



Appeal Decision

Site visit made on 22 January 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/L3815/W/24/3348216

Springfield, Hambrook Hill South, Hambrook, West Sussex PO18 8UJ

- 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 Allen against the decision of Chichester District Council.
 - The application Ref is CH/24/00784/FUL.
 - The development proposed is erection of 1 no 3-bed dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, Government published the revised National Planning Policy Framework (the Framework). During the appeal, the parties were invited to comment on the relevance of the revised Framework to the proposal and in my decision, I have had regard to the parties' written responses.
3. During the appeal, the Council adopted the A27 Chichester Bypass Mitigation Supplementary Planning Document 2024 (A27 SPD). Planning Practice Guidance states that supplementary planning documents are a material consideration in decision-making¹. In my decision, I have had regard to the A27 SPD.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on:
 - the integrity of the Chichester and Langstone Harbours Special Protection Area and Ramsar;
 - the character and appearance of the area; and
 - the safety and efficiency of the strategic road network and local highways.

Reasons

Integrity of European sites

5. The site is within the fluvial catchment and zone of influence (ZOI) of Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar, a European site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

¹ Paragraph 008 Reference ID: 61-008-20190315

6. The qualifying features of the SPA include its waterbird assemblage and populations of dark-bellied brent goose, common shelduck, Eurasian wigeon, Eurasian teal, northern pintail, northern shoveler, red-breasted merganser, ringed plover, grey plover, sanderling, dunlin, bar-tailed godwit, Eurasian curlew, common redshank, ruddy turnstone, sandwich tern, common tern, and little tern.
7. The conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive.
8. The site is within the SPA's nutrient neutrality catchment where Natural England advise that increase in wastewater from new housing would have a likely significant effect on the SPA. In addition, Natural England identify that a net increase in residential accommodation within the ZOI would have likely significant effects on the SPA through increased recreational disturbance.
9. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of European sites.
10. The proposal includes nutrient budget calculations and proposes an area of re-wilding through planting of native broadleaf woodland for the purpose of offsetting the nitrogen load of the proposed development. Grass cuttings would not be composted on site and gorse would be controlled. The woodland area would be fenced off and no dogs would be permitted. The provision and long-term retention of the woodland area would be secured through a planning condition.
11. Natural England were consulted during the appeal. Following their review of the proposed nutrient neutrality scheme, Natural England advise that the submitted nutrient budget calculations should: utilise values contained in latest guidance; calculate the nutrient budget from the change in land use of the proposal, using evidence of the land use over the past 10 years and with judgement of use in the absence of a planning application; robustly evidence the existing land use type of the proposed nutrient mitigation site, utilising latest nutrient budget calculation guidance and taking account soil drainage type, annual average rainfall, and the site's nitrate vulnerability.
12. I attach significant weight to Natural England's advice. Therefore, I consider the submitted nutrient budget calculations do not comply with latest guidance, and the scheme contains insufficient information to demonstrate the effects of the development would be adequately mitigated. Therefore, it is not possible to determine that the proposal would not adversely affect the SPA's integrity.
13. The Bird Aware Solent Recreation Mitigation Strategy sets out measures to mitigate the effects of growth on the SPA and arrangements for funding through developer contributions. The appellant has provided a Unilateral Undertaking containing a planning obligation for the purpose of Section 106(1) of the Town and Country Planning Act 1990 to secure a financial contribution toward recreation disturbance mitigation.
14. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, the evidence before me indicates that as a responsible public body it will use the funds

for its intended purposes. I therefore consider appropriate mitigation is secured and is necessary to make the development acceptable, in respect of recreational disturbance only.

15. I must also consider whether there are any imperative reasons of overriding public interest. The provision of one dwelling would be a small public benefit and is not sufficient to amount to such overriding public interest.
16. The Habitat Regulations indicate that permission may be granted only where the competent authority is convinced the proposed development will not adversely affect the integrity of the European site concerned.
17. As set out above, I am satisfied the proposal would secure suitable mitigation of the recreational impacts that would arise from proposed development. In this regard the proposal would comply with Policy 50 of the Chichester Local Plan: Key Policies 2014-2029 (CLP) which seeks to avoid or mitigate recreational disturbance of birds in the Chichester and Langstone Harbours SPA.
18. However, the nutrient neutrality scheme fails to demonstrate that the proposed development's nutrient impacts would be adequately mitigated. Therefore, I do not have sufficient confidence the integrity of SPA would not be adversely affected and must conclude the proposed development would result in unjustified harm to the integrity of the SPA. In this circumstance, the Habitat Regulations indicate permission must not be granted.
19. The proposal would conflict with CLP Policy 49 which requires proposals protect, manage and enhance the district's network of ecology biodiversity and geological sites, including internationally designated sites.

Character and appearance

20. The appeal site comprises a rectangular plot within a larger area of garden land associated with dwelling 'Springfield'. The site is at the northernmost end of Hambrook Hill South, on its eastern side. Hambrook Hill South extends from the junction with Priors Leaze Lane and ends south of the A27 dual carriageway and is flanked by grass verges and hedgerows.
21. The built form on the eastern side of Hambrook Hill South is characterised by modern housing estate development comprising predominantly detached dwellings of generally similar appearance and uniform layout fronting the highway or arranged in cul-de-sacs. Dwellings are set within plots with modest front and rear gardens and small separation distances between side elevations and appear compact. On the western side of Hambrook Hill South are a mix of period properties and modern development.
22. At its northern end, the pattern of development at Hambrook Hill South is of lower density than at the south end, and there are views across agricultural land to the west. A small field provides separation between the host dwelling's curtilage and the Aviary Close estate development. However, dwellings and agricultural buildings along the western side of Hambrook Hill South provides a continuous ribbon of development. Therefore, the appeal site is not remote from the built area.
23. Therefore, area is mainly residential in use with a mix of dwelling types and densities following a predominantly linear pattern of development extending along

Hambrook Hill South. The area is interspersed with agricultural land, verges and hedgerows which contribute to its rural character.

24. At time of my site visit, a replacement dwelling was being constructed adjacent to the site. In addition, planning permission has been granted for a three-bedroom dwelling within the residential curtilage of the host property to the immediate south of the appeal site². Therefore, where both schemes are implemented to completion, the proposed dwelling would intensify the use of the site to form a linear row of development along the host dwelling's highway frontage, reflecting the area's linear pattern.
25. The proposed dwelling would be a two-storey detached dwelling, comprising three-bedrooms, and would be of modest scale. The proposed dwelling would have a traditional appearance, comprising a pitched roof, chimney, pitched storm porch, and horizontal cladding at the first floor. The design and layout broadly replicates the proposal permitted to the south. Therefore, in the event both proposals were implemented, the proposed dwellings would have a uniform appearance. Other modern development along Hambrook Hill South includes house types of similar appearance and consistent siting and layout. Therefore, the uniform appearance of the dwellings would not be out of keeping with the character of the area.
26. There would be a nine-metre gap between the proposed dwelling and the permitted dwelling to the south. This would significantly exceed the separation distances between dwellings on the eastern side of Hambrook Hill South. The appellant identifies that gaps between development to the west of Hambrook Hill South typically range from two to seven metres, with the northernmost dwellings having an 11m separation distances. Therefore, the proposed dwelling would not replicate the higher densities of development on the eastern side but would be comparable to the lower density siting of development to the west and north of Hambrook Hill South. Therefore, the proposed dwelling would not have a cramped appearance and would reflect the layout of development in the area.
27. The proposed dwelling would be visible from the highway frontage via the new access. It would be set back from the highway by its driveway and garage. Where the replacement dwelling and adjacent permitted scheme are implemented to completion, the proposed development would be viewed in the context of other modern development. Even if the new developments were not completed, the proposed dwelling would be viewed within the context of the modern chalet building to the immediate north.
28. The appeal site is at the end of Hambrook Hill South, close to where it terminates south of the A27 dual carriageway. The site is screened from the A27 by existing mature vegetation along the highway boundary. There is no through route or public access to the A27 from Hambrook Hill South and vehicular traffic volumes appear low. There are no pedestrian footways or lighting along this part of Hambrook Hill South. However, a short section of public bridleway runs behind the host property between Hambrook Hill South and Broad Road, and therefore the route may be used by pedestrians, cyclists, or horse riders. Nonetheless, passing road users are likely to be infrequent.
29. On the approach from Hambrook Hill South, there would be filtered views of the proposed dwelling's side elevation through the boundary vegetation that surrounds

² LPA ref: 20/01139/OUT

the curtilage of Springfields. However, if the adjoining permitted scheme is constructed, it would generally obscure the dwelling from long distance views.

30. As set out above, the appeal site is well-screened in an area with infrequent traffic and low pedestrian footfall and would not be in a visually prominent location. Where visible, views would be experienced within the context of other modern development. The development would reflect the linear pattern of development in the area, and the siting would provide suitable separation between dwellings. It would not therefore appear cramped, and the proposal would adequately respond to the built form of the area. Therefore, the proposal would not harm the character and appearance of the area.
31. The Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) is currently being examined. Policy P2 of the emerging Local Plan advises that development will be expected to protect, enhance, and reflect the positive characteristics and distinctiveness of the local area and contribute towards local identity. Policy NE10 advises that proposals in the countryside will be supported where the scale, form, bulk, siting, design, and materials proposed are appropriate to their countryside location and will not cause unacceptable harm to their rural setting and Policy NE2 advises that planning permission will be granted where there is no adverse impact on designated environmental areas. The measures to protect the character and appearance of the area are therefore broadly aligned with the existing policies of the development plan. I have determined the proposal against the policies of the development plan in force at time of my decision.
32. The proposal would comply with CLP Policies 33, 45, and 48 which requires development provide an appropriate density of development and be in keeping with the character of the surrounding area and respect and where possible enhance character such as in terms of its siting, scale, layout, and density. In addition, the proposal would comply with Policy DS1 of the Chidham and Hambrook Neighbourhood Plan 2016, which requires proposals demonstrate it will integrate into the existing surroundings and take account of the character and appearance of the rural area.

Highway safety and efficiency

33. The A27 is part of the Strategic Road Network. Congestion around the junctions of the A27 Chichester Bypass leads to congestion on the local road network as drivers seek alternative routes. All new housing development in the area generates additional traffic impacts on the A27 Chichester Bypass junctions and the associated local highway network. The appellant accepts the proposed development would impact on the highway network including the A27, and there is no dispute the A27 is at capacity.
34. CLP Policy 8 requires integrated transport measures be developed to mitigate the impact of planned development on the highways network, including a coordinated package of improvements to junctions on the A27 Chichester Bypass that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas. To ensure growth is supported by timely provision of adequate infrastructure, facilities and services, CLP Policy 9 requires all development fund or provide new infrastructure.
35. The purpose of the A27 SPD is to provide guidance on the use of CLP Policies 8 and 9, and therefore it is not the case that the A27 SPD lacks policy support. The

A27 SPD responds to increased costs of delivering the remaining highway improvements at the A27 and is necessary to mitigate the impacts of development coming forward through the adopted CLP. The assertion that the A27 SPD is inextricably linked to draft allocations in the emerging Local Plan is not substantiated by evidence.

36. The A27 SPD provides formulae for calculating developer contributions at a higher rate than previously sought by the Planning Obligations and Affordable Housing Supplementary Planning Document 2016 (2016 SPD). At the time of submission of the appeal statements, the A27 SPD was in draft form and was not adopted by the Council. The appellant is of the view that the level of contribution should be derived from the 2016 SPD which was adopted guidance at that time. However, at the date of my decision, the A27 SPD has been adopted by the Council and therefore is a relevant consideration. Moreover, it replaces those parts of the 2016 SPD relating to the calculation of developer contributions.
37. The appellant asserts there is disparity between the level of contributions sought in different locations. The adoption process for the A27 SPD would have provided the Council opportunity to test the supporting evidence and effects of the higher rate of developer contributions. In addition, the appellant refers to appeal decisions where the higher contribution rates were not imposed. Since those decisions pre-date the A27 SPD's adoption, the circumstances materially differ from the appeal proposal.
38. Through the addition of one dwelling, the proposal would result in a small increase in traffic. The appellant has provided a completed unilateral undertaking containing planning obligations for a highway network contribution of alternative amounts set out through a 'blue pencil' clause, with either being effective depending upon my conclusions on the required level of financial contribution.
39. The adopted A27 SPD is a relevant consideration and a planning obligation to secure a financial contribution toward the package of highway improvements, calculated in accordance with its formulae, would be necessary to mitigate the impacts of the development and achieve a policy compliant scheme.
40. Conversely, a lower contribution rate would not reflect the requirements of the adopted A27 SPD and would be insufficient to mitigate the effects of the development in accordance with CLP Policy 8.
41. Subject to the planning obligation which secures a highway network contribution in accordance with the A27 SPD, I am satisfied the proposal would provide appropriate mitigation of its highway impacts. Therefore, the proposal would not harm the safety and efficiency of the strategic road network and local highways.
42. The proposal would therefore comply with CLP Policies 8 and 9 which together require development fund or contribute to improvements to increase the effectiveness and efficiency of infrastructure, including integrated transport measures to mitigate impacts on the highways network.
43. Insofar as the emerging Local Plan is a material consideration in my decision, the proposal would also accord with its draft policies I1, T1 and T2, the aims of which broadly accord with the above identified policies in the existing CLP.

Planning Balance and Conclusion

44. The proposal would adversely affect the integrity of the Chichester and Langstone Harbours SPA. The proposal would conflict with CLP Policy 49 and the Habitats Regulations provide a clear reason for refusing the development. I attach significant weight to this harm.
45. The proposal would not harm the character and appearance of the area. In addition, subject to the highway network contribution calculated in accordance with the A27 SPD, the proposal would not harm the safety and efficiency of the strategic road network and local highways. The absence of harm weighs neither for nor against the proposal.
46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
47. There is a current shortfall against the five-year housing land supply in the Council's area. The proposal would provide one additional dwelling, thereby making a small, positive contribution to the district's housing supply. However, the Framework's policies which protect areas of particular importance provide a clear reason for refusing the development. Consequently, there are no material considerations which indicate a decision other than in accordance with the development plan.
48. Having regard to the development plan taken as a whole, and all other relevant material considerations, I conclude the appeal should be dismissed.

E Dade

INSPECTOR