

Appeal Decision

Site visit made on 7 August 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2024

Appeal Ref: APP/L3815/W/23/3328217

The Honey House, Chalder Lane, Sidlesham, West Sussex PO20 7RJ

- 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 and Mrs D Wood against the decision of Chichester District Council.
 - The application Ref is SI/23/00978/FUL.
 - The development proposed is the erection of 1 no. additional dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, the description of development has been taken from the decision notice and appeal form.
3. The National Planning Policy Framework (the Framework) was updated in December 2023. The sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views. However, the revised version has been referenced in this decision.

Main Issues

4. The main issues are whether the appeal site is a suitable location for the proposed development having regard to relevant development plan policies relating to the countryside; the effect of the proposal on the character and appearance of the area; the Chichester and Langstone Harbours and Pagham Harbour Special Protection Areas; and the Strategic Road Network and Local Highway Network.

Reasons

Location

5. The main parties agree the appeal site is beyond any settlement boundary within the countryside. Policy 2 of the Chichester Local Plan (LP) sets out a development strategy for the area based on a settlement hierarchy which

restricts development in the countryside in accordance with LP Policies 45 and 46.

6. LP Policy 46 is not relevant to the type of development proposed. However, LP Policy 45 states development will be granted in the countryside where it requires a countryside location and meets an essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements. It also states that sustainable development will be granted permission if it can comply with 3 additional criteria, including its relationship with existing groupings of buildings.
7. It is recognised that the proposal would constitute a singular dwelling so could be considered small scale and spatially would be related to the surrounding buildings including The Honey House, the adjacent nursery, and the animal rescue centre on the opposite side of the road. However, there is nothing before me which suggests the proposal is essential or meets a local need, nor that it would be complementary to any viable agricultural operations or other existing viable uses, nor specifically requires a countryside location.
8. Consequently, I do not find the location of the appeal site to comply with the relevant development plan policies relating to the countryside, namely LP Policies 2 and 45.
9. It is noted the Council have also referred to LP Policy 5 in relation to this matter. This policy sets out the indicative housing numbers for small scale housing sites within the various parishes in the borough. In this case I do not find this determinative in this instance.

Character and appearance

10. Chalder Lane extends from the village of Sidlesham, a low-density collection of dwellings loosely based around a church and public house, out into the countryside beyond. The first part of the lane is characterised by detached properties set back from the road on plots generally screened from each other by large, maturely planted gardens. Development then transitions into more commercial uses, specifically a nursery and animal rescue centre, before the lane narrows as it extends into open countryside.
11. The spacing between development increases as the lane extends from the village into the countryside with a clear definition between the residential development and the commercial uses. The appeal site physically forms part of this space between uses. Equally and due to the maturely planted and established nature of the land attributed to the residential properties, including The Honey House and the appeal site, this creates a visually verdant appearance to the transition from Sidlesham to countryside. Accordingly, the appeal site contributes positively both physically and visually to the overall character of Chalder Lane and the immediate area.
12. The proposal would position a new 2 storey dwelling and associated hard standing, broadly centrally within the space between The Honey House and the nursery. Although set back from the lane edge, and it is proposed the existing hedging and planting along that boundary would be retained, it is clear the proposal would be visible from the lane and would physically reduce

the space between the residential and commercial uses. This is because the appeal site is on land at a higher level to the lane and the proposed new dwelling would be significantly larger than The Honey House. It would reduce the clear transition along the lane and represent a creep of development which would have an urbanising effect. In combination with the physical bulk of the new dwelling and loss of space, this would have a harmful impact on both the character and appearance of Chalder Lane.

13. It is appreciated that the proposed new dwelling would be of a form and style appropriate to its setting, but this does not negate the harm identified in relation to its siting and scale within that setting.
14. The proposal would therefore fail to comply with LP Policies 33, 45 and 47 insofar as they require new development to respect, and where possible enhance the distinct character of the surrounding area including being of a scale, siting, and design which would have a minimal impact on that character.

Chichester and Langstone Harbours Special Protection Area

15. The appeal site is within the zone of influence of the Chichester and Langstone Harbours Special Protection Area (SPA). Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to ensure that the development would not adversely affect the integrity of the SPA.
16. The SPA qualifies for such protection as it supports populations of internationally rare bird species. These are susceptible to predation and disturbance and rely on the area's various habitats.
17. The additional dwelling proposed, whilst minimal on its own, would contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the SPA, it is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SPA. Given the susceptibility and vulnerability of the qualifying features of the SPA to such uses, the development could adversely affect the integrity of the protected sites in combination with other projects.
18. However, this is a long-term issue for the Council, and it has mitigation strategies in place which would be appropriate for the proposal. This takes the form of a financial contribution towards schemes which would reduce the recreational disturbance of the SPA.
19. From the information before me I am satisfied that such a contribution would be necessary to make the development acceptable in planning terms. It follows that the Council's Unilateral Undertaking template could secure the sufficient mitigation for the recreational disturbance of the SPA.
20. The appellant has completed a version of the template which shows willingness to meet this requirement. Nevertheless, a map showing "The Land" has not been attached, as required by clause 2, nor has clause 3 of the Unilateral Undertaking (the UU) been completed. Consequently, there is nothing clearly identifying the land the UU would be tied to, nor proving the signatories title to that land. The UU cannot, therefore, be relied on to

mitigate against any detrimental effect on the SPA. As such the proposal would fail to comply with LP Policies 50 and 51 as far as they seek to protect the birds of the SPA from development disturbance.

Strategic Road Network and Local Highway Network

21. Policy 9 of the LP sets out the requirements for infrastructure provision related to all development. Criteria 2 of Policy 9 requires that all development provides, or funds new infrastructure, facilities or services required, both on- and off- site, as a consequence of that proposed.
22. This requirement is echoed and formalised within emerging policies I1, T1 and T2 of the Chichester Local Plan Review 2021-2039: Proposed Submission (eLP). Though as emerging policies these carry limited weight.
23. The proposal is for a net increase of 1 dwelling and therefore its impact on highway usage is likely to be minimal. Nevertheless, from the information before me it is evident that there are significant issues in terms of road capacity, which in turn would affect highway safety and function, and could be detrimentally affected even by a small increase in usage. Thereby, it can be expected for the proposal to proportionally mitigate the additional impact it would have.
24. As with the SPA contribution, a contribution would be necessary to make the development acceptable in planning terms and the UU has incorporated this. Nevertheless, due to the incomplete nature of the UU it cannot be relied on to secure the contribution. Consequently, the proposal would fail to comply with LP Policy 9, and by association eLP Policies I1, T1 and T2.

Planning Balance

25. The Council cannot demonstrate a 5-year housing land supply. However, the Council's eLP has reached the Regulation 19 stage of the Local Plan Regulations 2012 (as amended). Consequently, the Council consider paragraph 226 of the Framework applies, so only requires the Council to identify 4 years' worth of housing against the 5-year requirement. The appellant does not disagree with this but notes that the provision as of the 1 April 2023 is 4.19 years and relies heavily on the windfall allowance being achieved to keep the figure above 4 years.
26. There is nothing before me to show whether the permission granted for windfall development by year is comparable to the windfall allowance. So, I cannot conclude whether the inclusion of the windfall allowance in the housing land supply calculations is appropriate or realistic.
27. Nevertheless, the Framework is a material consideration and therefore it is necessary to consider the proposal against it. The Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations. Paragraph 84 of the Framework also sets out circumstances when isolated homes in the countryside could be considered acceptable including when the design is of exceptional quality.
28. The proposal would provide a net increase of 1 dwelling and it is appreciated that there is some availability of public transport nearby which would constitute limited benefits of the scheme. The positive credentials of a

Passivhaus design would also carry only limited weight. This is because it is now not an uncommon design type with multiple examples evident throughout the country. Therefore, it can no longer be considered unique. Along with a lack of any independent assessment as to the exceptional quality of the proposed design, I am not convinced it would meet the requirements of paragraph 84 of the Framework.

29. Notwithstanding this, housing provision should not come at the cost of local character, protection of the natural environment and the functionality of transport infrastructure, all positions equally supported by the Framework.
30. The Council have found no harm in relation to living conditions, access, parking, ecology, and the sustainable characteristics of the proposal. However, a lack of harm is a neutral factor and so cannot weigh for or against the proposal.
31. Consequently, when weighed against the policies in the Framework taken as a whole, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the proposed benefits. Therefore, even were I to consider the appellant's position regarding windfall housing land supply, the proposal would fail to comply with paragraph 11d)ii of the Framework.
32. The appellant has referred to paragraph 154 of the Framework. This refers to development in the Green Belt of which the proposal is not, therefore it is not determinative in this decision.

Conclusion

33. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR