



Appeal Decision

Site visit made on 17 April 2025

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th May 2025

Appeal Ref: APP/L3815/D/24/3351157

Orchards, Selsey Road, Sidlesham, West Sussex PO20 7QX

- 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 G Foster against the decision of Chichester District Council.
 - The application Ref is 24/01008/DOM.
 - The development proposed is the erection of a detached annex, with AHSP and solar panels built onto roof and power wall battery storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development on the decision notice differs from that on the submitted planning application. The change in description was agreed in writing with the appellant, and I have therefore used the amended description in the banner heading above and have determined the appeal on this basis.
3. The proposal was submitted on a householder planning application form and this appeal has been processed accordingly. The Council in assessing the application, found that the proposal would amount to the creation of a new independent dwelling, which would not therefore constitute householder development. This is a matter which I consider as a main issue below. Notwithstanding my findings on this, I am satisfied that although submitted as a householder appeal, there is sufficient information before me to determine the application, and no party would be prejudiced by my considering the appeal in this manner.
4. There is a dispute between the parties as to the extent of the residential curtilage for the existing dwelling, Orchards. It is not my role, in the context of an appeal under section 78 of the Act, to determine the extent of the lawful residential curtilage for that property. Should the appellant wish to seek a formal decision on this matter, it is open to him to apply for a certificate of lawful use or a development application. In the absence of substantive evidence to the contrary, I have assessed the appeal on the basis that the proposed annex would fall outside of the residential curtilage of Orchards.
5. The Council's emerging local plan, the Chichester Local Plan 2021-2039: Proposed Submission (ELP) has reached an advanced stage. Nonetheless, the weight to be afforded to individual policies is dependent on the extent and significance of any unresolved objections. I have not been provided with any findings from the examining Inspector in respect of those policies relevant to this appeal. Accordingly, those relevant emerging policies remain subject to change, in light of this, I attribute them moderate weight for the purposes of this appeal.

6. The Council has adopted the Chichester Local Plan 2014-2029 - A27 Chichester Bypass Mitigation Supplementary Planning Document - October 2024 (the SPD). The substantive requirements of this version do not differ from the previous as far as they relate to the main issues for this appeal. The case of the main parties will not therefore be prejudiced by my consideration of the latest version. I have proceeded on this basis.

Main Issues

7. The reasons for refusal on the Council's decision notice are based on the Council's conclusion that the proposal would amount to the creation of a new independent dwelling. Accordingly, the first main issue is:
- whether the proposal would constitute a separate independent dwelling.
8. Dependent on the outcome of the above, it may then be necessary to proceed to consider:
- whether the development is an acceptable form of development in the Countryside,
 - the effect of the development on the character and appearance of the area,
 - the effect of the development on the integrity of the Chichester and Langstone Harbours Special Protection Area (SPA) and the Solent Maritime Special Area of Conservation (SAC),
 - whether the proposal would adequately address flood risk, and
 - the effect of the proposal on the safety and function of the Strategic Road Network (SRN).

Reasons

Whether a separate independent dwelling

9. The proposal relates to the provision of a detached annex building, which would provide two bedrooms, a kitchen-living area, and a bathroom. The annex would be served by its own garden and new boundary treatments would physically separate the annex from the host property. The proposal would have its own parking and would benefit from an existing access and driveway.
10. Written correspondence confirms the intention for the proposed annex to provide ancillary accommodation and that it would be for the existing occupiers and their family and guests. Whilst I note the intended use of the building, the combination of the facilities proposed would allow someone to occupy the appeal proposal with no reliance, connection of day-to-day interaction with the main dwelling.
11. Overall, there is limited evidence to indicate an ancillary function, and I consider that the proposal would amount to the provision of a separate independent dwelling. It is therefore necessary to proceed to consider the remaining main issues.

Countryside

12. The appeal site is located within the countryside, outside of any defined settlement boundary. In line with Policy 45 of the Chichester Local Plan (LP), development in the countryside will only be permitted 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.
13. The proposal would provide a single, low profile, dwelling and in this regard could be considered small scale. However, there is no evidence before me which indicates that 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.
14. In summary, the proposed development would not amount to an acceptable form of development in the countryside, in conflict with Policy 45 of the LP, as well as policy 2 of the LP as well as S2 and NE2 of the ELP which set out the development strategy based on a hierarchy and restricts development in the countryside in line with policy 45. There would also be a conflict with the Framework which seeks to recognise the intrinsic character and beauty of the countryside.

Character

15. The appeal site is located at the end of a small linear row of detached, two-storey houses, which front onto Selsey Road. The site is bordered by open countryside to the rear and side. The site itself is bound by a hedgerow and fencing, and the land narrows as it extends away from the existing dwelling, Orchards. Housing is of a sparse, low density, and its countryside surroundings contribute to a rural character.
16. Through the construction of a new detached dwelling, the proposal would extend the row of dwellings further into the open countryside. The proposal details additional hardstanding, and there would likely be additional residential paraphernalia. The proposal would be visible from the road, with views afforded by the existing access. This would detrimentally affect the transition between the residential dwellings, and the adjacent open countryside, through an urbanising impact.
17. The proposal would therefore be unacceptable in terms of its effect on the character and appearance of the area, contrary to Policies 45 and 48 of the LP and NE10, P1, P2 and P7 of the ELP, which taken together and insofar as relevant, require that development avoids an adverse impact on the tranquil and rural character of the area, and that development sensitively contributes to its setting and is well related to existing buildings. There would also be a conflict with policy NE2 of the ELP and the Framework which both seek to recognise the intrinsic character and beauty of the countryside.

Protected sites

18. The site lies within the zone of influence of the Chichester and Langstone Harbour and Pagham Harbour Special Protection Areas (the SPAs). These European designated sites provide habitat for a number of internationally important bird species. It has been established that residential development within the zone of influence would result in harm to the protected areas through additional recreational disturbance. Taken in combination with other developments permitted in the area,

the proposal would be likely to have a significant adverse effect on the integrity of the SPAs.

19. Policies 50 and 51 of the Local Plan and NE7 of the ELP require all proposals for a net increase in residential development to provide mitigation measures to ensure that the development does not adversely affect the integrity of the SPAs.
20. There is no mitigation before me, and therefore I cannot be satisfied that the proposal would not result in a likely significant adverse effect on the integrity of the SPAs. It would be contrary to policies 50 and 51 of the LP, policy NE7 of the ELP, the Habitats Regulations, and the Framework which aims to conserve and enhance the Natural Environment.

Flood Risk

21. The Council's Strategic Flood Risk Assessment (December 2023) identifies that the application site is located with future flood zone 3a and is at risk from tidal flooding.
22. Policy 42 of the LP requires development in areas at risk of flooding to, amongst other things, meet the sequential and exception test and to provide a site-specific flood risk assessment which demonstrates that the development will be safe. These requirements reflect the requirements of the Framework and the PPG, which indicate that a sequential test followed by an Exception Test need to be passed to justify 'more vulnerable development,' which includes new residential dwellings in respect of flood risk.
23. There is no flood risk information before me in support of the application. Accordingly, the proposal would fail to pass the sequential test, and I cannot be satisfied that the development would adequately address flood risk. The proposal therefore conflicts with Policy 42 of the LP, Policy NE15 of the ELP and the Framework which says that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Strategic Road Network (SRN)

24. The LP recognises that road congestion is a major issue affecting parts of the Plan area, including the junctions on the A27 Chichester Bypass. Policy 9 of the LP, as far as relevant, requires developments to fund new infrastructure, both on and off site, as a consequence of the proposal and, where appropriate, mitigate the impact of the development on existing infrastructure.
25. New housing development has been shown to have a cumulative impact on the SRN, which has been shown to be over capacity in areas both within the district and the local highway network. Mitigation works are necessary to improve capacity at six bypass junctions.
26. Following the publication of the Chichester Local Plan 2014-2029 – A27 Chichester Bypass Mitigation Supplementary Planning Document (October 2024) (the 2024 SPD), the Council is seeking a financial contribution from all new housing developments to increase road capacity, reduce traffic congestion and improve highway safety.
27. Because of my finding that the proposal would amount to the creation of a new independent residential dwelling, the requirement for a financial contribution towards the above highway mitigation works would be required. There is no

mechanism before me to secure such a contribution, and there is no indication that the appellant has agreed to provide a contribution.

28. Accordingly, the proposal, in combination with other developments, would result in an unacceptable impact on the safety and function of the SRN, contrary to LP Policy 9 and the 2024 SPD. There would be a further conflict with Policies I1, T1 and T2 of the ELP which as far as relevant, require developments to contribute to a package of infrastructure improvements to junctions on the A27 Chichester Bypass. The proposal would also conflict with the requirements of the Framework which require developments to mitigate any significant impacts on the transport network.

Other Matters

29. Littleton House is Grade II Listed and is situated north of the appeal site, with a further residential dwelling in between. In line with the statutory duty set out in s66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. The building's significance lies in its reflection of 18th century architecture. Due to the intervening built form, its significance as a designated heritage asset would not be affected by the appeal scheme. I also note that the Council did not identify any harm to its setting.
30. The proposal would make a modest contribution towards the supply of housing, and this would result in social and economic benefits. This would contribute to the government's target to significantly boost the supply of homes.

Planning Balance

31. The proposal would conflict with policies in relation to the countryside location, the character and appearance of the area, the SPAs, flood risk and highway safety. Furthermore, there would be a conflict with the spatial strategy, a key policy which seeks to direct development to sustainable locations and which I am required to have particular regard to. These harms collectively carry significant weight. Therefore, there would be a conflict with the development plan as a whole.
32. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. The latest information before me indicates a supply of 2.01 years supply. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out of date.
33. However, in this case, the proposal would conflict with the policies of the Framework in relation to areas at risk of flooding and habitats sites. The application of these policies provides a clear reason for refusing the development. The presumption in favour of sustainable development does not apply.

Conclusion

34. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

R. Lawrence

INSPECTOR