



Appeal Decision

Site visit made on 15 September 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th September 2025

Appeal Ref: APP/L3815/W/25/3363119

3 Lavant Road, Chichester, West Sussex PO9 5QY

- 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 Hestia Homes (Surrey) Limited against the decision of Chichester District Council.
 - The application Ref is CC/24/00802/FUL.
 - The development proposed is demolition of the existing dwelling and outbuildings and the construction of 6 no. flats with associated car parking and external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development plan against which the application was determined has changed, as Chichester District Council adopted a new local plan in August 2025. On this basis, and in the interest of clarity, the Council was asked to confirm the policies that they would wish the appeal to be determined against. The appellant was given the opportunity to comment on the policies relied on. I have therefore determined the appeal on the basis of the policies provided by the Council from the Chichester Local Plan 2021-2039, adopted in August 2025 (Local Plan).
3. A completed Unilateral Undertaking (UU) has been submitted in response to reasons for refusal 4 and 5. With reference to the UU and the fourth reason for refusal, this will be addressed elsewhere in my decision. With regard to the fifth reason (infrastructure contributions), the UU—although requiring payment prior to commencement rather than prior to the determination of the appeal—would secure the required financial contribution to mitigate the impact of the proposal on the A27. Accordingly, this matter is satisfactorily addressed and does not require further consideration.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - the effect of the proposed development on the living conditions of the occupiers of 5 Lavant Road with reference to outlook and the occupiers of 1 and 5 Lavant Road with reference to privacy.

Reasons

Character and Appearance

5. The appeal site comprises a two-storey detached dwelling featuring a multi-pitched roof configuration. A two-storey front-facing gable projects from one side of the principal elevation. The remainder of the front façade is characterised by notably low eaves, which sit just above the top of the ground floor windows. Two storey detached properties are positioned either side of the site. This section and side of Lavant Road is characterised by detached two storey dwellings that sit comfortably within spacious plots and positively contribute to the character and appearance of the area.
6. Whilst Lavant Road has other examples of similarly sized apartment buildings and properties that vary in height, scale and design, the appeal site is located within a run of modest detached dwellings. The scale and footprint of the proposed building would be significantly larger than the adjoining properties and those on this side of Lavant Road. Despite its traditional design and amendments during the application, the proposal would fail to respect the height, massing and scale of properties in this section of the road due to being taller, wider and deeper than the adjoining properties. As a result, the proposed building would fail to respect and enhance the character of the site and the street scene.
7. Reference is made to 10 and 21 Lavant Road and Glenmar House as examples of larger or more prominent apartment buildings with a comparable depth to the proposal. However, these examples are not wholly comparable to the proposal as they are either not situated between modest detached dwellings or there are larger separation distances between the apartment buildings and neighbouring buildings compared to the appeal scheme.
8. Whilst the overall height of the proposal is only moderately taller than the existing dwelling and its sides drop down, it would have a significantly greater eaves height compared to the existing dwelling. Despite full hips, step backs on the front elevation, varied materials and windows reducing in size at roof level, the greater eaves height in combination with the increased height, depth and width would result in the bulk and mass of the proposal being inappropriate in this setting. This depth would not be perceptible from the public realm, but the increased width and height of the building would be.
9. The proposal would achieve the aim of making the most efficient use of brownfield land in a sustainable location. However, Policy P3 of the Local Plan sets out that the optimum density of a development must pay attention to the context and character of the surrounding area.
10. For the above reasons, the proposal would have an unacceptable effect on the character and appearance of the area. It would therefore be contrary to Policy P2 of the Local Plan which requires development to respect and enhance the character of the site and make a positive contribution to the sense of place, street scene, local character, and distinctiveness of an area.

Living Conditions

11. The appeal site is located between 1 and 5 Lavant Road. The flank elevation of the two storey detached dwelling at No 5 is positioned close to the boundary and

single storey garage in the appeal site. This elevation has a first floor window facing the appeal site. The access serving the garage at 1 Lavant Road runs parallel to the boundary with the appeal site. 1, 3 and 5 Lavant Road have a relatively uniform rear building line with large gardens extending beyond the properties.

Outlook

12. Whilst the proposal was amended to reduce the bulk of the building perceived from 5 Lavant Road and its vertical emphasis, the amendments (lowered eaves height, hipped roof and removal of dormer window) do not address the combined depth and height of the proposal. Despite complying with the 45 degree rule in respect of the windows in the rear elevation, the proposal would extend significantly beyond the original rear building line of No. 5, with part of it being three storeys in height. As a result, the bulk and mass of the proposal arising from its combined height, width and depth would appear overbearing when viewed from the first floor side window and rear garden of No.5.

Privacy

13. The proposal would benefit from rear balconies at first floor level to serve apartments 3 and 4. Reference is made to the large open frontage of the balconies resulting in overlooking across neighbouring gardens. However, the privacy screens would avoid direct views towards the north and south and any views of neighbouring gardens from the open frontage would be both oblique and limited due to the vegetation on the boundaries. As a result, the proposal would not unacceptably affect the privacy of the occupiers of 1 and 5 Lavant Road.
14. For the above reasons, whilst the proposal would not unacceptably affect the privacy of the occupiers of 1 and 5 Lavant Road, it would have an unacceptable effect on the occupiers of 5 Lavant Road in respect of outlook. It would therefore be contrary to Policy P6 of the Local Plan insofar as it requires proposals to provide adequate outlook.

Other Matters

15. The appeal scheme proposes six flats on a site that lies within the zone of influence of the Chichester and Langstone Harbour Special Protection Area (SPA). The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the Habitat Site. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
16. Since the development is for six dwellings, the number of additional recreational visitors would be modest and the likely effects on the SPA from the proposal alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.

17. The site is within the 5.6km zone of influence of the SPA where new residential development is likely to result in recreational pressure, which would both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the SPA. Therefore, I consider that the development would have an adverse effect on the integrity of the SPA, but regard can be had to whether these adverse effects can be mitigated.
18. Policy NE8 of the Local Plan sets out appropriate mitigation measures to ensure that there will be no adverse effect on the integrity of the SPA. One of these measures, is a contribution in accordance with the joint mitigation strategy, outlined in the Bird Aware Solent Strategy. It details mitigation measures that would be funded by financial contributions at a specified tariff per bedroom. The appellant has provided a UU that would provide the required financial contribution to adequately overcome any adverse effects of the proposal on the SPA. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
19. Further to the above, the appeal site is located in an area where treated effluent will eventually discharge into the SPA, Chichester Harbour Site of Special Scientific Interest (SSSI), Chichester and Langstone Harbours Ramsar Site and the Solent Maritime Special Area of Conservation (SAC). To avoid adverse effects on the integrity of these sites, proposals are required to be nitrate neutral.
20. Whilst measures have been taken to manage the impacts of the proposal regarding nutrient burdens, given that I have found harm in respect of other matters that are significant enough to dismiss the appeal, there is no benefit in pursuing this matter. This is because regulation 63(1) of the Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusion on the main issues, it is not necessary for me to consider this matter in any further detail.

Planning Balance and Conclusion

21. The proposal would cause harm to the character and appearance of the area and the living conditions of the occupiers of No 5 Lavant Road in respect of outlook. Substantial weight is afforded to these conflicts with the development plan.
22. Benefits are cited including sustainable design measures, drainage improvement, and the proposal supporting direct and indirect jobs during construction, with additional contributions to the economy through the activity and spending of future occupiers. However, it has not been demonstrated that the same benefits could not be achieved in an alternative less harmful scheme. These benefits therefore attract limited weight, and the harm identified above brings the scheme into conflict with the development plan taken as a whole.
23. The proposal would deliver a net increase of five additional dwellings in the district. This would make a modest but useful contribution as indicated by paragraph 73 of the Framework, particularly given that the Council concedes it is unable to demonstrate a five-year supply of deliverable housing sites. Given that the Council can only demonstrate a 2.01 year housing supply and small and medium sites can make an important contribution to meeting the housing requirements of an area, the net increase of five additional houses is given significant weight.

24. Paragraph 11(d) of the Framework is a relevant consideration as a result of the Council's housing supply and delivery issues. It indicates that in the circumstances of this case permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
25. Taking all of the above into account, I consider that the harm identified in relation to the character and appearance of the area and the living conditions of the occupiers of No 5 in respect of outlook, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the Framework does not indicate in favour of the proposal. The proposal conflicts with the development plan as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it.
26. For the reasons given above the appeal is dismissed.

V Goldberg

INSPECTOR