
Appeal Decision

Site visit made on 2 April 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Appeal Ref: APP/L3815/W/23/3328608

2 The Gardens, College Lane, Chichester, West Sussex PO19 6PF

- 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 Chahboune, Ayad Property Ltd against the decision of Chichester District Council.
 - The application Ref CC/22/03202/FUL, dated 21 December 2022, was refused by notice dated 19 July 2023.
 - The development proposed is the construction of a new building for student accommodation.
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Decision

1. The appeal is allowed and permission is granted for the construction of a new building for student accommodation at 2 The Gardens, College Lane, Chichester, West Sussex PO19 6PF, in accordance with the terms of the application, Ref CC/22/03202/FUL, dated 21 December 2022, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the effect on the Chichester Conservation Area (CA);
 - the effect of the proposal on the living conditions of the occupiers of No 2 The Gardens in relation to outlook;
 - whether the proposal would have a significant adverse effect, either alone or in combination with other plans and projects, on the integrity of European nature conservation sites.
3. A further reason for refusal, that in the absence of mitigation the proposal would unacceptably impact the strategic highway network, was withdrawn as no car parking would be provided as part of the scheme and the students concerned would be unlikely to bring cars to the city.

Reasons

Character and appearance

4. The proposal is for a purpose-built building to provide student accommodation on an area of vacant ground next to an existing building (No 2 The Gardens) used for the same purpose. The site lies opposite the entrance to Chichester University within the Chichester CA, and there is no dispute it is suitable for the use concerned. College Lane retains a strong rural quality lined by flint walls and mature trees; the proposal would introduce a further building on the site but the mature trees on the west and south boundaries and the flint wall along the road frontage would be retained to protect this overall character.
5. Whilst the two-storey building would be relatively large, with a footprint about 11.5 m x 11.5 m, this would be similar to the adjacent building which is also of two storeys. The front elevation would include a full height gable and a smaller dormer style gable facing the road, reflecting the form of the existing building. Whilst somewhat wider than its neighbour at first floor level, the building would be set back about 4 m and have a lower ridge height, reducing its apparent mass and bulk. The side elevations of the new building would only have limited fenestration, one or two windows, but approaching from the south this would be largely screened by roadside and boundary trees and from the north only seen briefly in the gap between the buildings. Overall, the bulk and mass of the proposed building would be in keeping with its neighbours and it would not appear out of place in its setting.
6. The building would match the vernacular style of its neighbour, with traditional details at the eaves, heads of doors and windows, and would be built of similar materials, brick with clay tile hanging and clay tiled roof. The Council object to the use of UPVC windows as out of character with the CA but the two adjacent buildings and the red brick building over the road all have windows of this type. The large scale Chichester CA covers a number of different character areas and it would be unreasonable to withhold permission on the basis of an apparently blanket policy that is more relevant elsewhere.
7. For these reasons the proposal would not adversely affect the character and appearance of the area and would preserve the character and appearance of the Chichester CA. This would comply with Policies 33 and 47 of the Chichester Local Plan 2015 (CLP) which require new development to meet the highest standards of design, to respect and where possible enhance the character of the surrounding area in terms of massing, scale and detailed design, and within a CA to recognise, respect and enhance local distinctiveness and character, conserving and enhancing its special interest.

Living conditions

8. The proposal would be sited about 4 m from the southern elevation of the existing student accommodation building with a 2 m high close boarded timber fence along the common boundary. As such the outlook from one ground floor and one first floor side facing window in the existing building would be affected. However, the use of the rooms concerned is unclear and due to the set back of the proposal much of the outlook from the windows towards the road would be retained. For these reasons the effect of the proposal on the living conditions of the occupiers of No 2 The Gardens in relation to outlook would be acceptable

and would comply with CLP Policy 33 which seeks to ensure proposals provide a high quality living environment.

European Nature Conservation Sites

9. The site lies within easy travelling distance of the Pagham Harbour SPA and the Chichester and Langstone Harbour SPA/Ramsar where visitor pressure arising from additional residents may, either alone or in combination with other plans and projects, have a significant adverse effect on the integrity of the habitats concerned. In addition, the site lies within the drainage catchment of the Solent Maritime SAC where additional nutrients arising from further overnight accommodation may also have effects on integrity.
10. In respect of recreational pressure the appellant has entered into a unilateral undertaking to provide a financial contribution of £1041 plus £150 monitoring fee towards suitable mitigation measures. In respect of nutrients the appellant has provided a nitrogen budget calculation which would be mitigated if 0.1 ha of East Field, off Droke Lane East Dean is taken out of agricultural production. This arrangement could be secured by attaching a suitable condition. Natural England have deemed both mechanisms to be acceptable in principle to avoid adverse effects on the habitats concerned.
11. Consequently, in the light of the unilateral undertaking and subject to a suitable condition, the proposal would not have a significant adverse effect, either alone or in combination with other plans and projects, on the integrity of European nature conservation sites. The proposal would thus comply with CLP Policies 49-51 which require mitigation to avoid harm to protected habitats.

Other matters

12. The setting of the Grade II listed mid-19th century Bishop Otter College buildings would be unaffected due to their position set well back within their own grounds on the opposite side of College Lane.
13. The Council has put forward several conditions should the appeal be allowed, and these have been assessed against the relevant tests with minor changes made as necessary. In addition to the standard time limit for implementation it is necessary to define the approved plans in the interests of certainty. Further conditions are necessary to control the external materials to be used and to secure a hard and soft landscaping scheme and its maintenance to ensure the satisfactory appearance of the development. Conditions are also necessary to secure nutrient neutrality to protect the Solent Maritime SAC and to protect and enhance the ecological value of the site. Finally, a condition is necessary to restrict use of the development to student accommodation as the application has been determined on this basis.

Conclusion

14. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - E-001 Location and Site/Block Plan
 - E-002 Existing Site Plan
 - E-003 Existing Section A-A and Street Elevation
 - P-001 Proposed Site Plan
 - P-002 Proposed Ground Floor Plan
 - P-003 Proposed First Floor Plan
 - P-004 Proposed Roof Plan
 - P-005 Proposed Elevations
 - P-006 Proposed Section A-A and Street Elevation
 - P-007 Surface Drainage Plan
- 3) No development shall commence unless the Local Planning Authority has received the Notice of Purchase in accordance with the requirements of the legal agreement between CDC, SDNPA and John Holt dated 21.12.2022 in respect of the Credits Linked Land identified in the Nutrient Neutrality Management Plan (2 February 2023) submitted with the application.
- 4) Notwithstanding any details submitted no development/works above slab level shall commence until a full schedule of all materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.
- 5) The development hereby permitted shall not be first brought into use until a scheme detailing hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include plans showing the proposed means of enclosure; layout; details of the hard surfacing materials; and a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. Thereafter the scheme shall be carried out by the end of the first available planting season in accordance with the approved details. Any trees or plants which are removed, die or become seriously damaged or defective within five years shall be replaced as soon as is reasonably practicable with others of the species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.
- 6) The development hereby permitted shall not be first brought into use until the following ecological enhancements have been implemented:
 - a. The installation of one bird box on the building and/or tree within the garden of the property.
 - b. The installation of one bat box on the building facing south/south westerly positioned 3-5m above ground.

- c. The installation of a hedgehog nesting box within the site. Thereafter, the ecological enhancements shall be retained and maintained in perpetuity.
- 7) The development hereby permitted shall be carried out in strict accordance with the Ecological Appraisal prepared by The Ecology Co-op (13 February 2023) and the methodology and mitigation recommendations they detail, unless otherwise agreed in writing by the Local Planning Authority.
- 8) The following ecological mitigation measures shall be adhered to at all times during construction:
 - a. the lighting scheme for the site must take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.
 - b. Any brush, compost and/or debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) the development hereby permitted shall be used only for student accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes)(Amendment)(England) Order 2015, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).