
Appeal Decision

Site visit made on 17 February 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th March 2025

Appeal Ref: APP/X1735/W/24/3348661

Creek Cottage, 41 Beach Road, Emsworth, Hampshire PO10 7HR

- 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 M Hughes against the decision of Havant Borough Council.
 - The application Ref is APP/23/00779.
 - The development proposed is described as the demolition of existing dwelling and replacement with sustainable modern dwelling (Use Class C3), incorporating a studio, garaging, solar panels, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024 and further amended in February 2025. However, the sections pertinent to this appeal have not changed and the revised version has been referenced in this decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area including the setting of the Chichester Harbour National Landscape¹, and the living conditions of the occupants of neighbouring properties with specific regard to outlook.

Reasons

Character and appearance

4. The appeal site is part of a row of properties which front the shoreline and are part of an established residential area of Emsworth. The desirability of proximity to the sea means the density of dwellings is relatively high within this area, with many making the most of any coastal views they have. At this point, the shoreline represents the edge of the Chichester Harbour National Landscape (NL), a national designation for the purpose of conserving and enhancing natural beauty.
5. There are many examples along this part of the shoreline of properties having been considerably extended, rebuilt, and modified. However, there is some uniformity specifically in relation to the building line of upper floors, overall height, and pitched roof forms. This creates a cadence to the properties when viewed from a mid-

¹ Previously known as the Chichester Harbour Area of Outstanding Natural Beauty (AONB)

distance along the shore, and in longer views across the NL. Although presenting a developed shoreline, the gable fronting pitched roofs assist with the visual merging of the buildings into the mature trees and planting beyond, as well as the predominantly hedges boundaries along the shore.

6. The existing dwelling on the appeal site is an extended chalet bungalow and although in need of maintenance aligns with the overall character and appearance of the area.
7. Although the appeal site is not within the NL, paragraph 189 of the Framework states that development within the setting of national landscapes should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. Havant Borough Local Plan (Core Strategy) 2011 (CS) Policies CS11, CS12 and CS16 and Emsworth Neighbourhood Plan 2019 – 2036 (NP) Policies D1 and D2 align with the Framework insofar as they seek to take account of the setting of the NL, as well as require new development to respect local context and protect the character of the borough.
8. Policy 2 of the Chichester Harbour Management Plan Third Review 2019 – 2024 (MP) supports this position and as a document adopted by the Council is a material consideration. However, MP Policy 1 seeks to conserve the landscape of the NL and not specifically its setting, as does MP planning principle PP03, so are not determinative in this instance.
9. The proposal would replace the existing building with a two-storey flat roofed dwelling. It would be positioned further forward in the plot, and in conjunction with the flat roofed design of the upper floor would present a bulkier form. It would dominate views from over the water and along the shoreline. As such create an awkward relationship with its surroundings and would overwhelm the general uniformity of properties along this part of the shore. This incongruity would therefore harm the character and appearance of the area and fail to demonstrate a sensitivity in design that would minimise the impact on the NL.
10. It is appreciated that on page 2 of the OB Architecture Design Statement of Case (DSoc)² the architect considers that the building line differs across each block of dwellings along the shoreline, thereby illustrating that the proposed dwelling would align with the other 2 properties in its block. However, when viewed from a distance this nuance is not obvious and the purported blocks of dwellings appear as one linear mass. The proposal has been considered within that wider context, especially with regard to the setting of the NL.
11. The findings of the appellant's Landscape and Visual Appraisal (LVA) are noted. However, the LVA does not consider the impact of the proposal on mid-distance views such as along Western Parade and the Solent Way. Having had opportunity to review the LVA, it is also noted that the Council's consultee landscape architect considered the proposed building's encroachment on the common building line, in conjunction with the proposed height would be too dominant.
12. When travelling towards the site along Western Parade³, as observed during the site visits, the upper part of the existing house is clearly visible. It is not, however, visually intrusive, due to the modest size of the upper floor and roof. The proposed

² Appendix 2 of the appellants statement of case

³ This road also forms part of the Solent Way or Wayfarer's Walk and is described as such in some of the evidence.

dwelling's position would be further forward that the existing property and the others along this part of Western Parade, as confirmed by the drawing on page 2 of the DSoC. It would also be considerably more bulk at first floor level than the existing dwelling. As such it would visually more intrusive and have an awkward and domineering relationship with the cadence, building line, and appearance when viewed in this context.

13. The Design Review Panel (DRP) commentary is also acknowledged, and it is not in contention that the proposed dwelling would be of a good design and reasonably energy efficient. It is however noted that the DRP focuses on the construction and layout of the proposed dwelling and the content of the supporting evidence for that proposal. When referring to the impact on the area surrounding the appeal site the DRP limits itself to the proposal having lesser impact than the previous scheme and remains silent in relation to the setting of the NL.
14. Therefore, as found by the DRP, the contemporary design of the proposal is an example of a well-designed building, when considered in isolation. However, this does not outweigh the harm identified in terms of the proposal's impact on the character and appearance of the area.
15. On review of the details, I am satisfied that the proposed volume of glazing facing the shoreline and any potential glare or light spill that would create could be managed by strategic and permanent positioning of the proposed louvred screens and appropriate planting within the proposed first floor planter. This could be dealt with by condition. Therefore, the proposal could comply with NP Policy D7 and MP planning principle PP09, both of which deal with dark skies and lighting.
16. Nevertheless, the proposal would still have a harmful effect on the character and appearance of the area including the setting of the NL. Consequently, it would fail to comply with CS Policies CS11, CS12 and CS16, and NP Policies D1 and D2.
17. It is noted that the Chichester Harbour Area of Outstanding Natural Beauty Joint Supplementary Planning Document is referenced by the Council. However, in paragraph 1.1 of that document it clearly states that the document provides guidance for development within the NL, and this is emphasised by the Character Area Map which does not include the appeal site location within a character area. This document is not therefore determinative in this decision.

Living conditions

18. Adjacent to the shoreline is 74 Warblington Road and set back from the shore behind the appeal site is 72 Warblington Road. Due to the density of development in the area and a slight slope away from the shores means there are also properties on the other side of Warblington Road which may also be impacted.
19. It is not disputed that the proposal is unlikely to affect the privacy and access to daylight and sunlight for these 2 properties and there is nothing before me to conclude otherwise. It is also not disputed that the proposal would be visible from neighbouring properties. However, the private view from a window is not of itself a planning matter, although the impact of any development on outlook should be considered.
20. No 72 is a detached 2 storey dwelling with balcony facing the appeal site and an additional floor of accommodation in the roof space. There is a walled boundary

with the appeal site. The ground floor living spaces, due to the overhanging balcony and proximity to the boundary wall, already have a partially enclosed outlook with the pitched roof and chimney of the existing dwelling visible over the boundary.

21. The proposal would reduce the views of the shoreline from the upper floors of No 72, but due to the distances involved and the space created by Beach Road itself, the proposed bulk of the new dwelling would not have an overwhelming impact. However, as the proposal would extend the amount of development visible above the boundary wall, this would further enclose the outlook from the ground floor, rear facing rooms of No 72. Nevertheless, due to the overall size of No 72 the actual amount of living space that would be affected would be modest, and most of the ground floor spaces affected have multiple aspects. Therefore, it is not found that the potential reduction in outlook would be so overbearing as to make the living conditions in No 72 untenable.
22. No 74 is also a detached dwelling. It has a second level of accommodation partially within the roof space and a first-floor balcony facing the shore. The property is broadly central within its plot and divided from the appeal site by a maturely planted boundary. Although the proposal would be visible from No 74, its main outlook is towards the shore, and due to the widths of the plots and the orientation of No 74 and that proposed, it is not found that the proposal would have a harmful impact on the outlook from No 74.
23. This would also be the case for the properties on the opposite side of Warblington Road, which are two storey detached dwellings with partial views across the site. The proposed dwelling would be visible but due to the distances involved it would not have an overwhelming or enclosing effect on the occupants of those properties.
24. It is noted that there are concerns raised in relation to the proposed solar panels and lift shaft and their impact on outlook. However, although these elements could be considered incongruous to the character and appearance of the area, they would not be so extensive to significantly reduce or overwhelm the outlook from any neighbouring properties.
25. Accordingly, the proposal would not harm the living conditions of the occupants of neighbouring properties with specific regard to outlook. It would, therefore, comply with CS Policy CS16 as far as it seeks to protect the living conditions of neighbours.

Other Matters

26. The appeal site is adjacent to the Solent Maritime Special Areas of Conservation, and the Chichester & Langstone Harbours Special Protection Area and RAMSAR site. As protected sites, regulation 63 of the Conservation of Habitats and Species Regulations 2017 require an appropriate assessment to ensure that the development would not adversely affect their integrity.
27. These sites are important for over-wintering bird species and are susceptible to disturbance. However, as the proposal would not increase the number of dwellings on the appeal site, and notwithstanding the demolition and construction phases which can be controlled by condition, it is not likely to adversely affect the integrity of the protected sites either alone or in combination with other projects. It is noted that this conclusion aligns with Natural England's conclusions from the application phase.

28. Nevertheless, this would constitute a lack of harm so can not therefore weigh for or against the proposal. This would also be the case for the lack of harm identified by the Council in relation to trees, flooding, resources and energy efficiency, and highway safety; and the lack of harm identified in the main issues relating neighbouring occupants' living conditions and the dark skies and light spill.

Balance and Conclusion

29. That the Council cannot demonstrate a 5-year housing land supply is noted and so paragraph 11 of the Framework applies. However, the development plan policies that would be deemed out of date, CS Policies CS11, CS12 and CS16, and NP Policies D1 and D2, align with the objectives of the Framework, insofar as it seeks to achieve well designed places. As such I find conflict with the development plan policies continues to carry substantial weight in this instance.
30. It is noted there are limited benefits in providing a high specification family home. However, in these circumstances, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
31. Consequently, for the reasons given above, the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR