



Appeal Decision

Site visit made on 22 October 2025

by **A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th November 2025

Appeal Ref: APP/L3815/W/25/3367973

Tobias, Bell Lane, Birdham, Chichester, West Sussex PO20 7HX

- 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 Ryan Prestige Homes Ltd against the decision of Chichester District Council.
 - The application Ref is BI/24/01225/FUL.
 - The development proposed is demolition of existing garage and construction of 2no. dwellings, alterations and extensions to existing dwelling, new access, and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and construction of 2no. dwellings, alterations and extensions to existing dwelling, new access, and associated works at Tobias, Bell Lane, Chichester, West Sussex PO20 7HX in accordance with the terms of the application Ref BI/24/01225/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the decision, the Chichester Local Plan 2021-2039 (the Local Plan) has been adopted. The pertinent policies were emerging at the time of the decision, and both main parties have addressed them in detail within their submissions. I have not therefore found it necessary to seek further comments.
3. The second and third reasons for refusal referred to the absence of measures to mitigate effects of the appeal scheme upon the Chichester and Langstone Harbours Special Protection Area and the Strategic Road Network. The Council has received a Unilateral Undertaking which it is satisfied addresses both matters. I see no reason to take a different view.

Background and Main Issue

4. The appeal site includes a detached house and its garden. It is bordered on one side, broadly to the south, by Pinks Lane. The lane is flanked by mature trees, including six protected oaks along the boundary of the appeal site (the trees)¹.
5. The appeal scheme includes the retention of the trees. There is no question that the proposed new houses and the trees are capable of coexistence. The dispute, rather, is over whether the relationship between them would be such that the trees would, ultimately, be heavily pruned to the detriment of their appearance and amenity value, or felled.

¹ Tree Preservation Order Ref TPO/25/B1 refers.

6. There is no suggestion on the part of the appellant that heavy pruning or felling of the trees would be acceptable, simply that the need for such works would not arise. Accordingly, the main issue in the appeal is:
 - Whether the appeal scheme would result in a relationship between the proposed new houses and the trees whereby the Council could not reasonably refuse applications to heavily prune or fell them.

Reasons

7. The appeal scheme would subdivide the site into three. Plots 2 and 3 would both comprise one new dwelling with an associated private garden. The Council is concerned with the effect of shading from the trees on both gardens; with the effect of shading on south-facing rooms in the dwelling at Plot 3, and; with the prospect of leaf and/or branch fall from the trees into both gardens.
8. Aerial photographs from May 2018, April 2021, and April 2024 illustrate the extent of foliage and give an indication of shade levels. A Daylight Report (the report) was prepared for the appellant by Daylight and Sunlight (UK) Limited in May 2025. It employs tests from the Building Research Establishment (BRE) good practice guide (2022) in assessing shade. Insofar as the gardens are concerned, BRE standards require that at least two hours of sun reach over half the amenity space on 21 March.
9. The BRE test is based on obstructions to sunlight being non-permeable, whereas in reality the trees may allow dappled or fragmented light to pass through. In that respect, the test is a more onerous one than is dictated by site circumstances, but the report finds that both gardens would nevertheless achieve compliance.
10. Moreover, the layout of the houses would likely influence which parts of the gardens are used most often, and for which purposes. The kitchen diner at Plot 2, and both the lounge and kitchen diner at Plot 3, would be served by large openings with glazed doors. These would face broadly southeast and southwest and connect main living spaces to the garden areas beyond. As a result, these garden areas would likely be the most heavily used for activities benefiting from sunlight, such as sitting out. The report finds that even on 21 December, these parts of the gardens are amongst those least affected by shade and would, in any event, receive sunlight for at least two hours.
11. Regarding internal light levels in the south-facing habitable rooms at Plot 3, the report again finds compliance with BRE standards. Furthermore, the glazed openings to these rooms would be large, the kitchen diner would also be served by a west-facing window, and the openings line up broadly with a gap in the trees on the site boundary. Whilst the presence of trees on the southern side of Pinks Lane would prevent sunlight from passing unhindered through these gaps, the increased separation distance between those trees and the houses would be beneficial.
12. I recognise that compliance with the BRE standards does not discount the prospect of future site occupiers wishing to further reduce tree shade. However, the performance of the appeal scheme against the BRE standards, as well as the additional characteristics listed above, combine to weigh heavily in favour of the view that applications for significant pruning or felling could reasonably be refused.

13. The prospect of leaves and branches falling into the garden areas may prompt a desire for pruning. That prospect, however, exists already in respect of the existing dwelling, and I see little reason to find that the appeal scheme would increase it. Whilst both the report and my additional observations are based on the trees as they exist at present, I have been provided with little evidence that they are likely to grow so much as to have significantly greater effects in future. Indeed, the provided tree schedule describes them as mature or early mature, a description I see no reason to take issue with, and which does little to suggest that significant future growth may be anticipated.
14. Overall, whilst it is possible that future owners of the appeal scheme dwellings may desire to heavily prune or fell the trees, I see no reason to find that the Council could not reasonably refuse such applications. I find no conflict in these respects with Policy NE8 of the Local Plan or with Policy 14 of the Birdham Neighbourhood Plan, which require development to conserve protected or valuable trees.

Conditions

15. The Council has provided a list of suggested planning conditions, which I have considered against paragraph 57 of the Framework, and advice contained in the Planning Practice Guidance.
16. In addition to the standard time limit condition, I have attached condition 2 specifying the approved plans to provide certainty. Conditions 3 and 16 are required in the interests of highway safety and to protect wider local amenity. Conditions 4 and 5 are required to ensure that the appeal scheme is provided with satisfactory drainage arrangements. Condition 6 is necessary to ensure the health of the trees during the course of construction. Conditions 8, 14, and 15 are necessary to govern the appearance of the appeal scheme development in the interests of visual amenity.
17. Conditions 8, 9, and 15 are necessary to meet sustainability and carbon reduction aims, including through the provision of a range of transport options. Conditions 10, 17, and 18 are required to protect neighbouring amenity. Condition 11 requires adequate waste arrangements. Conditions 11, 14, 20, 21, and 23 are all required to protect ecological interests and promote biodiversity.
18. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. In this case, the decision to allow the appeal is predicated on the relationship between the trees on one hand, and the rooms and gardens of the proposed dwellings on the other. If the houses were extended or altered through use of permitted development rights, that relationship may alter in such a way as to undermine the rationale behind this decision. For that reason, I have imposed condition 22.

Conclusion

19. For the reasons given above, the appeal is allowed.

A Knight

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 1692-DP101 04, 1692-DP103 03, 1692-DP104 02, 1692-DP105 02, 1692/DP108 01, 1692/DP109 01, 1692/DP110 01, 1692/DP111 01, 1692-DP112 02, 1692-DP113 02, 1692/DP115 01, 1692-DP118 01 and GS280.TOBIAS.TRPP 1.
- 3) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:
 - (a) the anticipated number, frequency and types of vehicles used during construction,
 - (b) the provision made for the parking of vehicles by contractors, site operatives and visitors,
 - (c) the loading and unloading of plant, materials and waste,
 - (d) the storage of plant and materials used in construction of the development,
 - (e) the erection and maintenance of security hoarding,
 - (f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway
 - (g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles
 - (h) measures to control the emission of noise during construction,
 - (i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
 - (j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas, and
 - (k) waste management including prohibiting burning,
 - (l) the location of any site huts/cabins/offices.
- 4) Development shall not commence until the full details of the proposed surface water drainage scheme have been submitted to, and approved in writing by, the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems, as set out in Approved

Document H of the Building Regulations and the SuDS Manual produced by CIRIA. Winter groundwater monitoring, to establish the highest annual ground water levels, and winter percolation testing, to BRE 365 or a similar approved method, will be required to support the design of any infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details.

- 5) Development shall not commence until full details of the maintenance and management of the SuDS system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the SuDS System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 6) No development shall commence on site until an Arboricultural Method Statement has been submitted which details all of the works to or affecting the TPO trees on or adjoining the site and mitigation measures to protect these trees shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Arboricultural Method Statement shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. All works shall be carried out in accordance with the relevant recommendations of BS 3998 (2010) (Recommendations for Tree Work).
- 7) Prior to any works above slab level a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings and where appropriate surfacing materials shall be submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.
- 8) Notwithstanding any details submitted no works above slab level shall commence until details including metrically scaled elevation plans and manufacturing details for the solar panels to be installed have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and plans unless otherwise agreed in writing by the Local Planning Authority.
- 9) No part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces for each dwelling have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.
- 10) The installation of any air source heat pumps shall be carried out in a manner which ensures compliance with the recommended maximum sound rating level of <35dB at any noise sensitive neighbouring premises included in the IOA and CIEH Heat Pump Briefing Notes & Calculation Sheet. Prior to the installation of any air source heat pump(s) details of the assessment in accordance with the IOA and

CIEH Heat Pump Briefing Notes & Calculation Sheet shall be provided to the LPA for approval. Where additional attenuation measures are required to meet the noise criteria set out, full details of the proposed unit(s) and details of noise attenuation measures will be required. The scheme shall be implemented as approved and thereafter maintained as such.

- 11) No part of the development hereby permitted shall be occupied until refuse and recycling storage facilities for each dwelling has been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.
- 12) Notwithstanding the landscaping details submitted no part of the development shall be first occupied until a detailed scheme of soft and hard landscaping for the whole site has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and shall include a program/timetable for the provision of the landscaping. The works shall be carried out in accordance with the approved details and planting timetable and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. Any trees or plants which after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority. The scheme shall detail materials and finishes of hard surfaces. All hard surfaces proposed must be permeable.
- 13) Prior to first occupation of the dwellings hereby permitted the associated boundary treatments shall be provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include (a) scaled plans showing the location of the boundary treatments and elevations, and (b) details of the materials and finishes. Thereafter the boundary treatments shall be maintained as approved in perpetuity.
- 14) Prior to substantial completion or occupation of the works hereby permitted, which ever if the earlier, the following ecological enhancements shall be provided at each dwelling:
 - a) A bat box integrated into a building onsite facing south/south-westerly positioned 3-5m aboveground.
 - b) A bird box on a building onsite or a tree within the garden.
 - c) A hedgehog nesting box installed within the site to provide future nesting areas for hedgehogs.Thereafter the ecological enhancements shall be maintained in perpetuity.
- 15) No part of the development hereby permitted shall be occupied until the dwellings have been constructed in accordance with the terms of the submitted

Sustainability Statement. Thereafter the sustainability measures shall be maintained and kept operational in perpetuity.

- 16) No part of the development shall be first occupied until the car parking for the permitted dwellings has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
- 17) Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the dwelling at Plot 3 shall not be first occupied until the first floor windows in the north elevation of the development hereby permitted shall be permanently glazed with obscure glass and made non-opening below 1.7 metres from the finished floor level of the rooms in which the windows are installed.
- 18) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 19) The development hereby permitted shall be carried out in strict accordance with the mitigation measures and enhancements detailed in the Ecological Impact Assessment produced by South Downs Ecology.
- 20) Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March and 1st October. If works are required within this time an ecologist must check the site before any works take place (within 24 hours of any work).
- 21) During construction should any brush pile, compost and debris piles be removed, they must first be checked for hedgehogs. These piles must only be removed outside of the hibernation period mid-October to mid-March inclusive and undergo soft demolition only.
- 22) Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A - Class F of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.
- 23) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended there shall be no external lighting attached to the buildings other than in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The lighting scheme shall include details of the proposed location, luminance and design of the lighting including measures to minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

Schedule Ends