



Appeal Decision

Site Visit made on 23 September 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/L3815/W/24/3342465

1 & 2 Azara Parade Bracklesham Lane, Bracklesham Bay, Chichester, PO20 8HP

- 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 M Fitch (Fitches Estates Ltd) against the decision of Chichester District Council.
- The application Ref is EWB/23/00196/FUL.
- The development proposed is for the demolition of existing units (A3 and A1 use) and erection of a two-storey mixed use building with E(a) use on ground floor and a 2 No dwellings on the 1st floor.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For certainty and accuracy, I have used the address given on the Council's Decision Notice.
3. Subsequent to this appeal, the National Planning Policy Framework (the Framework) was revised in December 2023. However, on 30 July 2024 the new Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to Paragraph numbers are to this version.

Main Issues

5. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of the area,
 - the living conditions of the neighbouring occupiers,
 - the Strategic Road Network (SRN); and,
 - the Chichester and Langstone Harbours Special Protection Area (SPA).

Reasons

Character and appearance

6. The appeal properties at No 1 & 2 Azara Parade consist of a one-storey restaurant and a shop that sit between a two-storey, chalet-style residential dwelling to the south and a two-storey mixed-use commercial building to the north. The dwellings face onto Bracklesham Lane, which is a short distance from Bracklesham Bay. In addition to a small number of commercial premises, the surrounding area is predominantly an established residential area that is typified by eclectic-built form, including chalet-style brick and tile dwellings, some of which have grey or white elevations.
7. The existing properties would be demolished in order to construct a retail unit with two dwellings above. The 'uplift' to the front, while taller than the existing built form on the site, would result in a similar height building to the two-neighbouring dwellings. The chalet-style front gable ends would also accord with a number of other dwellings nearby.
8. Moreover, notwithstanding that the dwelling would extend across the bulk of the site, I do not share the Council's concern that the side elevations would be highly visible in the street scene. Indeed, I find to the contrary, the light-coloured finishes to the upper elevations would soften the massing and width of the building when viewed from the road.
9. Furthermore, while I acknowledge that the proposed glazed balcony is not typical of the balconies in the nearby area, its simple translucent nature would not draw the eye or appear as an alien feature in the street-scene.
10. Overall, I conclude that the proposal would accord with the character and appearance of the area.
11. As such, in respect of the character and appearance of the area, the proposal would meet the aims of Policy 33 of the Chichester Local Plan 2014-2029, (2018) (CLP) which says that new residential development and replacement dwellings must meet the highest standards of design, and for similar reasons, Paragraph 135 (b) of the Framework which requires that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living conditions

12. If the rooflights to the proposed dwelling shown on the submitted floor and roof plans were to be constructed, it would result in some very minor 'inter-looking' potential with the neighbouring dwelling of No 3 Azara Parade. For example, during routine cleaning or decorating. These activities are to be expected from time to time in a residential dwelling and does not form a reason to dismiss the scheme.
13. However, at my site inspection, I viewed the appeal site from the garden and upper windows of the 'Westerlies'. Consequently, as the proposed development would extend beyond the built line of the dwellings facing onto Bracklesham Road, it was clear that the rear elevation of the bulky, two-storey proposal would be in very close proximity to the neighbouring dwellings, including Nos 2 & 3 Westerley Gardens.

14. I acknowledge the existing landscaping and hedging associated with the garden spaces to the rear of the appeal site. However, landscaping would not be adequate mitigation as I cannot be certain that this vegetation will remain in perpetuity, especially as the occupation of the nearby dwellings will inevitably change over time.
15. Indeed, notwithstanding, the proposed hip roof and set back at first-floor level, this arrangement would create a sense of enclosure in comparison to the existing one-storey buildings. In addition, the first-floor windows would overlook the garden spaces to the rear.
16. As a result, the immediacy and scale of the new development would not only create a sense of overbearing but also lead to a loss of privacy for the occupiers of the 'Westerlies' and Nos 2 & 3, particularly when using the garden spaces for activities such as, but not limited to, gardening and sitting out.
17. It follows then that the proposal would harm the living conditions of the neighbouring occupiers.
18. As such, in respect of the living conditions of the neighbouring occupiers, the proposal would be contrary to Policy 33 of the CLP and Paragraph 135 (f) of the Framework, which is clear that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

SRN & SPA

19. The Highway Authority has not objected to the proposal. Nonetheless, following the publication of the A27 Chichester Bypass Mitigation Supplementary Planning Document (May 2024), the Council is seeking a financial contribution from all new housing developments to increase road capacity, reduce traffic congestion and improve highway safety. The need for contributions related to smaller residential schemes is noted.
20. The appeal site is also located in the SPA and is therefore, subject to the Habitat Regulations which protect it. If I had come to a different conclusion, it would have been necessary for me as a competent authority to undertake an 'Appropriate Assessment' and the likely effectiveness of any mitigation measures or the acceptability of financial contributions in respect of that mitigation.
21. However, while the appellant has submitted a Unilateral Undertaking ('UU') in respect of the SRN and SPA, as I have found that the proposal would not be acceptable for other reasons, and therefore planning permission is to be refused, it is not necessary for me to consider these matters or the acceptability of the 'UU' to the Council any further in this case.

Other Matters and Planning Balance

22. The Council has brought my attention to the potential for flood risk on the appeal site. However, while this is noted, given my findings above and the limited evidence before me in this respect, I have not raised this as a main issue in this appeal.
23. The Council has a recorded housing land supply shortfall. As such, Paragraph 11 (d)(ii) of the Framework is engaged. I acknowledge that the proposal would be constructed on an existing site. However, the relatively minimal benefits of the scheme, which include two new dwellings against the Council's housing land supply and the social and economic benefits related to the retention of an existing business, do not outweigh the harm I have found to the living conditions of the neighbouring occupiers.

Conclusions

24. For the reasons given above, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR