

## Appeal Decision

Site visit made on 1 October 2024

**by V Simpson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2024**

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**Appeal Ref: APP/L3815/W/24/3337056**

**Gatehouse, Inlands Road, Nutbourne, West Sussex PO18 8RJ**

- 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 Domusea Developments Ltd against the decision of Chichester District Council.
  - The application Ref is SB/22/01477/FUL.
  - The development proposed is: Demolition of existing dwelling, replace with 5 no. flats, new access, parking, landscaping and associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Before the application was determined, amended plans were submitted reducing the number of flats from 6 to 5. The 5-flat scheme is the subject of this appeal. The description of the development in the banner has been amended accordingly.
3. A signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 – as amended, has been submitted as part of the appeal. I return to this later.
4. The Southbourne Neighbourhood Plan<sup>1</sup> (The Neighbourhood Plan) has been made since the planning application was determined. As such, it now forms part of the Development Plan.
5. The Council has adopted the Chichester Local Plan 2014-2029 - A27 Chichester Bypass Mitigation Supplementary Planning Document - October 2024 (the SPD). The main parties have had the opportunity to submit comments in respect of this.
6. The Chichester District Council - Chichester Local Plan Review 2021-2039: Proposed Submission - regulation 19 has been submitted for examination. I am advised that hearings were to take place from October. Policies I1, T1 and T2 of this emerging plan are subject of unresolved objections, and I have not been provided with any findings from the examining Inspector in respect of

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<sup>1</sup> Southbourne Modified Neighbourhood Plan – Referendum Modified Plan 2014-2029 – Dated November 2023

these policies. I also have little information from which to establish whether, and if so when, the plan is likely to be adopted, and whether policies I1, T1 and T2 will be modified. As such, limited weight is attributed to these emerging policies.

7. Within the appeal documentation the building on the appeal site is variously referred to as Gatehouse, Gate House, and Signalman's Cottage. For clarity, it is referred to as Gatehouse within this decision letter.
8. Conflict with policy SP9 of the Neighbourhood Plan is purported within the Council's delegated decision signoff sheet and on the decision notice. However, Neighbourhood Plan policies all commence with SB. Nevertheless, within its statement, the Council purports conflict with policy SB9 of the Neighbourhood Plan. The appellant has responded to this at final comments stage. As such, neither main party would be prejudiced by my consideration of policy SB9 as part of this appeal.

## **Main Issues**

9. The main issues are the effect of the development on;
  - the character and appearance of the area, including its effect on the significance of Gatehouse as a non-designated heritage asset;
  - the safety and function of the local highway network; and
  - the living conditions of occupiers of neighbouring properties, with particular regard to outlook.

## **Reasons**

### *Character and appearance*

10. A 2-storey house known as Gatehouse occupies part of the appeal site. It is close to a level crossing where a railway line crosses Inlands Road. The Council has identified this building as a non-designated heritage asset.
11. Policy SB9 of the Neighbourhood Plan identifies Gatehouse as a local heritage asset, to be designated as a non-designated heritage asset. Where development may affect the significance of such an asset, or lead to harm to or total loss of the asset, this policy requires its significance be taken into account.
12. Policies 33, 47 and 48 of the Chichester District Council - Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) and policy SB4 of the Neighbourhood Plan relate to; new residential development; heritage; design; and the natural environment. Collectively, and amongst other things, they seek to ensure that development; is of a high standard of design; respects and where possible enhances the character of the surrounding area and the site; and conserves and enhances the special interest and settings of non-designated heritage assets. Policy 47 also requires the supporting guidance to the policy as contained within the Local Plan, to be followed. In respect of non-designated heritage assets, this guidance states that proposals should not harm the special interest of the asset. It also guides that development that would result in substantial harm to such an asset will be resisted unless significant public benefit has been clearly and convincingly demonstrated.

13. Paragraph 209 of the National Planning Policy Framework (the Framework), indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining applications. Where an application would affect such an asset, it requires a balanced judgement to be made having regard to the scale of any harm or loss and the significance of the heritage asset.
14. The significance of Gatehouse stems in part, from its historic occupancy by a railway worker who would have operated the nearby level crossing over the railway. Although the original building has been subject to some later alterations and additions, it remains a good example of a largely intact historic railway cottage which has architectural significance. The adjacent railway line - which facilitated the later growth and development of Southbourne, and the nearby level crossing over the railway line, form part of the setting of the Gatehouse. Their presence helps the significance of the building to be appreciated.
15. Albeit the site is somewhat run-down and unkempt, Gatehouse continues to make a positive contribution to the character and appearance of the area. This is, in part due to its historic and architectural significance. Moreover, and even if another historic railway building within the area has been safeguarded, this does not reduce the historic and architectural significance of Gatehouse.
16. The proposed development includes the demolition of Gatehouse. Such works would result in the total loss of its significance as a heritage asset. I attribute great weight to the harm that would be caused by such a loss.
17. The Council is unable to demonstrate a five-year supply of deliverable housing sites in line with the Framework. However, most recently the Council has indicated that it has a 4.13-year housing land supply. This figure has not been disputed by the appellant, and I have no reason to doubt it. The development would contribute in a small way to meeting the Government's objective of significantly boosting the supply of homes and reducing the Council's housing land supply shortfall. Moderate weight is attributed to the public benefits that would result from the delivery of 4 additional homes.
18. Public economic benefits would arise during the implementation of the development and from the contribution that future residents would make to the local economy. Measures to encourage composting and to provide habitats suitable for hedgehogs, birds and bats, would also deliver public benefits. As would the inclusion of measures to provide additional planting and to minimise the water and energy requirements - both during construction and from the subsequent use of the development. The site is within reasonable walking distance of a bus stop, and bike storage would be provided. As such, future occupiers would not necessarily be reliant on private cars for access. Furthermore, the development would be an efficient use of land and would deliver modestly sized homes that would be suitable for single people, couples and small families. However, given the small scale of the scheme, the weight that may be attributed to each of these public benefits is limited.

19. When taken together, these public benefits cannot reasonably be described to be significant. Nor would they outweigh the harm that would be caused to the heritage asset.
20. Existing buildings close to the appeal site are of a mix of styles and ages. They also incorporate a variety of external materials, design features and roof forms. There is also a range in the massing and height of such development, which includes relatively modest single-storey detached properties and pairs and short terraces of 2-storey dwellings. The height, scale, and massing of the proposed building would not be dissimilar to that of other larger buildings within the area. Moreover, and despite being of a crown-type structure, the roof structure would include gable and dormer features. In terms of its appearance, the roof would not therefore be inconsistent with others in the area. Although the design, scale and massing of the proposed building would not be incongruous with nearby development, this consideration does not lead me away from my previous findings in respect of this main issue.
21. For the reasons previously given, the development would be harmful to the character and appearance of the area, including its effect on the significance of Gatehouse as a non-designated heritage asset. Consequently, it would conflict with policies 33, 47 and 48 of the Local Plan and SB9 of the Neighbourhood Plan.

#### *Highway network*

22. Policy 9 of the Local Plan sets out the requirement for impacts on existing infrastructure to be mitigated. This is expanded upon within the SPD which contains a methodology for the calculation of planning contributions related to the A27 Chichester Bypass.
23. The County Council has not objected to the proposal. Nevertheless, the development would result in the increased use of parts of the A27 and the A27 Chichester bypass junctions, which form part of the Strategic Road Network (the SRN). These sections of road are subject to both congestion and capacity pressures. Without mitigation, additional housing and employment development in the area would lead to increased congestion and the deterioration of highway safety on the SRN. It would also harmfully increase pressures on the surrounding roads (LHN) from drivers taking alternative routes.
24. The scheme would deliver additional homes. As such, and without mitigation, both individually and in combination with other developments, it would lead to further pressure on the SRN and the LHN. Nevertheless, the harm to the function and safety of the local highway network could be mitigated by an appropriate and policy-compliant financial contribution, which would be used to fund improvement works to the SRN. A financial contribution towards these improvement works is therefore necessary, and directly related to the development.
25. Albeit the SPD states that the total contribution that may be calculated using the methodology is indicative only, I am not satisfied that the associated contribution in the planning obligation aligns with the total A27 mitigation contribution that would be required if the SPD methodology were followed.

This is on the basis that the development would result in 4 additional 2-bedroom homes within the Southbourne ward.

26. Within its final comments and in correspondence to the appellant, the Council advises that a highway network contribution of £30,912 is required. This sum is included within the UU as a highway network contribution. However, a compelling justification for this level of contribution has not been provided. As such, I cannot conclude that the amount of the associated contribution set out within the planning obligation is fair or reasonable in scale and kind to the proposed development. That being the case, the contribution would fail to meet the third test set out in paragraph 57 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 – as amended. I am therefore unable to take this contribution into account in determining this appeal. The UU cannot therefore be relied upon to mitigate the harm that would be caused to the safety and function of the local highway network.
27. For these reasons, the development would harm the safety and function of the local highway network. It would therefore conflict with policy 9 of the Local Plan.

#### *Living conditions*

28. Through rear-facing windows and from the rear gardens of properties adjoining the southern boundary of the appeal site, parts of the proposed block of flats would be visible above the intervening tall close-boarded fencing. Nevertheless, the rear gardens of these neighbouring properties have a reasonable depth, and the proposed building would be constructed several metres away from the shared boundary with them. As such, and given that the gabled roof of the property would lean up and away from this boundary, the development would not create an oppressive sense of enclosure or appear overbearing from these neighbouring properties.
29. The immediate outlook from the front of the houses facing the western boundary of the appeal site, is over the driveway and parking area that serve them. Beyond this, it extends over and above the appeal site as well as over and above the residential properties to its south. Notwithstanding the massing and the roof form of the proposed building, occupiers of these existing properties would be able to retain a good standard of outlook from within both their houses and gardens. This is partly because of how far the proposed building would be from them. It is also because those parts of the development that would be visible from these properties would comprise only part of a wider outlook.
30. As such, the development would not conflict with that part of paragraph 135 of the Framework which indicates that new development should create places with a high standard of amenity for existing users.
31. For the reasons set out above, the development would not cause harm to the living conditions of occupiers of neighbouring properties, with particular regard to outlook. Consequently, and in respect of this main issue, it would comply with policy 33 of the Local Plan. Amongst other things, this policy requires development to provide a high-quality living environment.

### *Other matters*

32. At the time of my site visit, the property was vacant. Some financial investment is likely to be required to restore and upgrade the building to provide any future occupiers with a good standard of living conditions. However, details of what works would be necessary and their anticipated costs, have not been quantified. I cannot therefore conclude that it would be unviable to restore and upgrade the building.
33. Forming part of a settlement and close to other dwellings, the continued residential use of the appeal site can be supported. Furthermore, future occupiers would be able to secure reasonably sized, attractive and usable communal gardens, and adequate bin and cycle storage could be provided. Nevertheless, given the small scale of the scheme, only limited weight can be attributed to these considerations.
34. The previously identified public benefits also weigh in favour of this appeal. However, as previously stated, only moderate weight is attributed to the benefits associated with the delivery of housing, and limited weight is attributed to each of the other public benefits.
35. The emerging Local Plan Review, which has been submitted for examination contains proposed housing allocations towards meeting housing need, as well as a proposals map. As such, and on the basis that the Council has a housing land supply of more than 4 years, footnote 8 of the Framework does not apply, and it is not necessary to consider the appeal against Framework paragraph 11 d).
36. The evidence indicates that the appeal site is within the zone of influence of the Chichester and Langstone Harbours Special Protection Area and the Solent Maritime Special Area of Conservation (the protected sites). Notwithstanding that the UU contains an obligation to make a recreational disturbance contribution in respect of the Chichester and Langstone Harbours SPA, there is no need to consider the implications of the development on the protected sites because the scheme is unacceptable for other reasons.

### **Conclusion**

37. Notwithstanding my findings in respect of the third main issue, the development would cause harm to a heritage asset and to the function and safety of the local highway network. In my view, these harms and the associated development plan conflict are prevailing considerations. The proposal should therefore be regarded as conflicting with the development plan when read as a whole.
38. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

*V Simpson*

INSPECTOR