



# Appeal Decision

Site visit made on 26 February 2024

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 March 2024**

---

**Appeal Ref: APP/L3815/W/23/3320481**

**112 Fishbourne Road West, Fishbourne, West Sussex PO19 3JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Northstar Property Group Ltd against the decision of Chichester District Council.
  - The application Ref FB/22/02821/FUL, dated 28 October 2022, was refused by notice dated 28 February 2023.
  - The development proposed is demolition of existing dwelling replaced with 5 no. apartments and change of use of existing outbuilding to create 1 no. two-bedroom dwelling with alterations to fenestration, 1 no. bike/bin store, alterations to access, parking, landscaping, and associated works.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the Council's description of the proposed development in the banner heading above as it is more precise than that provided on the application form.

## Main Issues

3. The main issues are the effect of the development on:
  - the operation of the strategic road network, and specifically the A27;
  - the character and appearance of the area including (a) whether the scheme would preserve or enhance the character or appearance of Fishbourne Conservation Area (the Conservation Area) and (b) the setting of the Chichester Harbour National Landscape; and
  - the living conditions of occupants of 110A Fishbourne Road West in relation to outlook and privacy.

## Reasons

### *Strategic road network*

4. The development would result in increased use of the strategic road network, and specifically the nearby A27, which suffers from significant issues of capacity and congestion. The parties dispute the means by which this should be mitigated.

5. Policy 9 of the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) sets out the requirement for impacts on existing infrastructure to be mitigated, whilst Policy 8 sets out measures which include a coordinated package of junction improvements to the A27. This is expanded upon within the Planning Obligations and Affordable Housing Supplementary Planning Document 2016 (the SPD) which sets out the funding formula.
6. Given the rising cost of junction improvements since 2016, the Council intends to replace the existing scheme with another which is set out within draft Policy T1 of the emerging Local Plan. This provides a revised list of improvements, some of which are currently identified within the SPD. The Council has also recently consulted on a draft A27 Chichester Bypass Mitigation Supplementary Planning Document (the draft SPD), which would supersede parts of the SPD which address the A27. Costings set out within both draft Policy T1 and the draft SPD are derived from The Chichester Transport Study: Local Plan Review Transport Assessment 2023, which is a document forming part of the evidence base of the emerging Local Plan.
7. The emerging Local Plan has yet to be examined, and at this stage its policies attract only limited weight. Though the Council has therefore presented the draft SPD as interim guidance to be interpreted with reference to the Local Plan, it too has yet to be finalised and adopted. The projected costs themselves remain uncertain, as is reflected in the very broad indicative figures provided within both draft Policy T1 and the draft SPD.
8. The Planning Practice Guidance (the PPG) makes clear that policies for planning obligations should be set out in plans and examined in public. It additionally states that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. The approach presented by the Council therefore directly conflicts with that set out in the PPG.
9. The existing formulaic approach for funding the A27 is itself set out within a supplementary planning document. However, insofar as the PPG refers to 'new' formulaic approaches, the SPD pre-dates the 2019 revision of the PPG which saw this text introduced.
10. The Council claims that deliverability of the emerging Local Plan would be jeopardised in the absence of increased contributions in advance of adoption. However, it remains the case that costs have not been fixed, and the emerging Local Plan may not ultimately be adopted in its current form.
11. Paragraph 114 of the National Planning Policy Framework (the Framework) states that decisions should ensure that significant impacts from a development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Based on my findings above, the cumulative effect of increased trips on the A27 would be mitigated to an acceptable degree by a policy compliant contribution.
12. Whilst I therefore share the appellant's view, no contribution has been secured. The issue could not be appropriately resolved through the imposition of a condition. The development would consequently fail to mitigate the adverse effects of increased use of the A27 to which it would give rise. I am satisfied that the residual cumulative impacts on the road network would be severe.

13. For the reasons outlined above I conclude that the development would have an adverse effect on the operation of the strategic road network, and specifically the A27. It would therefore conflict with Policies 8 and 9 of the Local Plan, as supported by the SPD, and as set out above.

*Character and appearance*

*(a) Conservation Area*

14. The site is located within the Conservation Area, within which the desirability of preserving or enhancing the character or appearance of conservation areas is set out within statute. Paragraph 205 of the Framework further makes clear that great weight should be given to the conservation of designated heritage assets.
15. The Conservation Area is in large part a linear designation covering historic development fronting the A259, which includes Fishbourne Road West. Insofar as it is relevant to this appeal, the significance of the Conservation Area resides in the historic architectural character and layout of these buildings.
16. The existing dwelling stands on land which once formed part of the grounds within which neighbouring Cornelius House stands. The outbuilding proposed for conversion once belonged to the latter. The dwelling itself is relatively modern, not of any heritage interest, and currently largely concealed from view within the streetscene by dense vegetation. Its loss would not cause any harm to the significance of the Conservation Area.
17. The replacement building would utilise a style broadly reflective of late C19th/early C20th development, of which Cornelius House is an attractive example. But though certain details would appear well handled, the proportions and scale of the building would compare poorly, particularly given the top-heavy composition. This would be accentuated within the streetscene by the prominence of the building, and its provision with a bulky 'crown roof', the significant massing of which would be appreciable in views from the west.
18. The building would project at ground floor level across the frontage, supporting balconies above. The character of this projecting element would be akin to that of a flat roofed rear extension, reflecting the fact that the street facing elevation of the proposed building would indeed be the rear. Both the orientation and design detailing of the proposed building would as such be directly at odds with the prevailing pattern, within which the principal elevations of most buildings face front. The elevation would be 'active' in the sense that it would feature numerous openings, and some other properties, including Cornelius House, have their main entrances on other elevations. Both in use and view the proposed street facing elevation would nonetheless be perceived as the rear of the building, and as such would appear incongruous within the streetscene.
19. The scheme would involve the removal of some, chiefly ornamental trees and shrubs from within the plot. Whilst those at the front of the plot are locally conspicuous within the streetscene, their general appearance is unkempt. Though this could be improved with management, the removal of the trees and shrubs would not be harmful.
20. In terms of overall effect, my findings above indicate that the scheme would fail to conserve the significance of the Conservation Area. The modest harm

caused would be less than substantial. Such harm attracts considerable importance and weight. In accordance with paragraph 208 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.

21. The development has been chiefly advanced as providing a net addition of 5 units, and thus making a positive contribution to the Council's housing supply. The Council states that its demonstrable supply of deliverable housing sites currently stands at 4.72 years. This indicates a modest shortfall if measured on a 5-year basis. Insofar as the emerging Local Plan has reached Regulation 19 stage, the applicability of provisions set out within the Framework to instead work on a 4-year basis remain unclear. The Council has provided no comment on the matter. But even proceeding on the basis that a modest shortfall exists, the contribution made by the appeal scheme would be limited in scale, and that contribution would not be made without adverse effects on the strategic highway network. As such I attach limited weight to the social and economic benefits of the scheme's provision of housing. The public benefits of the scheme would not therefore outweigh the harm that it would cause.
22. For the reasons outlined above I conclude that the development would fail to preserve or enhance the character or appearance of the Conservation Area. It would therefore conflict with Policy 47 of the Local Plan, which amongst other things seeks to secure development which conserves and enhances the special interest and settings of conservation areas; and Policy 33 of the Local Plan, which seeks to secure the highest standards of design, including in relation to the character of the surrounding area, and such matters as proportion, form, massing, and detailed design.

*(b) National Landscape*

23. The site lies immediately to the north of what was previously known as the Chichester Harbour Area of Outstanding Natural Beauty (the AONB), but which has been recently rebranded a National Landscape (NL). Policy and legislation have yet to reflect this rebranding but remains applicable. In this regard paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty within AONBs, and that development within their setting should avoid or minimise adverse impacts.
24. The NL has its focus on the picturesque low-lying landscape surrounding Chichester Harbour. The boundary of the designated area runs along the south side of Fishbourne Road West. The appeal site can thus be viewed at close hand from within the NL, and vice versa.
25. Beyond the southern highway edge itself, land opposite the site hosts a belt of trees. This plays an effective role in visually buffering the open landscape beyond. Though it is possible to glimpse a narrow long view standing adjacent to an access onto this land, that view quickly shrinks and disappears moving north. Thus, whilst the development would result in an increase in the spatial and visual presence of built form on the plot, it is unlikely that this would be perceived from within the open landscape to the south. Even if a view was possible, the development would be viewed directly in relation to other development which already lines the north side of Fishbourne Road West. In the absence of vegetation at the front of the plot, similar would currently be true of the existing dwelling on site. Indeed, the development would not result in any fundamental change to the established setting of the NL.

26. For the reasons set out above I conclude that the development would not have an adverse impact on the setting of the NL. It would not therefore conflict with Policy 43 of the Local Plan which seeks to conserve and enhance the AONB, or Policy 48 of the Local Plan which has a broader focus on conserving landscape character.

#### *Living conditions*

27. The proposed building would stand alongside No 110A but project further to the rear. A first-floor window would be provided within the side elevation within this rearward projection, but it would serve a bathroom, and would therefore be obscure glazed. It seems likely that a view would be possible between a proposed kitchen window at first floor level and a clear glazed window in the side elevation of No 110A. The latter appears to light a staircase. If possible, a view would erode the privacy of occupants in both directions. Given the already limited nature of the outlook, the kitchen window could however receive a partial tint to its lower half without adverse effect.

28. Insofar as it might be possible for future occupants of the proposed building to lean over the front balcony or peer over the screen to the side, all that they would see looking east would be part of the front parking area of No 110A. This is currently open to public view within the street. Such views would have little if any adverse effect on the privacy of occupants of No 110A.

29. Given its rearward projection, the proposed building would extend further back than No 110A. Built form would therefore be introduced alongside the amenity space immediately to the rear of No 110A. The rear section of the proposed building would nonetheless be stepped in, and a gap of reasonable size would exist between it and the boundary. The relationship would notably be better than that which currently exists between No 100A and garden space on the appeal site. The fact that built form would be removed from elsewhere on the plot is additionally of some relevance, given that this would increase openness further towards the rear of the plot on which No 110A stands. Taking the above points into account the proposed building would not give rise to any unacceptable overbearing of No 110A.

30. For the reasons set out above I conclude that the development would not cause unacceptable harm to the living conditions of occupants of No 110A in relation to privacy and outlook. The development would therefore comply with Policy 33 of the Local Plan, to the extent that this seeks to secure development that respects amenity. An overall conflict with Policy 33 would however remain given my findings in relation to character and appearance above.

#### **Other Matters/Considerations**

31. The application was partly refused on the basis that it would fail to mitigate likely significant effects on the integrity of the Chichester and Langstone Harbours Special Protection Area and the Solent Maritime Special Protection Area. This was on the basis of recreational disturbance and increased nutrient discharge in wastewater. Insofar as the Council seeks payment of a contribution to mitigate the effects of recreational disturbance, none has been secured. An agreed means of mitigating nutrient discharge through offsetting has been proposed. Again however, no credits in the identified offsetting site have been secured. Had I found the appeal scheme to be acceptable in all other regards it would have been necessary for me to examine the above

matters in further detail. However, as I am dismissing the appeal for other reasons, no further examination is required.

**Conclusion**

32. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR