



Appeal Decision

Site visit made on 6 June 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/L3815/W/22/3312775

Bosham Reach, Shore Road, Bosham, PO18 8QL

- 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 Mrs Judy Mason against the decision of Chichester District Council.
 - The application Ref BO/21/03659/FUL, dated 21 December 2021, was refused by notice dated 14 July 2022.
 - The development proposed is change of use of land to residential curtilage and construction of hard surfaced tennis court with fencing.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use of land to residential curtilage and construction of hard surfaced tennis court with fencing, at Bosham Reach, Shore Road, Bosham, PO18 8QL in accordance with the terms of the application, Ref BO/21/03659/FUL, dated 21 December 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - a) The effect of the proposal upon the character and appearance of the area, including the Chichester Harbour Area of Outstanding Natural Beauty (AONB), and
 - b) Whether the site is suitably located for the development proposed with regard to the Council's development strategy.

Reasons

Character and appearance

3. The site is located towards the end of low-density linear development that extends from the main area of Bosham and aligns with the edge of the Bosham Channel, facing towards Bosham Quay. The area is low lying and has a tranquil character that is dominated by its outlook over the Channel and the adjacent undeveloped countryside.
4. The site is within the AONB. The National Planning Policy Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs, which carries the highest status of protection. The flatness of the landform and the unique blend of land and sea are special qualities of the AONB that are readily appreciated from the area surrounding the site.

5. The Adopted Joint Chichester Harbour Area of Outstanding Natural Beauty Supplementary Planning Document places the site within the Harbour Peninsular: Bosham character area. This refers to larger twentieth century shore side houses, set in large garden plots with a suburban character. This describes the linear development close to the site to the north that follows the line of Shore Road.
6. The appeal dwelling and the dwelling to the northeast would appear to have agricultural origins, however they form part of the adjacent linear development.
7. The site is a narrow portion of land that the appellant states is currently without use. It is bound by the residential curtilage of the appeal dwelling to the southwest. To the northeast it borders a narrow track and drainage ditch, beyond which stands a further dwelling. Thus, the appeal site is hemmed in on both sides by existing residential land. Despite having a former agricultural use, it does not hold a meaningful relationship with the open agricultural land which is to the south and east, and with which it does not share a common boundary.
8. The appeal site is mown and undivided from the main area of residential curtilage at the rear of the dwelling. From Shore Road it would easily be mistaken as part of the dwelling's garden. The site is set well back from the road and faces it end on. Although visible from the road, intervening vegetation and the proximity of buildings to either side mean that it is not prominent to view.
9. The proposed tennis court would be seen in the most part alongside the existing dwelling, when viewed from the area of Shore Road to the north where the site is most visible. Owing to the height of the existing building and the trees within the appellant's garden at the rear, the fence enclosure would not be prominent to view. The enclosure would not appear incongruous or cause significant harm; instead, it would be seen from a limited area in a residential context, with dwellings and their curtilages to either side.
10. The surface of the tennis court would be difficult to view from outside the site owing to the flat topography of the area. I note the potential for the area to be used for other domestic activities and thus attract various paraphernalia such as garden furniture and children's play equipment. However, given the nature of the proposal, its location away from the main part of the dwelling's garden, and the quality and scale of the rest of the existing garden area I consider it highly unlikely that this would become an issue.
11. In summary, the proposal would not harm the character and appearance of the area, including the special qualities of the AONB. It would accord with Policies 43 and 48 of the Chichester Local Plan: Key Policies 2014-2029 (LP) and Policy 6 of the Bosham Parish Neighbourhood Plan 2014-2029 (NP). Together these seek to ensure that development proposals conserve the natural beauty and locally distinctive features of the AONB, and the openness and tranquillity of the area.

Location

12. With reference to Policy 2 of the LP, the site is outside the settlement area of Bosham and is thereby restricted to development which requires a countryside location, meets an essential local rural need, or supports rural diversification.
13. Policy 2 links to LP Policy 45. This Policy establishes that development in such locations will be granted if it requires a countryside location and meets the essential, small scale and local need. Policy 2 and Policy 45 of the LP do not relate easily to a proposal to extend a residential curtilage, as in most cases such a proposal would not meet an essential need. Policy 1 of the NP is similarly restrictive.
14. I have however established that the proposal would not harm the character and appearance of the area, including the AONB. Additionally, it would not result in development that would be isolated or generate additional travel. It would therefore not conflict with the objectives of the Council's development strategy which have been prepared within the context of the special environmental qualities of the area, infrastructure requirements and deliverability.
15. For these reasons, whilst the proposal would not strictly accord with these Policies, I am satisfied that the material considerations before me are sufficient that it is reasonable for me to make a decision that is not in accordance with the development plan. I therefore find that the proposed site is suitably located for the development proposed.

Conditions

16. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed condition 2 to specify the approved plans as this provides certainty. In addition to the plan referred to in the Council's suggested condition, I have added the proposed drainage strategy plan included within the Surface Water Drainage Report Ref C1982 Rev PL1 to ensure that surface water at the site is properly managed.
17. I have imposed condition 3 to ensure that the tennis court is constructed of the materials specified in the submission and condition 4 to require the submission of additional details relating to the proposed fencing, to safeguard the character and appearance of the area including the AONB.
18. I have imposed condition 5 to prevent the installation of external lighting of the tennis court, as the provision of such lighting has the potential to have a significant impact on the tranquil character and appearance of the area including the AONB.

Conclusion

19. For the reasons above, the appeal should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall not begin later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1095/01 Rev C and C1982 PL 100 Rev 1.
- 3) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application forms and plans, unless otherwise agreed in writing by the Local Planning Authority.
- 4) Prior to the installation of the fencing hereby approved, a scheme shall first have been submitted to and agreed in writing by the Local Planning Authority to include:
 - Scaled plans showing the location of the fencing and elevations, and
 - Details of the materials and finishes.

The fencing shall be erected in accordance with the agreed details.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no illumination shall be erected within the area of the tennis court hereby approved.