Policy 2, development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with LP Policies 45 and 46.

5. LP Policy 45 states that within the countryside, outside Settlement Boundaries, development will be granted where it requires a countryside location and meets essential small scale and local need which cannot be met within or immediately adjacent to existing settlements. LP Policy 46 applies to proposals for the conversion and re-use of buildings in the countryside, so it is not relevant to the proposal.
6. There are barely any facilities in Highleigh, and the city of Chichester and the town of Selsey are roughly 5 and 4 miles away respectively. The nearest bus stop is roughly a mile away and mostly reached by the narrow unlit lane without footpaths, which could be unattractive for walking or cycling in inclement weather or after dark. So, the future occupiers would be likely to be reliant on private vehicles for most trips. As there is almost no evidence to show that the proposed dwelling would need to be situated within the rural area, it would be contrary to LP Policies 2 and 45. Also, as the proposal would have poor accessibility to local shops and services and it would be likely to increase trips and domestic activity in the rural area, it would fail to meet the social and environmental aims of the Framework and LP Policy 1.
7. The appellant says that the dwelling would comply with Framework paragraph 80. Framework paragraph 80 states that the development of isolated homes in the countryside should be avoided unless one of several circumstances apply, including that the design is of exceptional quality, and meets 2 criteria. The site is some way from shops and services in Chichester and in the designated settlement hubs and service villages, but it is near the hamlet of Highleigh, there is a commercial rural enterprise beyond the field and public right of way to roughly east and dwellings in Highleigh Road to roughly south and west. The site can also be seen from the road and the nearby public right of way, so the site could not reasonably be regarded as 'isolated'.
8. The green roofed single storey low profile dwelling is based on the Neolithic settlement of Skara Brae. Its earth covered flat roofed organic form would be partly sunk into the ground and lit by rooflights and courtyards. However, because the dwelling would be sited within the gap between Sunnybrook House and Sunnybrook Barn, it would harmfully intrude into that important verdant gap, and it would erode the sporadic pattern of development. Whilst the styles of the dwellings in the locality vary greatly, most have relatively compact traditional forms and largely open grounds. So, the amorphous mounded form of the dwelling, which would take up much of its generous site, would look incongruous.
9. The proposed soft landscaping could not reasonably be controlled by condition for more than a few years so, in time, it could give way to future occupiers' planting preferences to the detriment of the dwelling's appearance. The scale, bulk and alien form of the dwelling and the proposed exotic tree species during daylight, and light spill from the dwelling's rooflights and in the open courts after dark, would detract from the local landscape character. The domestic paraphernalia associated with the dwelling, including gazebos, garden furniture and washing lines on its mounds and in its grounds would be harmfully

dissonant in the rural scene. The activity related to the dwelling, including the comings and goings of the future occupiers and their visitors, would disrupt the present tranquillity in the largely undeveloped paddock. So, despite its soft landscaped appearance, the proposal would have a built-up residential character that would contrast starkly with its rural surroundings.

10. The scheme aims to promote high levels of sustainability, with a 'fabric first' approach that would include a super-insulated air-tight building envelope and renewable energy systems including photovoltaic and solar thermal panels, and ground and air source heat pumps. Low emission vehicles could be an option for day to day trips, but because they would consume energy in some form, and due to the activity associated with them, the poor accessibility of the site would weigh against the sustainability aims of the proposal. As LP Policy 40 aims for sustainable design and construction to be considered for all new dwellings, and the Council has confirmed that the approach and sustainability measures referred to by the appellant are now part and parcel of much new development in the District, the sustainability aims of the proposal attract neutral weight in the planning balance.
11. I have found that the proposal could not reasonably be considered to be an isolated home in the countryside in terms of Framework paragraph 80. Even if it were, because the proposal would be at odds with the mainly flat largely agricultural landscape, and the scale and form of the dwellings in the locality, it would not significantly enhance its immediate setting, or be sensitive to the defining characteristics of the local area. The proposal also seeks to help raise the standard of design more generally in the area, but because it would fail to fit in with the overall form and layout of its surroundings, it would be contrary to Framework paragraph 134. The other developments referred to in the design and access statement aim to show the appellant's commitment to promoting architectural quality, but as their designs and contexts differ from the proposal before me, they provide little support for this damaging scheme.
12. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to LP Policies 1 and 2, LP Policy 33 which seeks the highest standards of design and for proposals to respect and enhance the character of the surrounding area and site, and LP Policy 45. It would also be contrary to LP Policy 48 which aims to permit development, where, amongst other things, there would be no adverse impact on the tranquil and rural character of the area, development recognises distinctive local landscape character and sensitively contributes to its setting, and proposals respect and enhance landscape character and do not undermine the integrity of predominantly open and undeveloped land between settlements, and the Framework which seeks sustainable development, to achieve well-designed places, and for development to be sympathetic to local character including the surrounding landscape setting.

Flood risk

13. The appellant's Stage 1 Flood Risk Assessment (report) explains that the site is within Flood Zone 1 with Flood Zones 2 to 3 encroaching from roughly west and that the site could be unaffected by flooding in a 1:200 year (2115 epoch) defended tidal event in accordance with the Environment Agency (EA) defended tidal model, so compensatory measures would not be required. Even so, the EA model would be reliant on sea defences being maintained in their

current form for the next 100 years, and the report notes that the road could be affected by flooding in the 1:200 year (2115 epoch) plus climate change (2070 and 2115) events. The report also explains that the site is within an area with a high susceptibility to ground water flooding. Whilst it advises that a hydrogeologist should be consulted regarding mitigation measures for buildings located in areas at high risk of ground water flooding, there is almost nothing to show that the recommended geotechnical investigations have been carried out or mitigation measures proposed.

14. The appellant says that there is no need to apply the sequential test because the site is within Flood Zone 1. However, because the only access to the site is within Flood Zones 2 and 3, the Council's 2115 Tidal Mapping shows that most of the site could be subject to undefended coastal flooding during the lifetime of the development, and the floor of the single storey dwelling would be roughly 1.5 m below ground level, the sequential test should be applied. Also, whilst the report says that access and egress routes to and from the site would need to be investigated, future occupiers would need to subscribe to the EA Flood Warning Service for the area, and that strategies for surface water and foul water drainage would be required, the advised site specific Flood Risk Assessment has not been put to me.
15. Thus, I consider that there is insufficient evidence to show that the future occupiers of the proposal would be safe from flooding. It would be contrary to LP Policy 42 which aims to avoid inappropriate development in areas at current or future risk of flooding, and the Framework which aims for development to be made safe from flooding for its lifetime.

Biodiversity

16. The appellant's preliminary ecological appraisal (appraisal) concludes that the development can proceed with minimal impact to habitats and protected and notable species if the mitigation measures outlined within the report, and any measures arising from the further surveys, are implemented. The appraisal recommends that a reptile survey is carried out between March and September, but no subsequent reptile survey has been put to me.
17. The Council says that the hedgerow to the east of the site has been identified as part of Chichester's bat network, and that it is used by commuting and foraging bats. The proposal would, amongst other things, cause a loss of the species poor hedgerow that runs roughly north south across, and within, the east part of the site. The appraisal explains that suitable habitat for foraging and commuting bats was recorded within the site, but as the site is small and surrounded by good quality foraging habitat, the site is of low suitability for foraging and commuting bats. It also states that, as hedgerow loss will be mitigated, any effects on bat activity are likely to be insignificant and temporary in nature where they occur.
18. Whilst there is almost nothing to show that the vegetation to the east of the site would be affected by the proposal, due to the lack of the recommended reptile survey, I consider that there is insufficient evidence to show that the proposed development would not adversely affect biodiversity interests on and near the site. It would be contrary to LP Policy 49 and the Framework which seek to safeguard and enhance biodiversity.

SPAs

19. The site falls within the 5.6 km zone of influence of the Chichester and Langstone Harbours SPA and within the 3.5 km zone of influence of the Pagham Harbour SPA. In determining this appeal, I am the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
20. The proposed development would increase the number of people living near the SPAs. So, this proposal, in combination with other plans and projects, would be likely to have a significant effect on the SPAs due to increased recreational disturbance. Because the proposal is not directly connected with or necessary for the management of the SPAs, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the SPAs in view of their conservation objectives. I could only grant planning permission if I were to ascertain in that appropriate assessment that the integrity of the SPAs would not be adversely affected. However, as the proposed development would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment.
21. Whilst the appellant says that the financial contributions in accordance with the joint mitigation strategy outlined in phase III of the Solent Disturbance and Mitigation Project and towards the appropriate management of the Pagham Harbour Local Nature Reserve in accordance with the LNR Management Plan would be made, there is no planning obligation in place to secure them.
22. Thus, I consider that the proposal would be likely to have a significant adverse effect on the integrity of the SPAs. It would be contrary to LP Policies 50 and 51 which require appropriate mitigations for the effects of development on SPAs, the Habitats Regulations, and the Framework which aims to conserve and enhance the natural environment.

Other matter

23. Compliance with the appellant's suggested pre-commencement and other planning conditions, including those to deal with flood risk, foul and surface water drainage, biodiversity, landscaping, and the construction phase, would not be enough to make this unacceptable proposal acceptable.

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