

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: 22 November 2022

Appeal Ref: APP/Z3825/W/21/3281411

Coppice Hanger, Church Hill, Pulborough RH20 1AB

- 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 Purple Pepper Partnership Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/2481, dated 9 December 2020, was refused by notice dated 30 June 2021.
 - The development proposed is erection of 4 No. detached dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the original application, the proposed development was changed to reduce the number of dwellings proposed from six to four. The description of development in the banner heading above includes this change and is taken from the Council's decision notice and the appeal form.
3. Since planning permission was refused, Natural England (NE) has issued a Position Statement in respect of planning applications within the Sussex North Water Supply Zone¹ in relation to their effect on protected habitats sites. The appeal site is located within this zone. The parties have been given the opportunity to comment on these matters. In view of the issues raised, I have dealt with this as a main issue in the appeal.
4. During the course of the appeal, the appellant submitted a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). This is dated 16 September 2022. It deals with mitigation in respect of water neutrality. The Council has been given the opportunity to comment on the submitted UU but no response was received. I return to this later in my decision.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the integrity of protected habitats sites;

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

- whether the proposed development would preserve or enhance the character or appearance of the Pulborough (Church Place) Conservation Area;
- the effect of the proposed development on the character and appearance of the area, including the setting of the South Downs National Park (the SDNP);
- whether or not the proposed development would provide safe and suitable access for pedestrians and cyclists.

Reasons

Water neutrality

6. The appeal site falls within the Sussex North Water Supply Zone and so the proposed development would draw its water supply from groundwater abstraction at Hardham. NE is concerned that water abstraction in this area is having a detrimental impact on the protected sites and habitats within the Arun Valley (the Arun Valley sites). This includes the Special Protection Area, Special Area of Conservation and Ramsar site.
7. These 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.
8. Additional water usage from new residential development would increase abstraction and contribute to adverse effects on the protected sites. On this basis, the proposal is likely to have a significant effect, which in combination with other plans and projects, would harm the integrity of the protected habitats sites.
9. 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.
10. The appellant has indicated that it would be willing to comply with the required measures to achieve water neutrality. This is set out within its Water Neutrality report². To this end, it has proposed the harvesting and reuse of water on site, with additional use of water efficient devices, smart metering and water saving information to new owners.
11. A proportion of offsetting demand would also be required. This has been calculated as 24.63 litres per person per day which translates to an annual offsetting demand of 135,189 litres. It is proposed to provide for this offsetting at a nearby plant nursery, Marehill Nursery, alternatively known as the Citrus Centre, whose irrigation system would be upgraded to include a rainwater harvesting scheme.
12. 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

² Water Neutrality Coppice Hanger, Church Hill, Pulborough – 8 September 2022 (V8Sep22)

consider that sufficiently robust evidence has been provided to demonstrate existing water consumption at the nursery which the proposal seeks to offset. Moreover, NE did not agree that making an estimation on total annual water use based on a reading taken in August, one of the hottest and driest months of the year when more water is likely to be used, would be suitably precautionary.

13. The annual rainwater harvesting yield has been calculated as 596,155 litres for an average year and 445,127 litres based on drought years. The rainwater harvesting at the plant nursery has been calculated to exceed the offsetting demand by at least 309,938 litres in drought years and significantly more during normal rainfall. This would be captured through a tank system to comprise 2 x 32,000 litre tanks, connected to pipework that feeds the sprinkler irrigation systems. The provision of these tanks would also exceed drought proofing of 35 days.
14. In response to the concerns raised by NE, the appellant has provided a Water Neutrality Addendum³ with copies of water bills for the nursery. These provide actual meter readings for the period 15 November 2021 to 4 August 2022, covering both winter and summer periods. Although not for a full 12 month period, this nevertheless demonstrates that actual usage during the period for which billing information is available would be 1,366,000 litres. This level of water usage would significantly exceed the annual offsetting demand of 135,189 litres arising from the proposed development. It has therefore been demonstrated that the rainfall harvesting measures would enable the nursery to reduce its mains water consumption by a significantly greater amount than that generated by the development.
15. In view of the above, it appears that, provided the mitigation measures could be secured, the required water offsetting measures to mitigate any adverse effects arising from water consumption associated with the proposed dwellings on the appeal site could be met.
16. It is intended to secure the required mitigation through the submitted UU. The UU sets out covenants requiring certain things to be done at the plant nursery, referred to in the UU as the 'Nursery Property'. For this reason, the precise location and extent of that property needs to be clear and proof of title is required. I have been provided with a postal address for the Nursery Property but no plan or Land Registry details.
17. Moreover, there is limited detail as to what the works will be at the Nursery Property beyond setting out the minimum capacity of the system. The exact location of the main water harvesting system apparatus is left to be agreed between the parties to the UU but not the Council. Furthermore, there is limited detail in respect of the ongoing management and maintenance of the water harvesting system. In the absence of this, I do not have the assurance that the water offsetting measure will achieve its aims or that it can be secured in perpetuity on the Nursery Property.
18. The submitted UU has been set out as being between three parties, the appellant, two individuals who are the owners of the Marehill Nursery and the nursery business itself, The Citrus Centre Limited. However, whilst both the

³ Water Neutrality Addendum Coppice Hanger, Church Hill, Pulborough – 1 November 2022 (V1Nov22)

owners and the appellant have signed the UU, it has not been executed as a Deed by the nursery business itself.

19. I have been provided with a Land Registry title number but no copies of Land Registry entries or Title Plan for the appeal site. In the absence of any confirmation by the local planning authority, in order to accord with paragraph N.5.2 of the *Procedural Guide: Planning Appeals - England*, I would need to check these.
20. In the absence of adequate details of the off-site measures, I cannot be certain that the UU is clear as to what the parties are required to comply with and therefore whether the UU as drafted could be enforced against by the Council
21. The submitted UU as executed would not secure the mitigation to address adverse effects on the protected habitats sites. Consequently, I cannot be satisfied that the adverse effects of the proposal could be effectively mitigated with regards to water abstraction impacts on the protected sites.
22. 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.

Pulborough (Church Place) Conservation Area

23. The appeal site lies within the Pulborough (Church Place) Conservation Area (the CA). The CA is characterised by ribbon development along Lower Street which runs parallel to the river and historic development around Swan Corner including Swan Bridge, a scheduled monument, which together form the lower part of the settlement. The historic core of the settlement around St Mary's Church lies to the north of this, within the upper part of the settlement. Church Hill rises up steeply from the river, linking the upper and lower parts of the settlement. It is characterised by unobtrusive, spacious development set within large plots. Trees and dense vegetation provide a sense of enclosure along Church Hill and contribute to the sylvan character of the area.
24. A number of historic buildings within the CA have retained their original character and contribute to the significance of the CA in both the historic core and around Swan Corner and the river to the south of the CA. Swan Bridge, to the south of Swan Corner, provides an important entrance to the CA. The view from Swan Bridge looking north, towards the settlement and the appeal site, is important within the CA and contributes to the setting of the scheduled ancient monument and listed buildings in this part of the conservation area.
25. The appeal site occupies a sizeable and sloping plot to the west side of Church Hill. There are a number of trees within the plot, predominantly to its boundaries. These contribute to the sylvan character of the conservation area, providing a wooded backdrop to development at Swan Corner in views from Swan Bridge to the north. The coppice of trees along the northern edge of the

appeal site screen views of St Mary's Church from both the river and the appeal site.

26. The proposal would create a small development of four two-storey dwellings arranged around a cul-de-sac. With many trees retained on the site including the significant belt of trees both to the front and rear of the site, views of the proposed houses would be limited. Where they would be seen, they would appear to nestle into the slope. The overriding character of a sylvan backdrop to the settlement would be retained and therefore the existing positive aspects would be preserved. Even during winter months when many of the trees would not be in leaf, the houses would not be obtrusive due to their form, nestling into the slope and glimpsed between the bare branches of the trees. The views from Swan Bridge to the north and towards the appeal site would not be significantly altered.
27. I conclude that the proposed development would preserve the character or appearance of the CA. It would therefore accord with Policy 34 of the HDPF which requires development to reinforce the special character of the historic environment through appropriate siting, scale, form and design and make a positive contribution to the character and distinctiveness of the area.

Character and appearance

28. The appeal site formed part of the garden to Coppice Hanger which is now fenced off. It had previously incorporated a tennis court, the remains of which could be seen at the time of my site visit. There are several trees on the site, which provide enclosure on its boundaries and contribute to the sylvan character of the settlement and along Chapel Hill.
29. The proposed development would require the removal of a small number of trees and a section of vegetation on the Church Hill frontage in order to accommodate a new vehicular access. However, additional tree planting is proposed to this frontage, including where an existing vehicular access would be closed up, as well as throughout the site. The proposed houses would be positioned away from the Church Hill frontage and behind new and existing planting. They would not be any more prominent in views from this road than existing development and would not detract from the sylvan character along the road. Furthermore, the limited extent of tree removal in combination with the additional planting proposed would ensure that the tree-lined character of Church Hill would be retained.
30. As set out in my reasoning above, the proposed development would nestle into the slope of the site with the majority of trees on site retained. As such, it would not significantly alter the character of the site when viewed from the surrounding area, including from longer distant views. There would be a good separation distance between the trees along the southern boundary of the site and the proposed houses. Moreover, the trees would also be downslope of the proposed development which would reduce their visual impact when viewed from the proposed dwellings. On this basis, pressure from future occupants to reduce or remove these trees would be unlikely.
31. The SDNP is indicated to be some 60m from the appeal site. However, as the proposal would be seen in the context of the existing settlement, it would not significantly alter the setting of the SDNP. The additional dwellings would result in some additional lighting which would potentially affect the dark night skies

within the SDNP. However, the dwellings have been designed without roof lights and high level windows. Furthermore, a lighting scheme to secure appropriate lighting that would not adversely impact the dark skies could be secured by an appropriately worded planning condition. For these reasons, the proposal would not adversely impact upon the setting of the SDNP.

32. I conclude that the proposed development would not harm the character and appearance of the area, including the setting of the SDNP. It would therefore accord with Policy 25 of the HDPF which protects the landscape character of the District including townscape character and seeks to conserve the setting of the SDNP.

Highway safety

33. Church Hill rises on a steep incline in a northerly direction. It forms part of the A29 and I observed at the time of my site visit that it was reasonably busy with a number of larger vehicles including heavy goods vehicles using it. A relatively narrow footpath runs along its western side which provides the main pedestrian link between Swan Corner and the historic core of the village. A mini-roundabout at its southern end, close to Swan Corner, makes the environment in this area challenging for road users and pedestrians due to the convergence of roads, narrow streets and the absence of a footpath on the eastern side of Church Hill and northern edge of the roundabout.
34. The scheme proposes the relocation and upgrade of an existing access from the site onto Church Hill. This originally served the host property, Coppice Hanger, which has since been separated from the site. The existing access would be closed up and a new access formed a little further up Church Hill. This access would serve the four dwellings.
35. The repositioned access would be further away from the mini-roundabout than the existing access. It seems to me that this may help to alleviate some of the challenges for road users in this area. I recognise that Church Hill is narrow, and becomes narrower further north, away from the appeal site. In this context, it may be that larger vehicles may mount the pavement. However, the road is wider near the proposed entrance with a width indicated to be around 6-6.8m wide with a pavement exceeding 1.5m, which would be adequate to accommodate larger vehicles passing each other.
36. In any event, notwithstanding the challenging environment, the local highway authority has confirmed that there is no evidence to suggest that the nearby road network is operating unsafely nor that the proposal would exacerbate an existing safety concern. The access would be served by appropriate visibility splays to allow safe access onto the highway. I am therefore not persuaded that the proposed access would give rise to an unacceptable increase in the risk of conflict between users of the highway.
37. I therefore conclude that the proposal would provide safe and suitable access for pedestrians and cyclists. It would therefore accord with Policy 40 of the HDPF which requires development to minimise conflicts between traffic, cyclists and pedestrians and to provide safe and suitable access for all users.

Other Matter

38. The scheme would provide four additional family homes within an existing settlement which would make a modest contribution to the District's housing

land supply. It would also make effective use of land supported by national policy. These are positive aspects of the scheme that weigh in its favour.

Planning Balance and Conclusion

39. I have found that the proposal would not adversely affect the CA, nor would it harm the character and appearance of the area or give rise to highway safety concerns. 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.
40. For this reason, the appeal cannot succeed, and I therefore conclude that the appeal is dismissed.

Rachael Pipkin

INSPECTOR