



Appeal Decisions

Site visit made on 27 November 2024

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal A Ref: APP/Z3825/W/24/3336543

St Clare, 15-37 Fern Road, Storrington, Pulborough RH20 4LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Orpwood of Eva Clare Davidson's Charity against the decision of Horsham District Council.
 - The application Ref is DC/23/1096.
 - The development proposed is outline application for the erection of 2no buildings for the provision of 4no flats per unit, with all matters reserved.
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Appeal B Ref: APP/Z3825/W/24/3337251

St Clare, 15-37 Fern Road, Storrington, Pulborough RH20 4LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Philip Orpwood of Eva Clare Davidson's Charity against the decision of Horsham District Council.
 - The application Ref is DC/23/1717.
 - The development proposed is outline to building one block of flats.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed and planning permission is refused.

Preliminary Matters

3. The proposal under Appeal A was made in outline form with all matters reserved for future consideration. As such, I have taken any submitted plans depicting a layout as indicative in nature. In addition, I have taken the description of development from the Council's decision notice.
4. The proposal under Appeal B was also made in outline form with all matters reserved for future consideration and thus, the submitted plans have been treated as indicative in nature. I have taken the description of Appeal B from the appeal form which excludes extraneous wording about the specific number of flats proposed but note that it refers to up to four units.
5. Appeal B was submitted against the Council's failure to determine the application within the prescribed period. However, since the appeal was submitted, the Council has submitted a statement outlining the putative reasons for refusal of the scheme, which largely replicate those in the decision for Appeal A. As such, I have dealt with the issues, common to both appeals together within this joint decision.

Main Issues

6. The main issues, common to both appeals, are:
- the effects of the proposal on the character and appearance of the site and surrounding area and whether the site would capably accommodate the scale of development proposed;
 - the effects of the proposal on the biodiversity of the site; and
 - the effects of the proposal on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley Protected Sites).

Reasons

Character and appearance

7. The appeal site is situated in a predominately residential area within the Built-Up Area Boundary (BUAB) of Storrington as defined by the policies map of the Horsham District Planning Framework (2015) (HDPF).
8. Houses of a variety of styles, albeit predominately detached, are arranged along Fern Road. The area has a low to medium density arrangement of buildings, with sufficient space between them for the intervening trees and vegetation to give the area a verdant character. Due to the various angles and degrees of set back of dwellings from Fern Road, and the way in which some navigate the topography, which is more challenging with distance from the road, there is also an informality to the street scene.
9. The appeal site itself contains two blocks of flats with some space between and to the rear. These communal areas are lawned and contain some trees and vegetation. Whilst slightly different in scale and form, the flatted blocks each appear as a pair of adjoining dwellings and sit within a spacious site so as to have a similar form and relationship to one another as with other neighbouring dwellings and their respective gardens. The buildings are also of some age, so have a long established presence within the streetscene and sit within low-key, well established gardens.
10. The proposal under Appeal A would involve providing two separate buildings, each containing 4 flats, one in the central part and one in the rearward part of the site. The indicative site plan suggests that the proposed buildings would have footprints comparable in size to the existing buildings and would be similarly orientated to face north-west alike the existing buildings.
11. In the context of an outline application, the site plan is treated on an indicative basis. However, it acts as a guide as to what capacity the site may have to accommodate the development proposed in the context of the site constraints and surroundings. In this case, the site plan is devoid of any topographical detail or indications of arboricultural constraints that may inhibit the development of the site. It treats the site as relatively unconstrained, which does not appear to be the case on the ground.
12. The site plan does, however, show the positions of footprints of neighbouring buildings and indicates that there is likely to be a compromise to the character of the area through the introduction of such sizeable buildings into the available spaces and an unneighbourly relationship with both of the existing flatted blocks and Nos 11 and 39 Fern Road to the east and west of the site respectively. Whilst there may be some ability to reduce the size of the

buildings to partly alleviate such issues, this would likely result in a contrived solution where the buildings would then appear incongruous relative to their neighbouring counterparts.

13. Taken in the round, the proposal to construct two buildings each containing four flats appears too much for the site to accommodate without undue harm to the character and appearance of the area. The necessary parking provision for such a scale of development would also give the site frontage a cramped and cluttered appearance given the already tight arrangement of parking spaces to serve existing occupiers.
14. Turning to Appeal B, in this case only a single building containing four flats would be proposed, although the indicative site layout suggests it would be sited within either the central or rearward part of the site. Again, this indicative plan has been prepared without the topographical or arboricultural details that might start to inform the constraints and opportunities presented by the site's existing features and those in the surroundings. The reduction in overall scale of the development to four flats within a single building with its associated parking requirements has more prospects of being accommodated on the site than two buildings, but I am unconvinced by the submitted details that such will be achievable without compromise to the character and appearance of the area or to the living conditions of neighbouring occupiers through overdevelopment of the site.
15. The Appellant has not subsequently sought consideration of matters such as layout or scale as part of either appeals in an attempt to address the Council's concerns and nor has the Council requisitioned such detail to be considered as part of either outline applications. As the principle of development is not a matter in dispute, the provision of sufficient detail as part of either an appropriate application type to properly understand the manner in which a development could proceed whilst maintaining the character and appearance of the area.
16. In view of the above, in the absence of evidence to the contrary, the schemes under Appeal A and Appeal B would be harmful to the character and appearance of the area, contrary to, in particular, Policies 32 and 33 of the HDPD. These Policies seek to ensure development is designed to contribute to a sense of place, is of an appropriate scale, massing and appearance and relate sympathetically to the built surroundings.

Biodiversity

17. The site has some areas of lawn, some vegetated areas and, predominantly within the boundaries, some trees. On the basis of the features present on site and within the surrounding area, there may be some habitat or foraging value for certain species. The site is also located within the wider conservation area of the Mens and Ebernoe Common Special Areas of Conservation (SACs), for which one of the qualifying features is Barbastelle bats.
18. There is no survey of the site that details its biodiversity value or use by individual species or whether features in the surroundings would be affected (by light spill or similar). Whilst the appellant's evidence asserts that this is an aspect which can be left to condition, it is not possible to defer the consideration of this matter, with potential protected species implications, until after the determination of an application. As such, in the absence of any clear

evidence to the contrary, adopting a precautionary approach is the only means of ensuring the protection of any potential species or habitats that could be unduly harmed if the scheme were to proceed.

19. For the above reasons, in the absence of evidence to the contrary, the proposal would harm the biodiversity interests of the site and surrounding area, contrary to, in particular, Policy 31 of the HDPF. This Policy seeks to resist development that is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, unless it can be demonstrated that the development clearly outweighs the need to protect the value of the site.

Arun Valley Protected Sites

20. The River Arun and its floodplain contain habitats and species of international importance, recognised within the designations of the Arun Valley Protected Sites under the Conservation of Habitats and Species Regulations 2017, as amended, (Habitats Regulations). They support a series of wetland meadows, alluvial grazing marsh and former raised peat bog, dissected by a network of ditches. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich and diverse flora and fauna. The relevant qualifying features of the Protected Sites formally comprise wildfowl and waterbird assemblages, including Bewick's swan, shoveler, teal and widgeon; wetland invertebrates, as well as a range of rare flora, including duckweed, water-cress, milfoils, dropworts and pondweeds.
21. The conservation objectives for the Arun Valley Protected Sites are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the Protected Sites, which in turn contribute to achieving the favourable conservation status of their qualifying features.
22. Water supply to Horsham District is largely provided by Southern Water from its Sussex North Water Resource Zone (WRZ) which is an area of serious water stress. The appeal site would also be supplied with water from the WRZ. Water abstraction within the WRZ is adversely affecting the integrity of the Arun Valley Protected Sites through the reduction in water levels and flow within their wetland habitats. Accordingly, further developments within the WRZ must not add to existing impacts, and that one way of achieving this is to demonstrate water neutrality.
23. A scheme of up to either 4 or 8 dwellings will inevitably increase water abstraction within the WRZ. As such, impacts on the Protected Sites' integrity cannot be screened out. Under Regulation 63 of the Habitats Regulations, I therefore required to undertake an Appropriate Assessment (AA) of the implications of the proposed development, including consideration of any conditions or restrictions, such as legal obligations, to which it is proposed a permission should be given and to the manner in which it is proposed the development should be carried out.
24. In this case, neither appeal has been submitted with any calculations as to what range of additional water usage would be generated. No specific conditions or restrictions have been offered, save for the appellant's indication that neutrality could be achieved in the event that either appeal were allowed,

through a future offsetting scheme or similar. However, this alternative generalised approach does not enable me to quantify the scale of potential effects on the Arun Valley Protected Sites or what means of mitigation may be capable of being properly secured at the present time. Absent of sufficient information to even understand the prospects of integrity being protected, I can only assume that the schemes would cause harm the Arun Valley Protected Sites, contrary to Policy 31 of the HDPF which seeks to protect sites and habitats in the district, and in particular, special protection areas and special areas of conservation.

Other Matters

25. I note the desire to provide additional accommodation to allow flexibility to undertake ongoing renovations within the existing blocks. I have also taken account of the nature of the appellant company and the type of accommodation it currently provides to existing occupiers. Whilst it is suggested that the proposed flats would be of a similar type of accommodation, no planning obligation or suggested condition has been put forward that would restrict their occupation as such. Therefore, the suggestion that the housing would be a form of specialist accommodation only attracts limited weight in this instance.
26. For similar reasons to the above, I cannot be certain of the demographic of future occupiers or that they would be less likely to own cars than any other individual such as to negate or limit the need for car parking.
27. I note the appellant's assertions that past discussions with the Council have confirmed the suitability of the site for development. Given the absence of clear evidence on this point, its relevance is in doubt, and I attribute very limited weight to such.
28. The Council indicate that it cannot demonstrate the five year supply of housing land required by the National Planning Policy Framework (the Framework). The indications in the evidence are that the shortfall is around a year's worth; a shortage in the order of around 900 dwellings which is significant. As such, the Council acknowledge that the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework is engaged.

Planning balances and conclusions

29. In the case of both Appeals, the development would cause harm to the character and appearance of the area, result in harm to the biodiversity interests of the site and surrounding area and would also cause harm to the integrity of the Arun Valley Protected Sites. These collective harms bring the schemes into conflict with the development plan when taken as a whole.
30. The presumption in favour of sustainable development is engaged. However, it does not materially detract from the weight afforded to the relevant policies in these cases, i.e. HDPF Policies 31, 32 and 33, which are relevant to securing a satisfactory form of development and avoiding harms to species and habitats.
31. The public benefits to weigh into the balance for Appeal A include the delivery of up to eight dwellings on a windfall site, suitably located for services and facilities, and with associated economic benefits of both short and long term duration. For Appeal B, the public benefits would be similar, save for the reduced number of dwellings.

32. Despite these acknowledged public benefits, footnote 7 of the Framework provides protection to areas or assets of particular importance that can provide a clear reason for refusing a scheme. Habitats sites, such as the Arun Valley Protected Sites, are included within the protections afforded by paragraph 11 d) and footnote 7. Given my findings in relation to the Arun Valley Protected Sites for both Appeals, the presumption in favour of sustainable development is disengaged.
33. Taking the above into account, my overall conclusions are that there are no considerations of such weight to indicate that either decision should be made other than in accordance with the development plan. Consequently, both Appeals A and B are dismissed.

H Nicholls

INSPECTOR