



Appeal Decision

Site visit made on 12 February 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/Z3825/W/23/3324414

St. Crispins Church, Church Place, Pulborough RH20 1AF

- 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 Jason Vince of Earlswood Homes against the decision of Horsham District Council.
 - The application Ref is DC/22/1428.
 - The development proposed is demolition of an existing building and redevelopment of the site to provide 6 dwellings with associated access, parking, and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, following the deadline for final comments, a revised version of the National Planning Policy Framework (the Framework) was published. Both the Council and the appellant have been consulted on the amended version of the Framework and neither sought to provide additional comments.
3. The appellant has submitted a Water Neutrality Statement¹ which introduces a new scheme that proposes to offset mains water demand. This scheme was not before the Council when they determined the planning application. The Procedural Guide² sets out that the appeal process should not be used to evolve a scheme; however, I am mindful of the *Holborn Studio* judgement³. The Water Neutrality Statement does not materially alter the proposed development. Furthermore, the proposal seeks to offset mains water demand offsite in a similar manner to the original scheme. For these reasons, no party would be prejudiced by me considering this evidence as part of the appeal.
4. The description of development detailed on the application form and decision notice refers to the demolition of existing buildings. During my site visit I observe one building and only one building is shown on the application plans. For clarity I have amended the description of development in the banner above.

Main Issue

5. The main issue is whether the proposal would have a likely significant effect on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area and Ramsar sites (the Arun Valley Sites).

¹ TN03 – Water Neutrality Statement, 19 June 2023

² Procedural Guide: Planning appeals – England, January 2024

³ *Holborn Studio Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

Reasons

6. The Arun Valley Sites are European Sites and are subject to statutory protection under The Conservation of Habitats and Species Regulations 2017 (as amended). Regulation 63 specifies that before deciding to grant permission for a project, which is likely to have a significant effect on a European Site and is not directly connected with or necessary to the management of the site, the competent authority must make an appropriate assessment of the implications of the project in view of the site's conservation objectives. In this instance, I am the competent authority.
7. The Arun Valley Sites are designated due to the wet meadows, which are dissected by a network of ditches that have a particularly diverse and rich flora. These features provide habitat for invertebrates and birds, such as the Bewick Swan and Little Whirlpool Ram's Horn Snail, as well as supporting nationally scarce and rare plant species. The conservation objectives include maintaining the extent, distribution, structure, and function of the habitat.
8. In September 2021, Natural England published a position statement which explained that it cannot be concluded that the existing groundwater abstraction within Sussex North Water Supply Zone (SNWSZ) is not having an impact on the Arun Valley Sites. The statement explained that proposals must not add to this impact and one way of achieving this is to demonstrate water neutrality.
9. The appeal site is within the SNWSZ area; therefore, it must be demonstrated that the proposal would not lead to increased groundwater abstraction. The church building is currently vacant and has been since 2019. As such, the proposal, without mitigation would lead to increased water consumption and, consequently, increased groundwater abstraction. Without further evidence, it cannot be determined that this would not have a likely significant effect on the low-lying wetland areas of the Arun Valley Sites.
10. As the church building is vacant, a conservative estimate is that there is currently no water consumption on site. The appellant has sought to demonstrate that fixtures and fittings installed in the proposed dwellings would be able to reduce water consumption, but there would still be a need for offsite mitigation. As such, it has not been demonstrated that water neutrality could be achieved through onsite mitigation alone.
11. It is proposed that a rainwater harvesting and recycling scheme at Danefold Farm, which is located within the SNWSZ area, would reduce the use of mains water by 12,367 litres per day. Unlike previous offsetting proposals forwarded by the appellant, this proposal is supported by substantive evidence, including evidence of historic use from a metered supply. The owners of Danefold Farm have converted the proposed water consumption savings into credits; under this system, a reduction of one litre per day equates to one credit. The appellant has entered into a legally binding agreement with the farm owners for 6,120 credits, which equates to a water consumption reduction of 6,120 litres per day.
12. The water consumption of future occupiers of the proposal would vary depending on the specification of the fixtures and fittings installed within the proposed dwellings. Even if I was to accept the highest forecasted figure of water consumption of 1,612.96 litres per day, the credits from the scheme at Danefold Farm would offset it. Furthermore, the water consumption figure

would be lower with the installation of water-efficient fixtures and fittings. As such, water consumption in the area would reduce and, consequently, so would groundwater abstraction. Moreover, the approach at Danefold Farm has been supported by Natural England in neighbouring authority areas and similar approaches, on other sites, have been accepted by Horsham District Council. There is no evidence before me which indicates that the Council or Natural England would object to the proposed mitigation.

13. A draft Unilateral Undertaking (UU) has been submitted as part of the appeal. Despite the deadline for providing a planning obligation passing, I wrote to the Council and the appellant, and I invited the opportunity for a final version of the UU to be submitted. An updated version of the UU has not been provided.
14. As the draft UU is not signed or dated by the parties entering into the agreement, it is not enforceable. Therefore, there is no mechanism before me which would obligate the appellant to use the credits obtained from the owners of Danefold Farm to offset the proposed increase in water consumption from the proposed development. Without a mechanism to secure the appropriate off-site mitigation, I cannot be certain that the proposal would not increase water consumption across the SNWSZ area as a whole. Consequently, I cannot be certain that the proposal would not lead to increased groundwater abstraction.
15. For these reasons, I conclude that the proposal would have a likely significant effect on the integrity of the Arun Valley Sites. As such, the proposed development would be contrary to Policy 31 of the Horsham District Planning Framework (excluding South Downs National Park), November 2015 (HDPF). The Policy indicates that where development is anticipated to have an indirect adverse impact on sites for biodiversity, development will be refused unless it can be demonstrated that appropriate mitigation and compensation measures are provided. Moreover, the proposed development would be contrary to the paragraphs 185 and 186 of the Framework. These paragraphs indicate that to protect biodiversity, plans should identify and safeguard internationally designated sites and that when determining planning applications, local planning authorities should refuse planning permission if significant harm to biodiversity cannot be avoided.

Other Matters

16. The appeal site is in proximity to the Grade II listed 'Ramblers Rumpus Cottage The Presbytery (Broadview)'⁴. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) requires me to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The significance of the listed building includes its traditional architecture dating back to the 17th Century and its setting along Church Place, which accommodates several terraced properties that are sited close to the road, with some generally larger properties set further back from the road.
17. The proposal would lead to the demolition of the church building, which does not reflect the historic pattern of development, replaced by dwellings including terraced properties sited close to the road and a larger property to the rear of the site. The proposed layout would better assimilate with the prevailing

⁴ List entry number: 1286122

pattern of development along this section of Church Place, than the church building. Moreover, the proposed dwellings would include features, such as ornamental tiles at the first-floor level and chimneys, that reflect nearby historic properties. Given, the proposed layout and the detailing of the proposed dwellings, the appeal proposal would preserve the listed building, its setting, and any features of special or historic interest that it possesses.

18. The appeal site is also within the Pulborough Conservation Area (CA). Section 72 of the 1990 Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CA covers Pulborough's historic core. It is characterised by the high-quality historic buildings which are largely unaltered from the time of their construction, and the historic pattern of development. As far as relevant to this appeal, I find that the significance of the CA is derived from the historic layout and traditional detailing of the buildings within it. As above, the proposal would include features present on historical buildings, within proximity of the site, and would respect the prevailing pattern of development. Therefore, I conclude that the proposal would preserve the character and appearance of the CA.
19. The appeal site is in proximity to The Mens SAC and Ebernoe Common SAC, both are European Sites and are afforded the same statutory protections as the Arun Valley Sites. The Mens is a mature woodland that is rich in lichens, bryophytes, fungi and saproxylic invertebrates, Ebernoe Common has an extensive block of beech forest over dense Holly. Both areas provide habitat for Barbastelle and Bechstein bats. The conservation objective of both these areas is to maintain or restore the extent and distribution of qualifying natural habitat. Potential adverse impacts include the loss of connecting habitat suitable for bats, invasive species and increased light levels.
20. The ecological appraisal report did not identify any bat roosts on the site, and there is no substantive evidence for me to conclude otherwise. The proposal would not lead to the loss of connecting habitat, introduce invasive species, or lead to increased light levels within the SACs. Furthermore, the appellant has submitted a Reasonable Avoidance Measures Strategy for Bats which includes several measures to reduce any potential effect on foraging or commuting bats. These measures could be secured by condition. Natural England is also satisfied that the proposal including the mitigation measures would not affect the integrity of the SACs. For these reasons, I conclude that the proposal would not have a likely significant effect on the integrity of the Mens SAC and Ebernoe Common SAC.
21. Within the evidence the appellant has made specific reference to the Framework, National Design Guide, and adopted and emerging development plan policies, in relation to matters that are not in dispute or pertinent to the main issue. I acknowledge that the appeal proposal complies with some sections of the Framework, National Design Guide, and with various local policies including those that set a broad strategy for housing growth and to combat climate change. Regardless, this does not alter my assessment on the main issue of this appeal.
22. I have noted concerns raised by interested parties, with respect to highway safety, amongst other factors. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore such matters further here.

Planning Balance

23. The evidence before me indicates that the Council can only demonstrate 3 years supply of deliverable housing land. An additional six houses situated in an accessible location close to services and facilities in Pulborough would help address the shortfall in housing land supply. There would also be economic benefits associated with the construction of the scheme and an increased population living in the area. Whilst the number of dwellings proposed would only have a modest effect on the housing supply, in view of the current significant shortfall that applies, significant weight is ascribed to these benefits.
24. However, I have identified harm to the Arun Valley Sites and associated conflict with HDPF Policy 31 which dates from 2015. The weight to be attached to the HDPF does not hinge on its age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework indicates that planning decisions should contribute to the natural and local environment by protecting sites of biodiversity value, in a manner commensurate to their statutory status. Therefore, the conflict between the proposal and HDPF Policy 31 attracts substantial weight in the circumstances of this case.
25. There are no policies in the development plan which positively favour development which is potentially harmful to habitats sites. The proposal, therefore, conflicts with the development plan, when considered as a whole.
26. Although the Council is unable to demonstrate a five-year supply of deliverable housing land, the presumption in favour of sustainable development addressed by paragraph 11 of the Framework, would not be engaged in this instance. This is due to paragraph 11(d) of the Framework setting out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 to paragraph 11 clarifies that these policies would include those in the Framework relating to habitat sites.
27. Overall, whilst the proposed development would provide social and economic benefits, including making a positive contribution to the shortfall in housing supply, individually or cumulatively, these do not outweigh the significant adverse impacts related to its likely significant effect on the Arun Valley Sites.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

J Hobbs

INSPECTOR