



Appeal Decision

Site visit made on 7 September 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2022

Appeal Ref: APP/Z3825/W/21/3288889

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 of Sussex 256 Ltd against the decision of Horsham District Council.
 - The application Ref DC/21/2296, dated 8 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is 2 no. penthouses to fourth floor of building (C3 usage).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the proposed development would affect the integrity of the Arun Valley Special Area of Conservation, Special Protection Area, and Ramsar Site (the Arun Valley sites); and
 - the effect of the proposed development on the character and appearance of the host building and the streetscene.

Reasons

Habitats sites

3. The Arun Valley sites are European Site of Nature Conservation Importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European sites. I am the competent authority for the purposes of this appeal.
4. Natural England (NE) has issued a position statement¹ regarding development within the Sussex North Water Supply Zone. The statement expresses concern about groundwater abstraction within this zone. NE is concerned that this is having a detrimental impact on the protected sites and habitats within the Arun Valley.
5. The appeal site falls within this zone. Additional water usage from new residential development would increase abstraction and contribute to adverse

¹ Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach

effects on the protected sites. On this basis, the proposal for two additional apartments is likely to have a significant effect, which in combination with other plans and projects, would harm the integrity of the protected habitats sites.

6. NE has identified that one way to mitigate this would be for a development to achieve water neutrality which is ensuring that the use of water in the supply area before the development is the same or lower after the development takes place.
7. The appellant has submitted a Water Neutrality Statement (WNS) which sets out the appellant's proposal to mitigate the adverse effect of the proposal and to achieve water neutrality. The intention is to offset water usage arising from the two proposed apartments, both of which would have two bedrooms, by reducing water usage within the apartments currently under construction in the lower floors of the host building. The approval of these flats pre-dated NE's position statement and the requirement for water neutrality. The water efficiencies would only be applied to 13 units under construction as water usage is limited to 110 litres per person per day for the remaining consented flats within the scheme.
8. The WNS sets out that based on the average consumption of water per person, the total water usage of the approved development could be reduced. This would be achieved through water saving methods including shower aerators and Hippo Flush Save bags. The appellant has submitted calculations to show that through these measures both water usage and waste water for the approved development could be sufficiently reduced to offset the water usage generated by the two proposed additional apartments.
9. In accordance with the Regulations, I consulted NE as the appropriate nature conservation body and I have had regard to their representations. NE does not consider water neutrality can be demonstrated. It considers there is no supporting evidence in terms of a current baseline for real-terms water usage and the proposed water usage. Furthermore, NE is of the view that the appellant's approach to occupancy rates to demonstrate water neutrality can be achieved are not supported by sufficient information. NE advocates the use of the Council's average occupancy rates for calculating a baseline for expected future water consumption.
10. There is no existing development against which to establish a baseline since the residential units on the lower floors are under construction. In view of this, an approach to establish the baseline water consumption which is based on expected occupancy rates and predicted water usage is reasonable, in line with the advice set out in the Council's guidance on 'Water neutrality and planning applications'².
11. The guidance states that the average occupancy for a one-bedroom dwelling would equate to 1.32 occupants and a two-bedroom dwelling, 1.88 occupants. These occupancy figures are drawn from 2011 Census data for the district.
12. The appellant has calculated occupancy on the basis that a studio flat would be single occupancy, a one-bedroom flat would have 2 occupants and a two-bedroom flat would have 3 occupants. This would equate to a total of 26

² Web-based publication, updated 19 August 2022

occupants. The appellant's approach does not align with the average occupancy rates set out in the Council's guidance. Based on the average occupancy rates set out in the guidance, the 13 flats which comprise 1 studio flat, 11 one-bed units and 1 two-bed, would have an average occupancy rate of 17.72 occupants.

13. There is no definitive evidence as to what occupancy levels will be once the approved scheme is fully implemented. The Census derived average occupancy rates lend weight to the position that the units are unlikely to be occupied to their full capacity. In the absence of any firm evidence to the contrary, in my view it would be reasonable to apply the average occupancy as advocated by the Council.
14. In terms of calculating water usage, the Council guidance has set an average for water usage of 135 litres per person per day. This is based on water company data which has calculated existing water consumption rates. The appellant has adopted an alternative approach based on average water consumption and household size, using Southern Water's guidance. This sets out that a household with one occupant would utilise an estimated 178 litres per day, 2 occupants would utilise 274 litres per day and 3 occupants would utilise 370 litres per day.
15. The Council's guidance does not advocate the use of the Southern Water average consumption figures for the purposes of assessing water usage for new development as this requires assumptions to be made about how many people would occupy a dwelling. Since predicted occupancy levels of the development are unknown, in terms of assessing predicted water usage for a development, I concur with the Council's view that applying average occupancy and water consumption rates is the fairest and most robust method.
16. The appellant has made water usage reduction calculations using a baseline predicated on full occupancy of every bedspace. When average water consumption figure is applied to the occupancy levels indicated by the appellant, it shows a much higher overall level of water consumption. As occupancy is likely to be lower, this does not provide an accurate baseline. Therefore, whilst the water saving methods proposed may help reduce water consumption, I do not have the firm evidence I require to be certain that they would be sufficient to offset water usage from the proposed development. I am therefore unable to conclude that the scheme would achieve water neutrality.
17. The appellant considers that the position statement issued by NE is 'advice' which the Council did not need to accept. He has suggested that this matter could be controlled by a condition to prevent occupancy of the proposed development until water neutrality is shown. In the absence of certainty in this regard, it would not be appropriate to impose a condition to secure any such measures.
18. The appellant has also indicated a willingness to provide any additional offsetting that might be required through the installation of water reduction methods in Council owned buildings. However, I have no firm evidence as to what that would be, how much water use it could offset or how it would be secured. I am therefore unable to take this into account.
19. The appellant has highlighted concerns during the application stage about the timescales the Council indicated would be required to fully consider the

submitted WNS as part of the application process. However, this is a procedural matter and does not alter my findings in respect of this main issue.

20. I therefore conclude that the proposed development would adversely affect the integrity of the protected Arun Valley sites. In the light of my conclusions, Regulation 63(5) of the Regulation would preclude the proposal from proceeding. The proposal would also conflict with Horsham District Planning Framework 2015 (HDPF) Policy 31 which states development should be refused if it is likely to have an adverse impact on biodiversity sites, unless appropriate mitigation measures are provided. It would also be contrary to the National Planning Policy Framework objectives for the protection of biodiversity and the conservation of the natural environment.

Character and appearance

21. Sussex House is a three-storey commercial building which is currently being extended to create a fourth floor and converted into residential apartments. It is a flat roofed building and occupies a T-shaped footprint with a substantial rear projection.
22. Development along North Street is of mixed character and uses, ranging from two to five-storey buildings of different architectural styles. The Capitol building, a modern arts centre and theatre, adjoins Sussex House via a two-storey side projection. This is a substantial building, with flat roofs and a strongly rectangular form. It steps up in height from a substantial two-storey glazed front foyer extension to the main brick building which extends rearwards to Chichester Terrace. The main section behind the glazed atrium appearing to be around four-storeys with a taller section at the rear adjacent to Chichester Terrace. Its substantially glazed foyer projects forward of the established building line on the southern side of the street and is a prominent feature in views along the road in both directions.
23. The proposal would add a further storey at fifth floor level to Sussex House. This would be a similar shape to the building footprint but set back from the front elevation by some 6m, with a smaller set in from the rear and approximately 4m from the south-western side elevation from the storey below. The flat roof area formed by the set in to the front and south-western side of the proposed extension would be enclosed with glazed balustrades to form areas of roof terrace, 1.2m high to the front elevation and 1.7m elsewhere.
24. The approved additional fourth floor will be taller than both the front glazed extension and two-storey extension to The Capitol that adjoins Sussex House. It will also be taller than the main central section of The Capitol. The proposed addition above this would increase that height. However, despite its greater height, due to its significant set back from the front elevation, the proposed extension would only be visible from limited viewpoints along North Street where it would be viewed in the context of the varied architecture, roofscapes and building heights including in addition to the blocky elements of The Capitol. Moreover, the significant forward projection of the glazed foyer and its substantial metal framed and glazed overhang would limit views of the proposed roof from certain angles.
25. Norfolk House adjoins the appeal site to the south-west. This is a three-storey office building with prominent front facing dormers at roof level providing a

fourth floor of accommodation. The approved fourth floor to Sussex House would extend above the eaves of Norfolk House, the proposal would again be taller than this. However, due to the position of Norfolk House which sits forward of Sussex House, the proposed extension would be some distance back from the front elevation of this building. Furthermore, the substantial dormers, the curvature of the road and the presence of mature street trees, would further limit views of the proposed extension. It would therefore not appear unduly dominant when viewed in the context of Norfolk House.

26. In this regard, the proposed extension would not tower over The Capitol nor appear unduly obtrusive or discordant within the varied streetscene along North street.
27. In views from Chichester Terrace to the rear, the proposed extension would not be prominent due to the narrowness of the site entrance and its relatively enclosed character resulting from its proximity to the rear of The Capitol. In the context of this substantial brick structure, with limited fenestration and significant amounts of roof top plant and ventilation equipment, enclosed by a metal rail, the enclosure of the roof area to Sussex House with obscure glazing would not appear harmful.
28. As a result of the proposal, Sussex House would display a step level change. However, I observed that this is a common feature of many buildings along North Street including The Capitol and Holmes Park to the north-east. In these circumstances, this resultant feature of Sussex House would not appear out of character.
29. I recognise that previous schemes proposing a fifth floor extension to the building have been refused and subsequently dismissed on appeal³. However, whilst I do not disagree with the conclusions of that previous Inspector, the scheme before me is for a much reduced extension at roof level with a significant set back from the front elevation. It would therefore have a different visual impact which I have not found to be harmful.
30. I conclude that the proposed development would not harm the character and appearance of the area. It would therefore comply with Policy 33 of the HDPF which requires development to be of a high standard of design in terms of scale, massing and appearance and to relate sympathetically with the built surroundings and to respect the character of the surrounding area.

Planning Balance and Conclusion

31. I have found that the proposal would not harm the character and appearance of the area. However, the proposal fails to demonstrate that it would achieve water neutrality and I am therefore unable to conclude that it would not adversely affect the protected Arun Valley sites.
32. For this reason, the appeal cannot succeed, and I therefore conclude that the appeal is dismissed.

Rachael Pipkin

INSPECTOR

³ APP/Z3825/W/20/3265603 and APP/Z3825/W/20/3265604