



Appeal Decision

Hearing Held on 28 February 2023

Site visit made on 28 February 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2023

Appeal Ref: APP/L3815/W/21/3289451

112 Main Road, Hermitage, Southbourne PO10 8AY

- 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 A Williams of PNH Properties Ltd against the decision of Chichester District Council.
 - The application Ref SB/21/02238/FULEIA, dated 18 July 2021, was refused by notice dated 28 October 2021.
 - The development proposed is erection of 29 no. (8 no. affordable and 21 no. open market) new dwellings, public open space, landscaping, parking and associated works (following demolition of existing buildings).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form names the site as 'Gosden Green Nursery', as does the submitted Section 106 Agreement (S106). However, the site has apparently not functioned as a nursery for more than 10 years, and signage at the site entrance currently refers to it as 'Gosden Business Park and Storage'. The parties otherwise agreed at the hearing that the address should simply reference 112 Main Road. I have therefore used this in the banner heading above, albeit the dwelling numbered 112 is itself excluded from the site.
3. The description of development in the banner heading above is that used by the Council, which is more concise than that provided on the application form.

Main Issue

4. The main issue is whether the site is a suitable location for the proposed development, having regard to its effects on the character and appearance of the area, including the Chichester Harbour Area of Outstanding Natural Beauty (the AONB).

Reasons

Background

5. Policy 2 of the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) sets out the Council's settlement strategy. This seeks to achieve a sustainable distribution of development, partly by focussing this within defined settlement boundaries. The latter serve to ensure accessibility to services and facilities,

compatibility with the setting, form and character of settlements, and avoidance of coalescence. As the site is located outside the settlement boundary of Hermitage the scheme would conflict with Policy 2. It would also conflict with Policy 45 of the Local Plan, given the development would not meet the exceptions this outlines for 'countryside' locations. In each regard further conflict would arise with Policy 1 of the Southbourne Parish Neighbourhood Plan 2014-2029, which supports the application of Policies 2 and 45.

6. Policy 2 of the Local Plan is however based on dated housing numbers, and the Council has faced difficulty in establishing and maintaining a demonstrable 5-year supply of deliverable housing sites (5YHLS). In recognition of this the Council has prepared an Interim Policy Statement (IPS) for use in assessing proposals outside settlement boundaries. The IPS does not form part of the development plan. Its use is however intended to indicate where flexibility in relation to the location of development could be appropriate. In this regard it contains a range of broad criteria, which generally reflect the concerns underpinning development plan policies. Insofar as some of these relate to character and appearance and the AONB, the Council's locational concerns are confirmed to relate to the effect that the proposed development would have on the character and appearance of the area, including the AONB.

Character and appearance

7. Hermitage chiefly comprises C19th and C20th housing of mixed urban/suburban type. It lies between Emsworth and Southbourne, and is bisected by the east-west route of the A259, land to the south of which, including the site, falls within the AONB. The latter, which has its focus on the picturesque low-lying landscape surrounding Chichester Harbour, is one of the smallest such designated areas in the country.
8. The settlement boundary of Hermitage is tightly drawn, and adjacent to the site this continues to reflect the situation as viewed on the ground. Indeed, reasonably dense housing along Gordon Road to the west of the site, and along the north side of the A259 each form strong edges to the settlement. Beyond these edges, fields, green open spaces, and the sparser more scattered nature of residential development, together mark a perceptible shift in character to that of open countryside.
9. The northwest corner of the site adjoins the defined settlement boundary. However, the site is nonetheless physically and visually separated from housing along Gordon Road by a field, and existing buildings are set well back from the A259 behind open space. Other fields lie towards the east. As almost the whole of the site, including the buildings currently on it, therefore appreciably fall beyond the established edges to the north and west, the site is perceived to lie within the immediate landscape setting of the settlement.
10. This impression is reinforced by the fact that most of the buildings currently on site are glasshouses. Despite having been repurposed for storage use some time ago, in public views from the north and east these continue to appear as simple, reasonably low-key horticultural structures. In contrast to housing to the north and west, they are thus readily viewed as components of the broader agricultural landscape. Though the glasshouses have been described as 'redundant', 'dilapidated' and 'semi-derelict', most remain in use and externally intact. As their state of repair is not otherwise readily apparent from outside

the site, this does not in any case affect the way in which the glasshouses are publicly perceived within the surrounding setting.

11. The above impressions are also not altered by the presence of a close boarded fence along the southern edge of the site, given that this simply serves to screen views from this perspective. Nor is it greatly affected by the vehicles stored at the southern end of the site, as these are far less readily visible from outside the site than the glasshouses. Moreover, as they presumably come and go, they are not permanent features.
12. Set within the broader context of the AONB, the site lies within a zone of transition. This is experienced most clearly moving south from the A259 along the footpath to the east of the site, where the experience is one of rapid movement away from the noisy, developed edge of Hermitage, and out into an increasingly open and more tranquil landscape. Scattered development to the south does not significantly diminish this sense, and nor, as outlined above, do the glasshouses on site. Whilst the landscape within this transitional zone is of lesser quality than that of the more open landscape to the south, in buffering the latter, it is nonetheless highly sensitive to change.
13. Here I am mindful of the duty to have regard to the purpose of conserving and enhancing natural beauty within the AONB, and paragraph 176 of the National Planning Policy Framework (the Framework) which states that great weight should be given to conserving and enhancing landscape and scenic beauty within AONBs.
14. The 29 dwellings proposed would largely cover the site, with open spaces provided at the northern and southern ends. Relative to the glasshouses, this would entail an overall reduction in the footprint of built form. However, the proposed dwellings, together with associated features, would be spread across a larger area, and their ridge heights would exceed those of the glasshouses, some by a considerable margin. Though I have been provided with no indication of comparative volume, it is apparent that the overall distribution and massing of built form would cause the development to appear far more physically and visually conspicuous than that of the glasshouses currently on site.
15. The replacement of horticultural structures with residential development would furthermore entail a fundamental change in character. Falling beyond the settlement edge, the development would appear as a pronounced and detached encroachment of housing development into the landscape. This would be clearly at odds with the established layout of the settlement, and the relationship of the settlement with its landscape setting. The suburbanisation involved would also harmfully erode the transitional character of the site's setting within the AONB.
16. Neither these adverse effects nor their perception would be altered by use of vernacular styling or a slightly less dense layout than is seen in adjacent parts of Hermitage. The development would still in essence be viewed as an incongruously located suburban estate. Nor is it likely that this would be effectively masked by landscaping. Though there are some tall trees on the east boundary, established vegetation provides only partial screening of winter views into the site, and realistic scope to sensitively strengthen this would be limited. The development would in any case be accessible, and the site would be opened up to the south. In each regard the existence of the development

and its intrusion into the landscape would therefore be obvious to anyone using the local footpath network.

17. Scope for landscape and biodiversity enhancement has also been more broadly promoted in relation to proposed open spaces to the north and south ends of the site. However, whilst each could see enhanced planting, the open spaces would inevitably be subordinate components within the overall layout of the development, and would be perceived as such. Here any benefit of removing the existing southern boundary fence would be cancelled out by the fact that this would, as outlined above, also serve to expose the development.
18. The appellant stresses that the site area represents 0.4% of the AONB. It is open to question whether such a percentage can really be considered 'negligible' in the context of a protected landscape. Moreover, given that the AONB includes large tracts of water, it is unclear how much of the dry land area of the AONB this figure actually represents. It is therefore of limited value both as a measure in itself, and as an accurate indicator of the magnitude of effects.
19. Within this context paragraph 177 of the Framework states that permission for major development should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The Framework provides no threshold or definition of major development, but instead sets out a series of considerations for the decision maker. Whilst one of these is 'scale', there is no definition or formula by which this should be measured. Though attempts may have been made to distil rules of thumb from analysis of past appeal decisions, the matter is ultimately one to be considered on a case-by-case basis having regard to specific circumstances. My assessment is not therefore bound by the findings of other Inspectors in other cases, and I reject the appellant's suggestion that 30 dwellings, or one more than is proposed, should be considered as the threshold for major development within an AONB.
20. Having regard to the matters set out in footnote 60 of the Framework, I have already considered the nature of the development and its setting above, as too its comparative scale. Having done so I have found that the scheme would see suburbanisation of and encroachment into the landscape, involving a more physically and visually conspicuous form of development, spread across a wider area, than currently occupies the site. As this would result in the harmful erosion of a sensitive zone of transitional character within the landscape of the AONB, it would have a significant adverse effect on the purposes for which the area was designated. I am therefore satisfied that the scheme would constitute major development for the purposes of paragraph 177 of the Framework.
21. The principal consideration advanced as an exceptional circumstance by the appellant is the both general and local need for market and affordable housing, particularly given the Council's current lack of a demonstrable 5-year supply of deliverable housing sites (5YHLS). The main parties disagree over whether the supply is 4.72 years or 4.34 years, and the submissions show that the position has been subject of frequent fluctuation and change since the application was determined. At worst, the appellant's figures indicate the existence of a modest 0.64 year shortfall, as opposed to the minor 0.28 year shortfall accepted by the Council.
22. The Framework seeks to significantly boost the supply of housing, and the proposed development would clearly assist, helping to address the Council's

shortfall in the process. That said, I have been provided with no evidence that any necessity exists, either in terms of land or costs, for the Council's housing needs to be provided for by major development within the AONB. Even within the context of Hermitage, it remains the case that most of the settlement lies outside the AONB. In these regards, whether the shortfall in 5YHLS is 0.64 years or 0.28 years makes little difference if it can be more appropriately addressed by utilising sites outside the AONB. This applies equally in relation to both market and affordable housing, particularly as in this case the provision of the latter would be no more than policy compliant. Based on the evidence before me, the need for and benefits of housing provision, together with the shortfall in 5YHLS, does not in and of itself constitute exceptional circumstances justifying major development within the AONB.

23. The appellant has additionally emphasised the constraints placed on the local delivery of housing by nutrient neutrality issues. However, the nitrogen credits whose use is proposed in this instance could presumably also or alternatively be utilised by other more appropriately located housing schemes. The added hurdle of achieving nutrient neutrality does not therefore alter my above view.
24. Given its change in use to storage, large parts of the site qualify as previously developed land (PDL). However, though the Framework indicates that substantial weight should be given to the value of using brownfield land within settlements for homes, my assessment above indicates that it falls outside the settlement. As also established above, the use of the site, as too therefore its identification as PDL, does not alter its perceived character, or the harm that would be caused by the development. Again therefore, the identification of PDL does not alter my above view.
25. The appeal scheme would generate/support economic activity during the construction and occupation phases, in much the same way as would any housing development. But whilst it is apparent that the active commercial use of the site would cease were the development to take place, I have been provided with no clear evidence that the local economy would be adversely affected were it not to. Again, based on the evidence before me, economic considerations do not indicate the existence of any exceptional circumstance in this case.
26. In terms of recreation, public access would be provided through the development, linking the A259 with the footpath to the south of the site. However, this would not be of any obvious benefit to either the AONB at large or its enjoyment. Indeed, other north-south routes are already available within the immediate vicinity, and that provided through the development would simply serve to highlight the site's suburbanisation to anyone who used it.
27. Having already considered the scheme's broader detrimental effects and ways in which these could be moderated, any scope for improved landscaping and biodiversity enhancement would not outweigh the broader adverse effects of the site's suburbanisation. Once again, no exceptional circumstances exist.
28. The appellant has drawn my attention to a hospice constructed at another former nursery within the AONB. However, whilst the location and developments differ, this case otherwise has little direct relevance to my assessment of the site-specific effects and considerations applicable to the appeal scheme as set out above.

29. I therefore find that in this case there are no exceptional circumstances that would justify major development within the AONB. The proposed development would not therefore be in the public interest. Consequently, the Framework indicates that permission should be refused.
30. For the reasons set out above I conclude that the site would not be a suitable location for the proposed development given its unacceptable effects on the character and appearance of the area, including the AONB. Aside from the policy conflicts outlined above, the development would therefore additionally conflict with Policy 43 of the Local Plan, which amongst other things supports the conservation and enhancement of the AONB, and Policies 33 and 48 of the Local Plan, which amongst other things similarly seek to secure development in keeping with the character of the surrounding area and its setting in the landscape, and which respects and enhance the landscape character of the surrounding area and site. Insofar as the scheme would conflict with related criteria within the IPS, the IPS does not indicate that a decision should be taken other than in accordance with the development plan.

Other Matters

31. The scheme would conflict with the development plan taken as a whole. However, in the absence of a 5YHLS, the Framework indicates that for the purposes of decision making the policies most important for determining the application are deemed 'out-of-date'. This is otherwise the agreed position of the parties, and basis for the Council's use of the IPS, as outlined above.
32. I am nonetheless satisfied that the policies relating to the AONB, design, and landscape matters with which I have identified a conflict, are broadly consistent with those set out within the Framework. So too is the rationale underpinning the use of settlement boundaries, even if the boundaries themselves are dated. When assessed against the Framework itself, my findings in relation to the AONB in any case provide a clear reason for refusing planning permission. Insofar as it has been referenced by the appellant, the 'tilted balance' is not therefore applicable.
33. The application was partly refused on the basis that the scheme would fail to secure contributions towards infrastructure, the provision and management of open space, the provision of affordable housing, contributions towards mitigation of recreational impacts on habitats sites, and nutrient neutrality in relation to the same. The appellant has sought to address these matters through the submitted S106, and a separate legal agreement covering the purchase of nitrogen credits. The Council is satisfied, and had I been minded to allow the appeal, it would have been necessary for me to consider these matters in greater detail, including within the context of an Appropriate Assessment. Whilst I have nonetheless considered the benefits of affordable housing provision and open spaces within my reasons above, given that I am dismissing the appeal for other reasons, no further consideration of the above matters is necessary.
34. The Council additionally raised concerns that aspects of the development would result in poor living conditions for its future occupants, and the occupants of No 112. This was not however explicitly identified as a reason for refusal despite reference being made in the decision notice to the 'cramped layout'. That being so, and as I am dismissing the appeal for other reasons, I need not examine the matter in any further detail.

Conclusion

35. For the reasons set out above, the effects of the development on the character and appearance of the area including the AONB, would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Ros Capey	Owner
Ian Donohue	Southern Planning
Jeremy Littler	Owner
Ned Helme	Counsel for the appellant, 39 Essex Chambers
Martin Hird	Terra Firma
Nigel Jacobs	Intelligent Land
Abe Mohsin	Mohsin Cooper

For the Council

Jo Bell	Development Manager: Majors and Business
Owen Broadway	Principal Conservation and Design Officer
Alex Roberts	Lambert Smith Hampton
Jane Thatcher	Senior Planning Officer: Majors and Business

Interested parties

Dr Richard Austin	AONB Manager, Chichester Harbour Conservancy
Tracey Banger	Local Councillor
Johnathan Brown	Local Councillor
Tom Edom	Local Resident
Lyn Hicks	Parish Council
David Rothery	Principal Planner, Chichester Harbour Conservancy
Amanda Tait	Parish Council