



Appeal Decision

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/Z3825/W/24/3342988

Truffles, High Street, Henfield, West Sussex BN5 9DA

- 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 Ms Daisy Tompsett (Truffles Bakery) against the decision of Horsham District Council.
 - The application Ref is DC/23/0660.
 - The development proposed is conversion of the rear café (Class E) to form 1no residential dwelling (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has agreed to change the description of development to that used on the Council's decision notice. Accordingly, I have taken the description above from that notice.
3. The appellant has submitted a revised Water Neutrality Statement dated April 2024 with the appeal (WNS). This provides additional information about, but does not alter, the development proposed. The Council has had an opportunity to comment on the WNS through the appeal. I am therefore satisfied no party would be prejudiced by my taking account of this document in my decision.
4. The main issue in this appeal turns on technical evidence about water neutrality. When I invited comments from the main parties about the need for a site visit, they agreed this would not be necessary. I have therefore determined the appeal on the evidence before me, without visiting the site.

Main Issue

5. The main issue is the effect of the proposal on the integrity of protected European sites, with particular reference to water neutrality.

Reasons

6. The appeal site comprises the Truffles Bakery, which operates from a shop unit on the High Street, and the Truffles café, located in the space to the rear of the shop. The proposed change of use would only affect the rear café area and the Bakery would continue to operate from the High Street shop.
7. The appeal site draws its water from groundwater abstraction in the Sussex North Water Supply Zone, which affects the Arun Valley Special Protection Area (SPA) and Special Area of Conservation (SAC). The SPA and SAC are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

8. Under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.
9. The SPA is protected for its wintering birds including Berwick swan, its assemblage of wintering waterfowl and the supporting wetland habitats. The SAC is notified for the rare and threatened *Anisus vorticulus* snail and its supporting wetland habitats. The conservation objectives of the SPA and SAC are to ensure the integrity of the sites, including the extent, distribution, structure, function and supporting processes of the habitats, and population and distribution of each of the qualifying features, is maintained or restored.
10. Natural England (NE) states the SAC is failing its conservation objectives for range and distribution of the *Anisus vorticulus*, which is at risk of going extinct on the site; and in the SPA, only Teal are meeting their conservation objective targets. According to NE, the sites are slowly drying and water abstraction within the Sussex Water Supply Zone cannot be ruled out as contributing to these declines in wildlife. NE has therefore stated that achieving water neutrality will be important for as long as the adverse effect risk to the SPA and SAC from water abstraction continues, which may continue until the sites are restored to favourable conservation status.
11. The requirement for water neutrality applies to all new development that, like the appeal proposal, could increase water consumption. Having regard to NE's standing advice on water neutrality, I find that, without mitigation, the appeal scheme would be likely to have a significant effect on the integrity of the protected sites, either alone or in combination with other plans or projects.
12. The parties agree the existing combined water consumption of the shop and café is an average of 618.16 litres per day (l/day), based on water bills dating back to March 2021. They also agree the water consumption of the proposed flat, with mitigation, would be 142.5 l/day. On the evidence before me, I see no reason to disagree with these figures. Nonetheless, to calculate the net effect of the proposal on water consumption, the levels of water usage in the café and shop need to be differentiated. The water bills do not assist with this.
13. The WNS states an existing fittings survey has been carried out that shows total water demand for the café alone to be 486 l/day. However, the existing fittings survey for the café and data behind this figure are not before me.
14. The WNS also states BREEAM¹ calculations for the existing shop show water usage of 9.4 litres per person per day (l/p/d). Appendix B of the report includes an extract from a 'BEEAM-NOR 3.0 Wat 01 Water consumption Average flow rate calculator' for the Truffles Bakery. This records the average effective flushing volume in litres of one toilet, and the average and proportionate flow rate in litres per minute of one basin tap and one kitchen tap. Be that as it may, there is nothing before me to demonstrate how the figures in Appendix B led to the finding of 9.4 l/p/d. Nor does the WNS explain how many people would be expected to use this amount of water in the shop each day on average.
15. Consequently, I find the evidence in the WNS is not sufficiently clear, precise or compelling to substantiate the assertions that the café accounts for 78 per

¹ Building Research Establishment Environmental Assessment Method

cent of current water usage at the site, and that the proposed change of use to a flat would not only be water neutral but would result in a water saving of 340.8 l/day.

16. As competent authority, my responsibility is to ensure I am confident there is sufficient information to support my conclusion. The above evidence is not sufficient for me to be confident the proposed dwelling would consume no more water than the café use. Bearing in mind the precautionary principle, I therefore find that, even with mitigation, the effect of the development on the integrity of the SPA and SAC from increased water abstraction is likely to be significant in the absence of objective evidence to the contrary.
17. I appreciate the appellant attempted to seek advice from the Council and NE, but this does not change my finding as competent authority for this appeal.
18. For the above reasons, I conclude the proposal would have a harmful effect on the integrity of protected European sites, with particular reference to water neutrality. This is contrary to Policy 31 of the Horsham District Planning Framework 2015, which reflects the Habitats Regulations. It is also contrary to the Framework, which states planning permission should be refused if significant harm to biodiversity cannot be avoided or adequately mitigated.

Other Matters

19. The appeal site is in the Henfield Conservation Area (CA). Its significance as a heritage asset is derived from features, such as the street plan and historic buildings, which reflect Henfield's evolution from dispersed Saxon village to medieval linear settlement to larger 19th century semi-rural village. As the CA's historic commercial core, the High Street shopfronts, including the appeal site, make a positive contribution to this significance. The proposal would not affect the appearance or use of the appeal site shopfront within the High Street. Modest alterations to fenestration at the rear of the site would have little material effect. I therefore find the character and appearance of the CA would be preserved and there would be no harm to its significance as a heritage asset.
20. The Council accepts it cannot demonstrate a five-year housing land supply. However, policies in the Framework that protect habitats sites provide a clear reason for refusing development. Therefore, the presumption in favour of sustainable development at Framework paragraph 11d) is not engaged.
21. The modest social and economic benefits from provision of one dwelling and additional town centre footfall would not outweigh the harm identified.
22. The Council has raised no concern in relation to the proposal's design or effect on the living conditions of neighbouring occupiers. I see no reason to disagree, but an absence of harm in these respects is a neutral factor.

Conclusion

23. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter INSPECTOR