



Appeal Decisions

Site Visit made on 31 August 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 13th September 2021

Appeal A603 Ref: APP/Z3825/W/20/3264603

Sussex House, North Street, Horsham, RH12 1RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 - The appeal is made by Mr Paul Craig, Sussex 256 Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/1696, dated 3 September 2020, was refused by notice dated 2 November 2020.
 - The development proposed is erection of new dwelling houses on terrace buildings.
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Appeal B604 Ref: APP/Z3825/W/20/3264604

Sussex House, North Street, Horsham, RH12 1RQ

- 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 Mr Paul Craig, Sussex 256 Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/1686, dated 1 September 2020, was refused by notice dated 2 November 2020.
 - The development proposed is creation of an additional ground floor flat and other material changes over and above those approved under prior approval ref DC/20/1003 and permissible under part AB, including a communal private gymnasium, a glass canopy to the front over a new front entranceway; new doors, windows, balconies, rendering, cladding, amended car parking with associated landscaping, 2 ground floor extensions, and a bin and cycle store, all as per the accompanying plans.
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Appeal C949 Ref: APP/Z3825/W/21/3267949

Sussex House, North Street, Horsham, RH12 1RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 - The appeal is made by Mr Paul Craig, Sussex 256 Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/2357, dated 25 November 2020, was refused by notice dated 25 January 2021.
 - The development proposed is prior notification for a proposed new dwelling house on terrace buildings, from offices (Class B1) to 33 residential flats (Class C3).
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Appeal D950 Ref: APP/Z3825/W/21/3267950

Sussex House, North Street, Horsham, RH12 1RQ

- 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 Mr Paul Craig, Sussex 256 Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/2389, dated 25 November 2020, was refused by notice dated 25 January 2021.
 - The development proposed is creation of three ground floor flats and other material changes including a glass canopy to the front over a new front entranceway; new doors, windows, balconies to the north-east elevation, amended car parking with associated landscaping, 2 ground floor extensions, and a bin and cycle store, all as per the accompanying plans.
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Decision

1. Appeals A603, B604, C949 and D950 are dismissed.

Preliminary Matters

2. In July 2021 the revised National Planning Framework (the 2021 Framework) was published. The main Parties have had the opportunity to comment on the implications of this and comments submitted have been taken into account.
3. The appeal site is an office building in its own curtilage located in the built up area of Horsham close to town centre facilities. The original building had undercroft parking and reception and stores at ground floor and first and second storeys of office accommodation. It already has approval for conversion to flats at first and second storeys and two flats at ground floor planning Ref DC/20/1003.
4. Under Article 3(1) and Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for up to two storeys of new dwelling houses on terrace buildings in commercial or mixed uses (permitted development rights) subject to conditions and limitations including the requirement to submit an application to the Council for prior approval.
5. As set out above there are four different appeals for the same site. Appeals A603 and C949 are applications for prior approval in relation the conditions for permitted development rights at Paragraph AB.2. Appeals B604 and D950 are against refusal of full applications for planning permission. Both planning applications are based on the assumption that the respective prior approval proposals would be approved and show those proposals as well as new windows and/or balconies/walkways and other works that would not amount to permitted development and that specifically require full planning permission.
6. Although the appellant indicates that the prior approval proposals are shown on the planning application plans for completeness it is difficult to separate them out completely and the Council's reasons for refusal cover all the matters shown on the submitted plans for each case. For the avoidance of doubt I will treat the appeals in the same way. The proposed units are described variously as dwelling houses, flats and studios. For simplicity I will refer to all those proposed as 'flats'.
7. Appeals C949 and D950 are linked and propose the same number of flats across the proposed third and fourth storeys. Appeals A603 and B604 are linked and propose the same number of flats at third and fourth storeys but are reduced in scale compared to the proposals at appeals C949 and D950. The proposals all seek to add a third storey but differ in seeking a fourth across the

whole or part of the existing building; there are varying numbers of flats proposed at ground floor. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the schemes together, except where otherwise indicated.

8. Since these appeals were lodged prior approval for the erection of one additional storey to create 8 flats Ref DC/21/0236 and planning permission for construction of two ground floor flats with associated alterations including external alterations to the additional floor under prior approval application DC/21/0207 have been granted. These can be implemented and are material considerations in the appeals before me. Together these allow four flats at ground floor, a flat roofed additional floor to the whole of the building but set back 1.5m from the edge of the existing building on the elevation facing towards Norfolk Road behind an obscure glazed screen to be fitted to the retained parapet, and the use by residents of that retained flat roof is prevented by planning condition. In granting the prior approval the Council accepted that rooflights would provide adequate natural light to some of the flats although it was recognised that the accompanying planning application added windows to those flats. A scheme of ventilation to mitigate against noise from plant on the roof of The Capitol next door was imposed by condition.

Main Issues

9. The main issues are: the effect on the character and appearance of the area; whether adequate living conditions would be provided for future occupiers of the proposed flats taking particular account of natural light and also, for appeal A604 noise from traffic from North Street; and the effect on the living conditions of occupiers of adjacent residential properties taking particular account of privacy, outlook and light.
10. If appeals A603 and C949 fail one of the above then those proposals would not benefit from permitted development rights because of the Conditions at Paragraph AB.(2).(1)(e)(f) and (g) which respectively require consideration of character and appearance; provision of adequate natural light and the amenity of occupiers of neighbouring premises.

Reasons

11. Town centre facilities, bus and train services are within easy reach and additional residential development is acceptable in principle provided other planning policies and material considerations are satisfied.

Character and appearance

12. The surrounding area is a mix of residential and commercial/office uses. Sussex House is a three storey building in a broad T shape. Part faces North Street (which I will refer to as the North Street part). Part projects towards Chichester Terrace (which I will refer to as the out-rigger). Due to the shape of the site, which narrows significantly towards Chichester Terrace, and the relative position of surrounding buildings, the design of the proposals for the North Street part are the most important in considering the effect on the character and appearance of the area.
13. Sussex House is a flat roofed building, uncompromisingly rectangular in appearance and with windows of vertical format; to the front these are

arranged in groups of three. The continuation of this window arrangement would not be harmful. Nor would the use of brick. The proposals at appeal B604 include a glass canopy to the front over a new front entranceway with new doors different window shapes at ground floor, balconies, render and cladding. Whilst these details would be different from those of the existing front elevation, they would not be dissimilar to those on nearby buildings. They would add interest and would not be harmful in the street scene. The balconies to side elevations would not be unduly intrusive from most viewpoints and would not be harmful to the character of the area.

14. On its north-eastern boundary Sussex House is attached to the taller "The Capitol" building which is a modern arts centre. This also has flat roofs and has a large predominantly glass extension to the front. Set back behind this are brick/render faced parts which significantly step up in height towards Chichester Terrace at the rear. In overall terms five storeys height would not be dissimilar to parts of The Capitol.
15. However, that higher part of The Capitol is well set back. At the fronts of the site the additional two storeys would tower above its front extension and its blocky form with its rectangular format would have an abrupt and discordant junction with it. Similarly the fifth storey would tower above the eaves of the sloping roof at Nos 32-40 (evens) North Street and its flat roof and rectangular shape would be at odds with it. I conclude that due to this discordance the proposals at A603 and B604 would not be visually attractive in terms of architecture or layout and, in terms of the 2021 Framework, would not create a beautiful place. The proposals at appeals C949 and D950 incorporate a mansard roof which help to address the discordance with the adjoining properties and would be less harmful to the appearance of the area.
16. The front wall of Sussex House is set further back from North Street than the fronts of either of these neighbours and there are trees which help obscure views of the buildings from some viewpoints. However, the proposals would still be obtrusive in many views and these matters do not materially overcome the harm I have identified.
17. For the reasons set out above I conclude that the proposals at appeals A603 and B604 would be harmful to the character and appearance of the area. Accordingly there would be conflict with Policy 33 of the Horsham District Planning Framework 2015 (the HDPF) and with those principles of the 2021 Framework that seek a high standard of design and layout, respect the local built surroundings and create beautiful places.

Living conditions for occupiers of the proposed flats

18. Part 20 Paragraph B.(9) of the GPDO states that where the application relates to prior approval as to natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwelling houses. Habitable rooms are defined at Part 20, Paragraph C.(1) as meaning "any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes..."; other rooms, hallways or utility rooms are excluded from the definition.
19. Appeals A603 and C949 propose no windows in side walls or roof slopes to comply with the limitation at Paragraph AB.2.(3)(f). The appeal A603 proposals

show most of the flats in the out-rigger at the third floor would rely on 1m by 1m light tunnels for natural light and those at fourth floor on 1m by 1m dome lights. A light tunnel uses a dome to capture light, magnify it and send it down a tube to a light diffuser. The submitted Solarspot details indicate that each could light areas up to 22–24 sqm.

20. I acknowledge that technology has moved on and that light tunnels and domes can provide natural light in darker areas of homes. However, the amount of natural light available in flats on the third storey would be significantly restricted at times when the sun is lower in the sky, at times when the sky is overcast; and should the tops be obscured by snow rain or be dirty. Moreover, in this case, as the light tunnels would pass through other flats on the floor above, the occupiers of the flats at third storey would have little control over them in the event of any problems. For these reasons I conclude that appeal A603 would fail the test of adequate natural light at AB.2(1)(f) and on that basis would not amount to permitted development.
21. The appeal C949 proposals would rely on roof lights to serve the third floor. I acknowledge that the Council has accepted roof lights as provided adequate natural daylight for the third floor for the subsequent prior approval DC/20/0236. However the appeal proposal shows fewer skylights for three of the proposed flats and I consider the single rooflights in four habitable rooms would result in inadequate natural light. For these reasons I conclude that appeal C949 would fail the test of adequate natural light at AB.2(1)(f) and on that basis would not amount to permitted development.
22. Appeals B604 and D950 include new windows to side elevations which are the more traditional means of providing adequate natural light. The lower panes of windows in the south-west side elevation would be obscure glazed. Whilst less than ideal in terms of outlook the upper panes would provide sufficient natural light. The additional ground floor flat at appeal B604 would also have windows to the front. Living conditions for future occupiers of the flats proposed would therefore be adequate.
23. Originally appeal D950 showed five flats at the ground floor. Four of these the Council finds acceptable and I see no reason to disagree. Flat 5 would be surrounded on three sides by parking and access/manoeuvring areas. Even taking account of the narrow planting strip outside three windows I conclude this would provide unsatisfactory living conditions by virtue of noise and disturbance from vehicles manoeuvring on three sides. No prejudice would occur by my accepting the revised plan omitting Flat 5 from the proposals. On this basis I find no conflict with Policies 24 and 33(2) of the HDPF in respect of adequate living conditions for future occupiers in terms of noise and disturbance from vehicular activity within the site.
24. For appeal B604 the Council considered that there was insufficient information to demonstrate that occupiers of the proposed flats would not be exposed to unavoidable levels of noise and disturbance from traffic from North Street and from The Capitol. Following the submission of an Acoustic Assessment the Council are satisfied that there would not be a significant noise impact from traffic or The Capitol provided there would be a suitable scheme for ventilation to mitigate against noise from plant on the roof of The Capitol through any roof lights. I see no reason to reach a different conclusion. I find no conflict with Policies 24 and 33(2) of the HDPF in this respect. Although not mentioned on

the other refusal notices, these matters seem equally to apply to the other appeal proposals: my conclusions would be the same.

Living conditions for neighbouring residents

25. The Council requested I visit properties on Norfolk Road. I was able to do this and viewed the appeal site from the garden and windows of a neighbouring property.
26. Appeals B604 and D950 include new windows and/or balconies/walkways. The southwest elevation faces the rear gardens and windows of houses on Norfolk Road. There is already significant overlooking of these from windows of flats in the first and second floors of Sussex House. These flats benefit from permitted development rights from a time when the effect on the neighbouring premises was not a consideration.
27. Whether or not overlooking from proposed higher level windows and balconies/walkways into neighbouring windows would be slightly more oblique due to the height above ground, the degree of direct overlooking from so many more flats into the rear gardens and windows of the houses at Nos 3,5,7 and 9 would be significantly oppressive. This would be even more harmful at times trees and shrubs are not in full leaf. On this basis I conclude the proposals would be harmful to the living conditions of occupiers of these properties and there would be conflict with Policy 33(2) of the HDPF in this respect. The permission at DC/21/0207 does not lead me to a different conclusion because of the set back of windows and the parapet/obscure glazed screen incorporated in those proposals.
28. The appeals at A603 and B604 would add a flat roofed fourth storey across the whole of the building. That part above the out-rigger would be between some 15m to 24m from the walls of houses at Nos 3,5,7 and 9 Norfolk Road. Due to its height, length and mass I conclude this would create an over-bearing oppressive outlook for occupiers of those houses and associated gardens. Even though to the north of those properties it would also reduce available sky light. Accordingly these proposals would be harmful to the living conditions of occupiers of these properties and there would be conflict with Policy 33(2) of the HDPF in this respect.
29. The fourth storey at appeals C949 and D950 would be confined to the North Street part of the building. A mansard roof would be added to the out-rigger which would add height and mass to the building when viewed from properties on Norfolk Road. However, the principle of adding a third storey has recently been accepted. The proposed mansard roof would not be significantly different in terms of the effects on the living conditions of occupiers of the adjacent properties than the flat roofed proposals accepted by the Council Refs DC/21/0236 and DC/21/0207. Accordingly I conclude these proposals are not unacceptable in planning terms and find no conflict with Policy 33(2) of the HDPF in this respect

Other Matters

30. I acknowledge that the legislation specifically provides for upward extensions to existing buildings. However, the permitted development rights are specifically

subject to consideration in relation to specified matters and where proposals do not satisfy these it is clear prior approval should be refused.

Planning Balance and Conclusion

31. The proposals would add to the housing stock in an accessible location and make good use of an existing developed site. There would be economic benefits during construction and from spend by residents in the local economy. These are material considerations in favour of the proposals. However they could be achieved in less harmful ways and therefore carry limited weight in the context of this appeal.
32. However, for the reasons set out above, each proposal has harmful effects for one or more of character and appearance; failure to provide adequate living conditions; the effect on the living conditions of occupants of neighbouring properties and would conflict with the development plan in these respects. Even taking into account the above material considerations I conclude that all the appeals should be dismissed.

S Harley

INSPECTOR