



Appeal Decision

Site visit made on 24 July 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/M1710/W/23/3330542

Land to the south of Hook Cottage, Pattersons Lane, Blendworth, Horndean PO8 0AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Allan Sills against the decision of East Hampshire District Council.
 - The application Ref is 59640.
 - The development proposed is the construction of three detached 4-bedroom dwelling houses with associated garages, basements and vehicle accesses.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of three detached 4-bedroom dwelling houses with associated garages, basements and vehicle access at Land to the south of Hook Cottage, Pattersons Lane, Blendworth, Horndean PO8 0AH in accordance with the terms of the application and subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to a proposed development in proximity to a listed building. Accordingly, I have had special regard to the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would preserve the setting of the nearby listed building; and
 - the effect of the proposed development on the living conditions of the occupants of the neighbouring care home.

Reasons

Character and appearance

4. The appeal site comprises a parcel of land positioned to the south of Hook Cottage. It is predominantly formed of grassland, aside from some small areas of hardstanding.

5. To the south of the site lies an existing care home and to the north and west of the site is an emerging care village development. Both the care home and care village development are highly visible from within the site and from Hook Cottage. Those nearby developments can also be glanced through gaps in landscaping along Pattersons Lane and Rowlands Castle Road.
6. The Council sets out, in its officer's report, that the appeal site falls on land allocated for housing and that much of the site lies within the settlement policy boundary. I have no reason to disagree with those findings. From that perspective, there is no dispute between the parties in respect of the principle of development on the site.
7. The proposed dwellings would appear as traditional two-storey structures. They would be clearly domestic in nature and of a detailed design which takes cues from the surrounding area, including through the use of materials which are sympathetic to those used nearby. This includes facing flintwork and chimney, plinth and quoin detailing.
8. The relatively modest scale of the proposed development, both in terms of the individual dwellings, and the development as a whole, would be appropriate in this location, and in keeping with established built form to the north of the site. The proposed development would also be appropriate relative to the design, scale and position of the existing care home development and the emerging developments around the appeal site. Ultimately, the proposed development would assimilate to an acceptably high standard in this semi-rural location (the character of which would be retained) and respect the established built form here.
9. Overall, I conclude that the proposed development would be acceptable in this location, in accordance with the relevant provisions of Policies CP20 and CP29 of the East Hampshire District Local Plan: Joint Core Strategy (CS, 2014). These policies, in summary, seek to ensure high quality design in development which protects local distinctiveness. This is in a similar vein to the objectives of the National Planning Policy Framework (the Framework) insofar as good design is concerned, and that of the Horndean Parish Village Design Statement.

Heritage – special interest and significance

10. Hook Cottage is a Grade II listed building¹. It is a largely 18th century structure, altered and re-fronted in the early 19th century, with further additions in the 20th century. It is finished in flint with brick dressings and a slate roof over.
11. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, its surviving historic fabric and the use of historic building techniques and materials.
12. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The attached gardens of the house, including the front lawn and driveway, have an historic, visual and functional connection with the heritage asset. These grounds form the asset's immediate setting, and it is from here that the asset is best appreciated. This immediate setting contributes considerably to the asset's special interest and significance.

¹ List Entry Number: 1094565

13. Beyond this, the extended grounds of the house and surrounding rural area, of which the site forms a part, is made up of a mixture of open land and loosely arranged, predominantly residential, development. This includes the recently developed sites to the south and west. This is indicative of the evolution of the surrounding area over time. This surrounding area, including the appeal site, forms the asset's wider setting. The surrounding development has altered how the asset is experienced to a degree. Whilst the asset might once have been surrounded solely by undeveloped open land, these developments have, to a degree, altered how the asset is experienced from the surrounding public realm. This moderates the contribution this wider setting makes to the asset's special interest and significance.

Heritage – appeal proposal and effects

14. There is no doubt that the proposed development would be visible from the heritage asset, introducing built form to a site where there is currently none. Although the built form would be positioned closer to the asset than is currently the case, this would be to a marginal degree and viewed against the backdrop of the prominent care home to the south. The physically and functionally separate relationship between the developed part of the appeal site and listed building would be maintained and the asset's historic and architectural interest would remain unaffected by the proposed development. The retention of a considerable separation distance and retained intervening landscaping features would all reinforce this. Furthermore, the immediate setting and most of the wider setting that contributes to the asset's significance would remain undisturbed by the proposed scheme.

15. Taking these factors into account, the proposed development would not compromise the setting of Hook Cottage, rather it would have a neutral effect that would not detrimentally alter how the asset would be experienced and would not adversely affect the ability to appreciate its significance. The semi-rural setting of the asset and the interrelationship between it and the countryside to the north and east would be retained. Consequently, the immediate and wider settings of the asset and the contribution that they make to its significance would be preserved.

16. Overall, I conclude that the proposed development would preserve the setting of the Grade II listed building, Hook Cottage. Consequently, the proposed development would not harm the significance of the heritage asset. In doing so, it would satisfy the requirements of Section 66(1) of the Act and would not conflict with the relevant provisions of CS Policy CP30 or Policy HE12 of the East Hampshire District Local Plan (2006). These policies, in summary and when taken as a whole, seek to protect heritage assets. This is in a similar vein to the relevant provisions of the Framework, insofar as they seek to protect the historic environment.

17. In finding no harmful effects to the special interest and significance of the designated heritage asset, it is not incumbent on me to consider any public benefits that would flow from the proposal.

Living conditions

18. There is no doubt that the proposed development would change the relationship between the appeal site and the established care home to the

south. In particular, built form would be visible where this does not currently exist.

19. Nevertheless, Plot 1 would be positioned to the north-east corner of the care home. Plot 1 would feature only a limited number of windows (none to the south elevation) and views towards the dwelling from the care home (and vice versa) would be at an oblique angle. Plot 3, as the other nearest proposed plot to the care home, would be setback considerably from the shared boundary. From that perspective, the nearest plots to the care home would not unacceptably harm the living conditions of the occupiers of the adjacent care home and nor would the care home be overlooking the appeal site. Whilst there may be some perceived overlooking from the care home into the gardens of the proposed plots, this would not be to a harmful degree by reason of the mitigating factors described above.
20. The existing, partly matured landscaping along the shared boundary would further mitigate any perceived mutual overlooking here. Whilst I note that landscaping cannot be relied on in perpetuity to mitigate against the perception of overlooking, the planting along this boundary is typical of the area. In my view, it is unlikely that landscaping here would be substantially reduced or lessened, rather than increased, over time.
21. Overall, I conclude that the proposed development would have an acceptable effect on the occupiers of the nearby care home, and on the future occupiers of the appeal site, in accordance with the relevant provisions of CS Policies CP27 and CP29 which, in summary, seek to protect the amenity of residents, including in respect of overlooking. This is in a similar vein to the objectives of the Framework insofar as it relates to the protection of living conditions.

Other Matters

Nutrient neutrality

22. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Regulations) requires a competent authority, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects. I am the competent authority for the purposes of this appeal.
23. The appellant has submitted a Shadow Habitats Regulations Assessment (SHRA) and a Nitrate Budget Calculator. The SHRA sets out that the Solent water environment is internationally important. It concludes that there are high levels of nitrogen and phosphorus nutrients in these waters and the evidence indicates these nutrients are causing eutrophication of the waters (excess mats of dense green algae which deplete oxygen as these subsequently decay).
24. The SHRA determines that the proposed development, which is remote from the public foul sewer network, would result in increased waste-water discharge from the site. This in turn may lead to increased levels of nitrogen entering the Solent, harming habitats through eutrophication.
25. However, the mitigation measures set out, relating principally to the use of a Package Treatment Plant (PTP)² to treat foul water, have been concluded as

² A Klargestar Bioficient+ Package Treatment Plant.

yielding a net nitrogen reduction compared with the existing situation and consequently there would be no likely significant effect on protected sites.

26. There is no dispute between the Council and appellant in respect of nutrient neutrality and Natural England do not object to the scheme based on the proposals, subject to the proposed mitigation measures being secured. Based on the evidence before me, I have no reason to come to an alternative conclusion.
27. Overall, I am satisfied in respect of nutrient neutrality. Moreover, I am satisfied that the mitigation measures, in this particular case, could be secured through a suitably worded planning condition relating to the discharge of sewage. Consequently, the proposed development would accord with the Regulations and the relevant provisions of CS Policies CP21 and CP22. These policies, in summary seek to ensure that development will maintain, enhance and protect biodiversity, including at internationally designated sites. This is in a similar vein to the provisions of the Framework insofar as they relate to the protection of habitats and the conservation of the natural environment.

Self-build

28. The appellant, in their statement, makes reference to self-build dwellings. However, the application documents do not make reference to this, including the application form which references market housing. Moreover, no means of securing the dwellings as self-build has been put forward. Nevertheless, this has not changed my conclusion on the main issues.

Third parties

29. Matters of highway safety were raised by neighbours. Whilst I acknowledge these comments, there is no dispute between the Council and appellant in respect of highway safety, subject to the imposition of conditions, and I have no reason to disagree with those findings. Therefore, these matters have not led me to an alternative conclusion on the main issues.

Conditions

30. The Council has provided a list of 17 conditions. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and consider in that context that only 12 need to be applied. I have amended the wording of some, and combined provisions of others without altering their fundamental aims.
31. Conditions relating to time limits and approved plans have been imposed in the interests of certainty. Conditions requesting details (and samples) of materials and boundary treatments have been imposed in the interests of the character and appearance of the area. Conditions relating to the provision of parking areas and accesses are imposed in the interests of highway safety.
32. A condition requesting a finalised arboricultural method statement and tree protection plan has been imposed in the interests of the protection of retained trees and given that certain details were submitted in draft. A condition requesting details of surface water drainage and sewage disposal arrangements (via a package treatment plant) is imposed in the interests of flood prevention and to ensure no adverse impacts on protected sites. A further suggested

condition relating to porous materials is unnecessary as this would be satisfactorily dealt with under the drainage condition.

33. A condition requesting adherence to the submitted Ecological Impact Assessment is required in the interests of the protection of biodiversity. A condition relating to archaeological works is required in the interests of the protection of any archaeological findings. A condition relating to energy demand has been imposed in the interests of sustainability.
34. A suggested condition removing permitted development rights has not been imposed as I have insufficient evidence before me to demonstrate that this is necessary.
35. Conditions 3-9 are pre-commencement conditions as they are necessary to ensure that any design features and potential mitigation are properly designed in prior to the commencement of development.

Conclusion

36. For the reasons given above, having regard to all other matters raised, I conclude that the appeal should be allowed.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 28123-PD100 (Site Location Plan); 28123-PD109 (Site Block Plan); 28123-PD110 (Site Layout Plan); 28123-PD111 (Floor Plans); 28123-PD200 (Proposed Elevations); 28123-PD120 A (Landscape Plan).
- 3) Prior to the commencement of development:
 - (i) An archaeological field evaluation shall be carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the Local Planning Authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation shall be undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to the commencement of the development hereby permitted, details of a scheme shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate that the development incorporates measures that provides at least 10% of energy demand from decentralised and renewable or low carbon energy sources. Prior to the occupation of the development a verification report and completion certificate, assessed by a competent person, shall be submitted to and agreed in writing by the Local Planning Authority confirming that the built development hereby permitted has been constructed in accordance with the approved details. The measures shall be retained thereafter.
- 5) Prior to the commencement of the development hereby permitted, details (including manufacturer, type and where it is to be used) and samples of all external materials, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of the development hereby permitted, details of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the position, design and materials/species of the boundary treatments to be erected/planted. The development shall be implemented in accordance with the details as approved and retained thereafter.
- 7) Prior to the commencement of the development hereby permitted, details of surface water drainage management and the disposal of sewage shall be submitted to and approved in writing by the Local Planning Authority. Details of surface water drainage should include details of permeable surfaces and should be based on site investigation and percolation tests. Details of the disposal of sewage shall be based on the measures set out within the submitted Shadow Habitats Regulations Assessment (2022)

and Nutrient Assessment and Budget (2022), including the Klargester Bioficient+ Package Treatment Plant.

The development shall not be occupied until the surface water drainage and disposal of sewage measures have been implemented on the site in accordance with the approved details. The approved works shall be thereafter operated and maintained in accordance with the approved details, and the submitted PTP Monitoring and Maintenance Plan (2023).

- 8) Prior to the commencement of the development hereby permitted, a finalised arboricultural method statement and tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the details as approved.
- 9) Prior to the commencement of the development hereby permitted, the accesses, including the verge crossings, shall be constructed and lines of sight of 2.4 metres by 50 metres provided in accordance with the approved plans. The lines of sight splays shown on the approved plans shall be kept free of any obstruction exceeding 1 metre in height above the adjacent carriageway and shall be subsequently maintained thereafter.
- 10) Prior to the occupation of the development hereby permitted, details of a water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that no more than 120 litres of water per person per day shall be consumed within the development. All measures necessary to meet the agreed water efficiency calculation must be installed before first occupation and retained thereafter.
- 11) Prior to the occupation of the development hereby permitted, the areas shown on the approved plans for the parking of vehicles shall be made available. The parking areas shall be retained thereafter.
- 12) The development hereby approved shall be carried out in accordance with the measures set out in the submitted Ecological Impact Assessment report (June 2022). These measures shall be retained thereafter.