



Appeal Decision

Site visit made on 25 April 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/Z3825/W/22/3292158

26 Amberley Road, Horsham RH12 4LN

- 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 Glenn Cross against the decision of Horsham District Council.
 - The application Ref DC/21/2088, dated 9 September 2021, was refused by notice dated 14 January 2022.
 - The development proposed is described as new build 3 bedroom house on the land adjacent to 26 Amberley Gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. 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 area.

Reasons

Habitat Sites

4. The Arun Valley sites are European Sites of Nature Conservation Importance and are 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. For the purposes of this appeal, I am the competent authority.

5. Natural England (NE)¹ issued a position statement 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.
6. The habitat sites are home to low-lying wetland areas that offer a variety of ecological conditions, providing internationally important habitats with rich flora and fauna, invertebrates and supporting important numbers of wintering birds. As a result, within this zone, it cannot be concluded with the required degree of certainty that new development would not have an adverse effect on the integrity of the wetland sites unless it is demonstrated that the development would achieve a level of water neutrality and so avoid further pressure on water abstraction.
7. The appeal site falls within this identified zone. As such, additional water usage from new residential development would increase abstraction and contribute to adverse effects on the protected sites. On this basis, the proposal for an additional residential dwelling is likely to have a significant effect, which in combination with other plans and projects, would harm the integrity of the protected habitats sites.
8. The NE position statement has identified that one way to mitigate this would be for 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.
9. 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 dwelling, which has three bedrooms, through internal water efficiency products and appliances with rainwater butts externally and no external taps. Some indicative water use figures per use have been included with the WNS.
10. In accordance with the Regulations, I consulted NE as the appropriate nature conservation body, and I have had regard to their representations. In this instance, NE does not consider that the proposed scheme can demonstrate water neutrality. This is because NE considers there is no supporting evidence in terms of a current baseline for real-term water usage and the proposed water usage. Furthermore, NE advised that additional evidence would be required, including the appellant's reconsideration of the water neutrality statement and water budget and evidence of the schemes proposed mitigation measures and/or offsetting measures.
11. From the evidence before me and my observations on site, there is no existing water-using development against which to establish a baseline since the existing site is occupied by garages. Therefore, whilst the water-saving methods proposed may help reduce water consumption, I do not have the substantive 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.

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

12. The appellant notes that a building regulations water table would be required should the appeal scheme be allowed. However, compliance with building regulations would not demonstrate that the proposed scheme would not harm the Arun Valley sites. In the absence of certainty in this regard, it would not be appropriate to impose a condition to secure any such measures.
13. The appellant has also noted that NE advice with regard to water neutrality could be done through retrofitting of Council owned buildings. However, no substantive evidence to demonstrate that these works would prevent development elsewhere from having a negative impact on Arun Valley sites has been provided. I therefore attach little weight to this matter.
14. In conclusion, the proposal would have a likely significant effect on the protected Arun Valley sites and appropriate mitigation has not been demonstrated. I am therefore unable to rule out the possibility that the proposal, either alone or in combination with other development, would not have an adverse effect on the integrity of the protected sites. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted.
15. I therefore conclude that the proposed development would adversely affect the integrity of the Arun Valley sites. In light of my conclusions, Regulation 63(5) of the Regulations would preclude the proposal from proceeding. The proposal would also conflict with Policy 31 of the Horsham District Planning Framework (HDPF), 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 (the Framework) objectives for the protection of biodiversity and the conservation of the natural environment.

Character and appearance

16. The appeal site is currently occupied by two single garages and forms part of the side/rear garden of a two-storey semi-detached dwelling. Amberley Road is characterised by dwellings of varying styles and sizes, both single and two-storey, set within well-sized plots set back from the road by driveways and gardens with varying-sized spaces in between each property.
17. During my site visit, I saw how, despite a variation in style and size, including some that had been extended, properties are broken up by gaps between them, which provide some visual relief to this suburban area. These gaps are, however, restricted given the position and layout of many dwellings meaning that views between properties are mainly glimpsed from the front rather than mid or longer-range views from the side.
18. The proposed dwelling would be detached from properties on either side, replacing the garages. The introduction of the proposed dwelling in this location would erode the wide-open view of the skyline that currently exists between the existing dwellings on either side. Whilst the resultant gap would be smaller, it would still allow for views and open space between the properties. Therefore, while the additional built form would result in a loss of visibility between existing dwellings, the appeal dwelling would not appear cramped or at odds with the existing pattern of development or the street scene.

19. The Council accept that the proposed property would largely replicate the size and scale of 26b Amberley Road and would be acceptable in design terms. Based on the plans before me and my observations on site, I find no reason to disagree. Indeed, by largely replicating the scale and appearance of the adjacent property, the introduction of the appeal building would assimilate with the built characteristics of the street scene.
20. Furthermore, there are small gaps similar to that proposed between residential properties found close by on Amberley Road and Greenfields Way. As such, the gap proposed by the appeal scheme would reflect and reinforce the settlement pattern found within the area and be in keeping.
21. I conclude that the proposal would not be harmful to the character and appearance of the area. It would therefore comply with the objectives of Policies 25, 32 and 33 of the HDPF. These together, amongst other things, seek to protect landscape character from inappropriate development, ensuring new development complements locally distinctive character and is of an appropriate design.

Planning Balance

22. The Council cannot demonstrate a 5-year land supply for housing, paragraph 11d) of the Framework is therefore relevant to the appeal. The application of policies in the Framework, insofar as they relate to habitat sites, provide a clear reason for refusing the development proposed. The proposal does not therefore benefit from the presumption in favour of sustainable development. The proposal would, nonetheless, make a contribution towards the Council's housing stock and the new dwelling would be built to modern efficiency standards. However, given the scale of the proposal this would not outweigh the harm identified for the reasons set out in the second main issue.

Conclusion

23. 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.
24. For this reason, the appeal cannot succeed, and I therefore conclude that the appeal is dismissed.

A Hickey

INSPECTOR