



Appeal Decision

Site visit made on 7 August 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 September 2025

Appeal Ref: APP/L3815/W/25/3361375

Jardine Nursery, Chalk Lane, Sidlesham, West Sussex PO20 7LW

- 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 Marc Agostineli against the decision of Chichester District Council.
 - The application Ref is SI/24/01339/FUL.
 - The development proposed is a single self build dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a single self build dwelling at Jardine Nursery, Chalk Lane, Sidlesham, West Sussex PO20 7LW in accordance with the terms of the application, Ref SI/24/01339/FUL, subject to the conditions set out below.

Preliminary Matters

2. The description of development used above is taken from the planning application form.
3. During the course of the appeal the Council adopted a new local plan, the Chichester Local Plan 2021- 2039 (the CLP). I understand this to replace the Chichester Local Plan 2014- 2029, which was part of the development plan at the time the application was determined. As this has implications for how the appeal is determined, both main parties were invited to comment on the change and I have taken those responses into account.
4. The appellant has submitted revised drawings with the appeal, showing an amended design to the proposed rear dormer. A later version of the elevations was also received which corrected the elevation titles. Given the scale and nature of this change, and as the Council have had the opportunity to comment on it, I am satisfied that those amendments do not result in a substantial change to the proposal and no party would be prejudiced by my taking it into account. I have therefore included those drawings in my assessment of the appeal.
5. There are three separate Unilateral Undertakings (UUs) provided with the appeal. These are as follows:
 - A UU dated 1 May 2025, relating to mitigation for habitats sites;
 - A UU dated 5 August 2025, relating to a highway network contribution, and;
 - A UU dated 15 August 2025, relating to self build/ custom build.

The Council have been given the opportunity to comment on those documents and they have been taken into account in reaching my decision.

Main Issues

6. The Council have confirmed that the UU regarding mitigation for habitats sites is acceptable and addresses the required contribution. As this is no longer a matter in dispute between the main parties I have not dealt with it as a main issue of the appeal.
7. The main issues are: whether the site is suitably located for a new house having regard to the Council's spatial strategy and risk of flooding, and the effects of the proposal on the character and appearance of the area.

Reasons

Spatial Strategy

8. The appeal site is set among a series of houses and structures set within spacious plots on the southern side of Chalk Lane, which is a narrow carriageway typical of a rural location. Given the attributes of this part of Chalk Lane I do not consider this constitutes a settlement or part of a wider settlement and the Council state the site is outside any designated settlement boundary. Therefore, the site is considered to be in the countryside for the purposes of assessment against the development plan.
9. Since the adoption of the CLP, the relevant policies forming the Council's spatial strategy have been subject to change. Policy S2 contains a settlement hierarchy, which seeks to focus development within existing settlements. Outside those areas, Policy S2 states that development should be restricted to that which requires a countryside location or meets an essential local rural need, or supports rural diversification in accordance with Policy NE10. Policy NE10¹ sets out criteria which should be met in order to grant planning permission for sustainable development in the countryside. It is not apparent that the proposal would enhance the sustainability of the site by improving or creating any opportunities to access the site by walking, cycling and public transport. Therefore, even if the remaining criteria were met, the proposal would not comply with the policy when read as a whole. Accordingly, the proposal would conflict with the relevant policy of the spatial strategy. Neither has substantive evidence been provided to demonstrate the proposal would adhere to the requirements of Policy S2 for development in this location.
10. Given the site's proximity to other structures and homes, it is not one which should be considered isolated and neither is this asserted by the Council. However, I see no strong reason why this should limit the weight given to the local plan policies since not all development in the countryside is necessarily isolated.
11. In conclusion on this main issue, the proposal would not adhere to the Council's spatial strategy for new development. It would conflict with policies NE10 and S2 of the CLP summarised above.

Flood Risk

¹ As set out in the Chichester District Council Schedule of Main Modifications to the Chichester Local Plan 2021- 2039 Proposed Submission

12. CLP Policy NE15 relates to flood risk and seeks to avoid inappropriate development in areas at current or future risk of flooding, directing development away from areas of highest risk. This is reiterated in the National Planning Policy Framework (the Framework), which sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding.
13. The main parties agree the site is located within flood risk zone 1, currently being at low risk of flooding. The Council assert, however, that the site would be in flood zone 3 within the lifetime of the development. Accordingly, the appellant has provided a Flood Risk Assessment (FRA) which considers this matter.
14. Based on maps evidenced by the appellant from the Environment Agency (EA), the site is affected by the 'undefended 0.5%AEP2121CC high central and upper end' tidal flood events. However, those maps also show that the site benefits from protection from the local flood defence system up to, and beyond, that upper end tidal flood event. While I appreciate those maps are based on modelled assessments, they suggest that the risk of future flooding on the site is reduced while those defences are maintained. The FRA sets out those defences include beaches and embankments, comprising a mixture of earth embankments and sea walls further southeast of the site.
15. The Council refer to the Chichester Strategic Flood Risk Assessment (the SFRA) but accepts that a recent appeal via public inquiry found that the 'undefended scenarios' modelled for the Chichester SFRA were unreliable². The Council's case also refers to new Flood Risk Maps published by the EA in March, which would therefore post-date the appellant's FRA. However, I have not been provided with a copy of that information or with any further evidence to substantiate that the flood risk of the site would be increased to the alleged extent.
16. The 'Flood Map for Planning' online continues to show the site as being at a low risk of flooding in the future with defences. Based on the evidence before me, I have no strong reason to conclude otherwise or to doubt the effectiveness of the defences.
17. I am aware that in the case of the appeal referenced above, extensive evidence was heard relating to various modelling and the nature of the defences. The Inspector found it had not been demonstrated that the sites were suitably safe from the risks of coastal flooding. Nonetheless, I must determine the appeal based on the information before me. That site was some distance further east of this appeal site and closer to the coast and I cannot therefore be satisfied that the circumstances are the same or that my conclusions should be the same as that Inspector.
18. In conclusion on this main issue I am satisfied that the proposal is acceptable in terms of its risk of flooding. I do not find conflict with Policy NE15 of the CLP summarised above, nor the provisions of the Framework. Neither do I find conflict with Policy NE16 of the CLP cited on the decision notice, since this relates to water management and water quality. Accordingly, and in line with Planning Practice Guidance, it is not necessary to go on to consider the sequential or exemption tests for flooding.

² APP/L3815/W/24/3341520- Land at Stubbcroft Farm

Character and Appearance

19. The properties on the southern side of Chalk Lane vary in their appearance and scale and include two storey properties and buildings with varying roof forms. As a result there is little consistency in the character of this group of buildings. The properties are also well spaced, limiting the appreciation of the character of the properties together. The proposed rear dormers would be modest in their scale and include shallow pitched roofs above, reducing their prominence on the roof form. Given the context of the appeal site and the limited visibility which the back of the building would experience, the dormers would be acceptable in terms of their appearance. The proposed rooflights to the front roofslope would vary in their scale and alignment. Nonetheless they would be flush with the roofslope and would not detract from the main roof form or the wider character of the area.
20. In conclusion on this main issue, the proposal would be acceptable in terms of its effects on the character and appearance of the area. The proposal would comply with Policies P2 and NE2 of the CLP which together require good design which respects its context and landscape character.

Other Matters

Habitats Sites

21. The site is located within the 5.6km 'zone of influence' of the Chichester and Langstone Harbours Special Protection Area (SPA) which is a designated habitats site. It comprises the large, sheltered estuarine basins of extensive sandflats and mudflats exposed at low tide. The site's qualifying features include that it supports breeding little tern, sandwich tern, on passage little egret, overwintering bar-tailed godwit and little egret among others. The site is also within the 'zone of influence' of the Pagham Harbour SPA, similarly designated for its internationally important populations of birds. Comments from Natural England suggest residents near the area would use the SPA sites for recreation. As the proposed development would increase the local population, a likely significant effect on the designated features of the SPAs cannot, therefore, be ruled out.
22. The proposal would provide a three bedroom home and it is likely that future occupants would travel to the SPAs to use them for recreation. Based on the evidence, the Council have a strategic approach to mitigation for these effects in the form of financial contributions from new residential development. I have no strong reason to doubt that such a contribution would be effective in mitigating the effects of the development.
23. The appeal is accompanied by a UU regarding this matter and this was updated to reflect the updated figures from the Council during the appeal. The Council have commented that the UU would address the required contribution and it would be effective in securing the contribution if planning permission is granted. As such, as the competent authority, I am satisfied that the proposal would not have an adverse effect on the qualifying features of the SPAs and the proposal would comply with Policy NE7 of the CLP which requires mitigation for the effects of recreational disturbance in this area.

Highways Infrastructure Contribution

24. At a late stage in the appeal the Council raised the need for a contribution towards highway infrastructure. CLP Policy T1 relates to transport infrastructure and includes that all new housing development in the South of the plan area include developer contributions towards a package of infrastructure improvements including junction improvements on the A27 Bypass³. The CLP sets out costs and the expected levels of funding including from developer contributions. Additional evidence of the need for the works is set out in the 'A27 Chichester Bypass Mitigation Supplementary Planning Document' 2024.
25. Occupiers of the proposed development would contribute to the pressures on the highway network, including the A27. I see no strong reason why the circumstances of a self-build property would remove the need for the contribution, since its intended occupation would be continuous and akin to other housing, and different to a holiday let. I therefore do not consider the proposal should be exempt from the charge. Having regard to the adopted policy, such a contribution would meet the test of necessity. I have no strong reason to doubt that the extent of the contribution is reasonably related in scale and kind to the development proposed and directly related to it. Together, therefore, the contribution meets the tests for a planning obligation.
26. The UU dated 5 August would secure a contribution of £7,840 specifically for this purpose and the Council have confirmed that the UU addresses the requirement. The effects of the proposal on highway infrastructure would therefore be acceptable and compliant with Policy T1 of the CLP.

Self Build

27. The description of development together with the UU dated 15 August would ensure that the proposed new home would meet the definition of a Self or Custom Build home set out in the relevant Act⁴ and the Framework. The Act requires that authorities must give development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
28. The appellant alleges that there is a significant shortfall in the supply of self build plots in the District and the number of plots which have been granted planning permission for this purpose is far below the number of parties on the Council's self build register. The Council state that as of 30 October 2024 there were 90 applicants on Part 1 of the register, and a further 11 on Part 2 of that register. Details have not been provided by the Council of the number of plots granted with permission for this purpose, although the appellant refers to only a 'handful of possible relevant permissions' and states that none of those have either a condition or legal agreement to secure them for this purpose. These assertions have not been contested by the Council and the shortfall in plots to meet the demand for self build would therefore appear to be substantial.
29. The recently adopted CLP includes a policy relating specifically to custom and self build housing. Based on the information before me, this focuses on provision of plots on strategic scale housing sites of over 200 homes. It does not contain a requirement for delivery of self build plots on other residential development sites, although they would be encouraged. There is not substantive evidence before me

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⁴ Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)

of how effective those larger scale sites would be in meeting the immediate need for self build homes, or the likelihood of them otherwise becoming available on other windfall sites. Together this gives significant uncertainty as to how the demand and the requirements of the Act on the Council, would be met. While the proposal would contribute only one home to the unmet need, this would nonetheless make some tangible difference, particularly as the applicant has been on the Council's register since 2016. I return to the matter of weight attributed to this matter below.

Planning Balance

30. It has been found that the proposal would conflict with the development plan through constituting development in the countryside which does not meet the criteria set out in the development plan. It is relevant, however, that the new home would be close to other homes along Chalk Lane and benefit from the same walking and cycling routes to services and facilities in the nearest settlements. As a result the proposal would not cause visual harm to the countryside nor result in development heavily reliant on private cars, which are among the considerations of Policy NE10 set out in the supporting text.
31. Importantly, however, the proposal would provide a self build home which would contribute to the shortfall of such homes in the District. Given the uncertainty surrounding the level of that shortfall, how it will be addressed and any timescales for addressing the shortfall, I give substantial weight to the benefit of the proposal being self-build. I consider this amounts to a consideration of sufficient weight to make a decision other than in accordance with the spatial strategy of the development plan.
32. The Council state that the adoption of the CLP results in it being able to demonstrate a five year land supply for housing. Even if the provisions of paragraph 11d) of the Framework were not relevant to the appeal, I am satisfied that there are still material considerations here to warrant a decision other than in accordance with the plan. Even if paragraph 11d) were to be applicable, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole and having regard to the key policies in the footnote given the site's location.

Conditions

33. The Council have provided a list of conditions which it considers would be appropriate in the event that planning permission were granted. I have considered these in light of the Planning Practice Guidance (PPG).
34. In addition to the standard time limit condition, I have imposed a condition listing the approved drawings to provide clarity to the parties. For visual reasons, details of external materials are required, and for reasons of highway safety and encouraging sustainable travel, parking and cycle parking areas should be delivered and maintained. For visual and ecological reasons, details of any external lighting should be provided to ensure it is appropriate to this location.
35. Given the scale of the site, I do not find details of landscaping would meet the test of necessity here. In the absence of evidence of a current development plan requirement, I am unable to find details of sustainable construction measures and

ecological enhancements to meet the test of necessity. Given the findings of the appellant's ecological report, it is not clear that other mitigation measures for biodiversity would be necessary or reasonable here.

36. Given the findings above, as it has been found that the acceptability of the proposal in terms of flood risk is not reliant on on-site mitigation measures, those would not be necessary for the purpose of the planning permission. In the absence of a good reason to do so, and given the presumption against this approach in the PPG, I have not removed permitted development rights for the new home.

Conclusion

37. While the proposal would conflict with the development plan, there are material considerations of sufficient weight to justify a decision other than in accordance with it. For this reason the appeal is allowed and planning permission granted.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 001, 231-01/A, 231-02/A, Drawing 4 (Proposed Ground Floor); Drawing 5 (Proposed First Floor), Drawing 6A (Proposed Elevations).
- 3) Prior to the commencement of development above the damp proof course, details of materials and finishes to be used on the external walls and roof of the building shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the dwelling, the driveway and parking areas, as well as areas for the parking of cycles, shall be laid out and available for use. They shall be maintained free of obstruction and available for this purpose at all times.
- 5) No external lighting shall be installed to the site unless details have first been submitted to and approved in writing by the local planning authority. Those details shall demonstrate how the proposed lighting is appropriately designed with consideration to bats and the lighting shall only be installed in accordance with the approved details.

End of Schedule