



Appeal Decisions

Site visit made on 16 May 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2023

Appeal A Ref: APP/L3815/W/22/3300829

Densworth House, Funtington Road, East Ashling PO18 9AP

- 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 Ayton against the decision of Chichester District Council.
 - The application Ref 21/03639/DOM, dated 9 December 2021, was refused by notice dated 21 March 2022.
 - The development proposed is conversion of outbuilding to provide a domestic annex.
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Appeal B Ref: APP/L3815/W/22/3300832

Densworth House, Funtington Road, East Ashling PO18 9AP

- 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 Ayton against the decision of Chichester District Council.
 - The application Ref 21/03546/DOM, dated 9 December 2021, was refused by notice dated 18 March 2022.
 - The development proposed is conversion and extension of outbuilding to provide a domestic annex.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed

Main Issues

3. The main issues for both Appeal A and Appeal B are:
 - whether the proposals would entail the creation of a new dwelling and planning unit and, if so, whether the resulting dwelling would be suitably located in terms of accessibility to services and facilities;
 - the effects on the integrity of designated Habitat sites, and;
 - the effect on the character and appearance of the area.

Reasons

Whether creation of a new dwelling

4. Densworth House is a large house set within a rural setting and including substantial grounds which extend to the north away from Funtington Road. The wider site includes areas of formal landscaping, outbuildings and residential paraphernalia, surrounded predominantly by belts of mature trees and hedgerows. The appeal schemes relate to an existing storage building at the northern extremity of the site.
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5. I observed that the existing building, despite being at the far northern end of the site, is within the garden setting of Densworth House. It sits close to the areas of formal landscaping and mown lawn to the south, as well as smaller scale outbuildings, including a nearby greenhouse, and is not separated from these features by any subdivision of the land. Access to the existing building is possible via one of two tracks which extend through the gardens.
6. In respect of Appeal A, the proposed floor plan shows one bedroom, plus living accommodation and bathroom, but without kitchen facilities. While these could reasonably be provided within the building, their absence would suggest a significant degree of reliance on the main house for meals.
7. By comparison, Appeal B proposes two bedrooms alongside all facilities which would enable independent living by its future occupants, including bathroom, extensive kitchen and living areas. As Appeal B would provide all the facilities necessary for independent day-to-day living, it would be in residential use, rather than being for a purpose incidental to the use of the existing dwellinghouse¹. Appeal B would accommodate an elderly family member who resided in the main house during the Covid pandemic, and the extended building would allow a live-in care assistant to share the accommodation. A degree of reliance on the facilities of the main house is intended, particularly in terms of meal sharing and socialising.
8. For these reasons taken together, in the case of both Appeal A and Appeal B there would be a physical and functional link between the proposals and the main dwellinghouse and the proposals would remain part of the same planning unit, that would still be occupied by a functionally single household. While the distance between the main house and the proposals is approximately 200m, I do not find this alone would amount to the planning unit being severed, given the ease of the links between the two buildings, the nature of the access and the relative scale of the appeal site overall.
9. The Council have drawn my attention to other appeal decisions relating to this matter. I have not been provided with full details of those particular appeals and, in any event, my considerations relate to the details and circumstances of the appeals before me.
10. In conclusion on this main issue and for the reasons given, the proposals under both Appeal A and Appeal B would remain part of the same planning unit as Densworth House. A suitably worded condition could be imposed as suggested by the appellant if the appeals were otherwise acceptable.
11. As the use of the outbuilding would be part and parcel of the use of Densworth House, I do not find it necessary to consider the suitability of the location for housing in terms of its accessibility to services and facilities. In turn I do not find conflict with policies 2 and 45 of the Chichester Local Plan: Key Policies 2014-2029 (the LP) which contain the development strategy for the District and set criteria for new development in the countryside. Nor would the proposals be at odds with the objectives of the National Planning Policy Framework (the Framework) relating to sustainably located development.

Habitat Sites

¹ As was the case in *Uttlesford DC v SSE & White* [1992] JPL 171

12. The appeal site is within the catchment of the Solent Maritime Special Area of Conservation (SAC) and Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar Site, designated for their wildlife importance. The SPA and SAC are European sites designated under the Habitats Regulations² and the Framework identifies that Ramsar sites should be given the same protection. The proposals are not directly connected with, or necessary to the management of, any of these protected areas. The matters in dispute relate to the effects on nutrient neutrality and recreational disturbance, which could arise from the proposals.

Nutrient Neutrality

13. Both Appeal A and Appeal B entail the provision of residential accommodation which would be in addition to that provided by Densworth House. While some shared activities are anticipated, the proposals are clearly intended to provide the main living and sleeping areas for its future occupants and include new bathroom and washing facilities. This is particularly the case for Appeal B, which would entail the creation of a building which would otherwise contain all the facilities required for self-contained use. The proposals would therefore increase the amount of wastewater generated at the site, resulting in possible increased levels of nutrients into the water courses and catchment of the Habitat sites.
14. As such, both proposals present a pathway for effect on the designated features of the European sites and, adopting a precautionary approach, would have a likely significant effect on the important features of the protected sites, alone or in combination with other plans and projects. Therefore, in accordance with the Habitat Regulations, an Appropriate Assessment is required.
15. The relevant protected areas are designated for their plants, habitats and animals, in particular birds, which are of national and international importance. The Council report that Natural England have previously advised that additional nitrates and phosphorus entering the Solent is causing eutrophication of a number of designated sites, speeding up the growth of certain plants, disrupting natural processes and impacting wildlife. As such, if increased wastewater from the developments were to enter the catchment, elevated levels of phosphates could add to these effects.
16. There is little evidence relating to Natural England's mitigation methodology which the appellant reports links to the number of new homes proposed. This is at odds with the Council's approach relating instead to the increased provision of overnight accommodation. In any event, given the particular characteristics of the appeals before me, and adopting the necessary precautionary approach, I cannot rule out the possibility that both proposals would have an adverse effect on the conservation objectives and integrity of the protected sites with regard to the discharge of nitrates.
17. The appellant refers to Natural England comments in respect of other similar proposals. However, I do not have details of those developments or their circumstances and as such I cannot be certain that they are comparable to the appeals before me.

² Conservation of Habitats and Species Regulations 2017

18. The Council have suggested that a legal agreement could be used to secure appropriate mitigation should the relevant calculations be provided. In the absence of detailed evidence relating to any such mitigation measures and whether they could reasonably be incorporated into the developments, as well as the absence of such an agreement, it cannot be ascertained that the proposals would not adversely affect the integrity of the sites. Given this uncertainty, the use of a condition, negatively worded or otherwise, would be unreasonable.
19. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission should not be granted. Both Appeal A and Appeal B would conflict with the Framework insofar as it relates to habitat sites.

Recreational Disturbance

20. In addition, the site lies within the zone of influence for the Chichester and Langstone Harbour SPA, where bird species are being adversely affected by disturbance with human activity a major influence. The LP sets out that all net increases in residential development will subsequently need to provide for a package of avoidance and mitigation measures.
21. As set out above, the proposal would be occupied by an elderly relative who previously resided within Densworth House and who now requires separate accommodation within the grounds. As such there would remain a functional link to the main house and the occupants would remain as part of the same household.
22. Consequently, based on the evidence, I find the proposals would not be likely to have a significant effect on the important interest features of the SPA, alone or in combination with other plans and projects, in respect of recreational disturbance. Neither Appeal A nor Appeal B would be in conflict with Policy 50 of the LP relating to the Chichester and Langstone Harbour SPA.

Character and Appearance

23. As above, the character of the appeal site is predominately residential, arising from the paraphernalia and structures forming the extended gardens of Densworth House. A cluster of buildings exists to the east and open countryside stretches beyond the appeal site.
24. Both Appeal A and Appeal B would result in the building encompassing a more domestic appearance, arising largely from the introduction of glazing to the elevations and a flue to the roof. However, in both cases, as a result of the low level of the building, its scale, together with the use of natural materials including wood cladding and slate, the building would appear visually unintrusive. The surrounding mature landscaping to the northern and eastern boundaries would assist also assist in screening the building from wider views.
25. In any event, even if the proposals were to be visible from surrounding view points, given their relationship to the existing garden and nearby outbuildings including greenhouse, they would integrate with the domestic character and appearance of the site.
26. For the reasons given both Appeal A and Appeal B would preserve the character and appearance of the area. Both would comply with Policy 48 of the

LP which requires development, among other things, to have no adverse impact on the tranquil and rural character and recognise local landscape character. The proposal would also comply with the objectives of the Framework relating to the countryside and natural environment.

Other Matters

27. I note the concerns regarding restrictive conditions on the adjacent Coach House raised by both main parties. However this lies outside the scope of this appeal.
28. Both proposals would be set within the grounds of Densworth House, which is grade II listed. As a historic house dating from the late 18th century, its garden and adjacent grounds form an important part of its setting within which its significance can be appreciated. As such, both proposals would form a part of its setting. By reason of their distance from the main house, together with their low level and natural palette of materials, the proposal would preserve the setting of the heritage asset.
29. The use of the existing outbuilding may prevent the need for another building within the grounds of Densworth House, which could potentially have adverse effects on the setting of the listed building. It would also be a more sustainable option through reuse of the existing fabric and would provide some economic benefit during construction. In addition, the proposal would provide accommodation for an elderly relative, and care worker in the case of Appeal B, which the Framework acknowledges at paragraph 62 to be a group who's housing needs should be reflected in planning policy. A social benefit would also result through allowing the relative to reside close to his family. While these are benefits of the proposal, they would not outweigh the harm identified above.
30. My consideration of the appeal has had regard to Policy 1 of the LP and paragraph 11 of the Framework which relate to the presumption in favour of sustainable development.

Conclusion

31. For the reasons given, Appeal A and Appeal B are dismissed.

C Shearing

INSPECTOR