



Appeal Decision

Site visit made on 14 October 2024

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 25th October 2024

Appeal Ref: APP/L3815/W/24/3339109

2 The Workshop, Village Road, Kirdford, West Sussex RH14 0NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ken Clayton against the decision of Chichester District Council.
 - The application Ref KD/23/02425/FUL, dated 23 October 2023, was refused by notice dated 21 December 2023.
 - The application sought planning permission for "Erection of 1 no. timber workshop building on existing light industrial/commercial land. The Workshop Village Road Kirdford RH14 0NW" without complying with conditions attached to planning permission Ref KD/21/00427/FUL dated 1 December 2022.
 - The conditions in dispute are Nos 2 and 6 which state that:
Condition 2: "The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans" "
Condition 6: "No part of the development shall be first occupied until the on-site water neutrality mitigation measures for that unit have been fully implemented and are operational and a verification report for all the onsite water neutrality mitigation measures has been submitted to and approved in writing by the Local Planning Authority."
 - The reasons given for the conditions are:
Condition 2: "For the avoidance of doubt and in the interests of proper planning."
Condition 6: "To ensure that the necessary mitigation measures to ensure an alternative water supply is in place prior to occupation of the development. In the interests of biodiversity."
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Decision

1. The appeal is dismissed.

Preliminary matters and main issue

2. The appeal site includes a single storey mostly tile roofed and brick walled building in the south east part of the site, a tile roofed and timber board clad building called '1 The Workshop' to roughly north west of that building, and a tile roofed and timber board clad building called '2 The Workshop' to roughly north west of the building called '1 The Workshop'. The existing buildings called '1 The Workshop' and '2 The Workshop' are broadly similar in scale and appearance, and each of those 2 buildings includes a water closet and a basin. The building at 2 The Workshop is occupied by a florist.
3. There is no evidence before me to show that the verification report sought by Condition 6 of the Council's decision notice ref KD/21/00427/FUL (the previous

application) has been submitted to and approved in writing by the Local Planning Authority. In the light of the description of the development in the banner heading above, the word 'residential' in the Council's reason for refusal 1) appears to be an error.

4. Paragraph 55 of the National Planning Policy Framework (Framework) explains that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The Framework and Planning Practice Guidance (PPG) add that planning conditions should be kept to a minimum and only imposed where they are, amongst other things, necessary.
5. The main issue is whether Condition 6 is necessary to avoid an adverse effect on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site (the Arun Valley site), in the interests of biodiversity, and whether Condition 2 is necessary to provide certainty for all parties.

Reasons

6. The appeal site lies within the Sussex North Water Supply Zone. In determining this appeal, I am the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
7. Natural England has advised that the Sussex North Water Supply Zone includes supplies from a groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of the Arun Valley site. As it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an impact on the Arun Valley site, developments within this zone must not add to this impact. One way of achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.
8. The Council states that the mitigation measures secured as part of the previous application include a rainwater harvesting unit with a 24,400 litres per annum capacity, and that the proposal would use rainwater harvesting systems to collect and store up to 3,000 litres of water across the proposed building and an adjacent existing building, which would be used to service water closets.
9. The Council's appropriate assessment for the previous application has not been put to me. However, from the words in Condition 6 and the Council's reasons for imposing Condition 6, it is clear that the mitigation measures are necessary to achieve water neutrality, and thus, for the development to have no adverse effect on the integrity of the Arun Valley site.
10. Whilst the appellant has raised concern about the capacity of the rainwater harvesting system, it is likely that the appellant had provided its details during the previous application process. Due to the development's use and its scale, the appellant's water use data of 13.25 litres per person per day is not likely to amount to 47 litres per person per year.
11. No mitigation measures other than those required by Condition 6 have been put to me. Because the appellant says that the development would generate a

water use of 13.25 litres per person per day or 47 litres per person per year, and as no other mitigation measures are proposed, the development would not be water neutral.

12. Because the development without the mitigation measures required by Condition 6 would not be water neutral, it would not achieve no adverse effect on the integrity of the Arun Valley site. It would be contrary to the Habitats Regulations, and the Framework which aims to conserve and enhance the natural environment.
13. As the mitigation measures required by Condition 6 are necessary to make the development water neutral, and thus, to make the development acceptable, and as there are no other acceptable mitigation measures before me, the other matters, including the economic impact of the approved mitigation measures and rainwater runoff from the site, are not relevant. The appellant's concerns about the Council's handling of the previous application are not relevant to my findings.
14. As condition 6 is necessary to avoid an adverse effect on the integrity of the Arun Valley site, in the interests of biodiversity, and it satisfies all of the other 'tests' in the Framework and PPG, I shall not remove or vary Condition 6.
15. Because Condition 6 will not be removed or varied, it will not be necessary to vary Condition 2, which identifies the approved plans, including the plan showing some of the approved mitigation measures. As Condition 2 is necessary to provide certainty for all parties, and it satisfies all of the other 'tests' in the Framework and PPG, I shall not remove or vary Condition 2.
16. Therefore, I consider that Condition 6 is necessary to avoid an adverse effect on the integrity of the Arun Valley site, in the interests of biodiversity, and that Condition 2 is necessary to provide certainty for all parties. So, I shall not remove or vary Condition 2 and I shall not remove or vary Condition 6.

Conclusion

17. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR