The Planning Inspectorate

Appeal Decision

Site visit made on 17 April 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/Z3825/W/22/3300977
11 Ridgehurst Drive, Horsham RH12 1XF

- 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 Capital Group against the decision of Horsham District Council.
- The application Ref DC/21/2337, dated 13 October 2021, was refused by notice dated 28 January 2022.
- The development proposed is described as the 'erection of 2 No. 2-bed semi-detached dwellings with 3 parking spaces.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Drawings 21-36-03 and 21-36-10 have been submitted with the appeal which show the site context and site section, including the approved dwellings at No 9 Ridgehurst Drive. The Council has had opportunity to comment on these plans and I have considered the appeal having regard to its response.

3. The Council takes issue with impact of the proposed development upon the development previously approved under application reference DC/20/1052. However, given that both are under the same ownership, any alterations to the parking or landscaping areas of the previously approved permission can be addressed through additional submissions by the appellant, if necessary.

Main Issues

4. The main issues are:

   • the effect of the proposed development on the integrity of the Arun Valley Special Protection Area, Special Area of Conservation and Ramsar site; and

   • the effect of the development on the character and appearance of the surrounding area.

Reasons

Integrity of the Arun Valley habitats sites

5. The appeal site is located within the Sussex North Water Supply Zone (SNWSZ). The Position Statement from Natural England (NE)[1] advises that the effects of groundwater abstraction within the SNWSZ cannot be objectively

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

demonstrated to be compatible with the conservation objectives of protected sites and habitats within the Arun Valley. These include the Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. The Arun Valley is legally protected for its wintering birds, its wetland habitats, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants. Its conservation objectives seek to ensure that the integrity of the site is maintained or restored as appropriate. To avoid a detrimental impact, Natural England advises that new development should achieve water neutrality. This is defined as the use of water in the supply area being the same or lower after the development has taken place.

6. The supply of water to the proposed houses would lead to more groundwater abstraction than is currently the case. The appellant does not dispute the Council's concern that water usage and abstraction associated with the development is likely to have a significant effect on the hydrology of the habitat sites and so affect their qualifying features, either on its own or in combination with other projects. An appropriate assessment under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) would therefore be required prior to granting permission, and this would need to demonstrate, beyond all reasonable scientific doubt, that the proposal would not have an adverse impact on the integrity of the European sites.

7. The appellant has provided a Water Neutrality Report[2] (WNR) which indicates that mitigations can be utilised to reduce overall water consumption to 84.8 litres per person per day (lpd) for the 2 dwellings proposed. This would rely in part upon rainwater harvesting being utilised and each dwelling would benefit from a 4,000l underground water tank that would recycle water. The Council accept that this would meet the specification set by Natural England that daily water demand should meet strict water targets of 84.8lpd for new builds.

8. The WNR is sufficiently detailed, and I also note that a condition requiring compliance with the WNR is suggested by the Council. It would be reasonable and appropriate to impose such a condition that requires the provision of the proposed water efficiency measures, were I minded to allow the appeal.

9. However, as set out above, the Natural England Position Statement also requires that in addition to minimising the water use of new builds, water offsetting is required to demonstrate that the combined overall water use is equal to or below the existing water use on the site.

10. To this end, I note that the appellant has set out that this can be achieved through reducing the water usage of the previously approved 5 dwellings next to the site. The Council has raised issue with the calculations provided and, as part of the consideration of the development proposals, Natural England confirmed that it had concerns regarding the lack of evidence and mechanism put forward to secure the measures. Notwithstanding this, and irrespective of whether the measures would be effective, these 5 dwellings (or any other site) are not included within the development boundary of the proposed site, and no legal agreement has been submitted to identify the offsetting properties.

11. As such, the means to secure the deliverability of these offsetting mitigation measures is not before me and I cannot be certain that the development would

[2] By Innervision Design Ltd, January 2022

achieve water neutrality. A condition to require this would not meet the enforceability test set out in the Framework. I acknowledge that policy and guidance on this matter may not have been published at the time of the original application, however I must base my decision on policy and guidance as it exists now.

12. Accordingly, I conclude that the proposal would adversely affect the integrity of the Arun Valley SPA, SAC and Ramsar sites. In these circumstances, Regulation 63(5) of the Habitats Regulations precludes the proposal from proceeding. The scheme would conflict with PF Policy 31, which establishes that permission will be refused where development is anticipated to have an adverse impact on biodiversity sites such as SPAs and SACs, unless appropriate mitigation measures are provided. This policy is consistent with paragraph 179 of the National Planning Policy Framework.

Character and appearance

13. The proposed dwellings would be sited to the rear of 5 recently approved properties on Ridgehurst Drive. I observed on site that these dwellings appear to be substantially complete. Ridgehurst Drive and the surroundings are characterised by two storey terraced and semi-detached dwellings of a similar scale and appearance, with some detached dwellings located in the vicinity. The properties are set back from but generally face the highway in a linear fashion, however there is an example of backland development at No 9 Ridgehurst Drive (No 9).

14. The proposed semi-detached pair would be sited adjacent to this backland development and utilise the same access. Whilst set behind the 5 new dwellings fronting Ridgehurst Drive, the proposed dwellings would be surrounded by other properties and as such they would not appear isolated. The properties would be of a size and have a garden area comparable to the neighbouring properties and they would not appear overly cramped. In this context, the proposal for residential development in this location would be neither incongruous nor inappropriate. Whilst sited at a slightly higher level than the dwellings facing Ridgehurst Drive, the new dwellings would follow the slope of the land from the north direction and would be consequently sited on a lower level relative to No 9. As such, again the dwellings would not appear incongruous or out of keeping with the surrounding areas in this respect.

15. I therefore conclude that the proposal would not cause material harm to the character or appearance of the area. It would therefore comply with Policies 32 and 33 of the Horsham District Planning Framework (2015) (PF), which requires development to complement locally distinctive character and relate sympathetically with the built surroundings.

Other Matters

16. The appellant refers to the lack of conflict with policies relating to issues such as the living conditions of the occupiers of neighbouring dwellings and highways impact. However, compliance with the development plan in these respects is neutral matter in the overall planning balance.

17. The proposal would result in 2 additional units of accommodation which would make efficient use of the site and contribute to addressing the Government's

broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities.

18. The proposal would also result in a short-term economic benefits arising from the construction process. Further economic and social benefits are likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, I give this matter limited weight.

Conclusion

19. As the proposal would not achieve water neutrality, it would adversely affect the integrity of the Arun Valley SPA, SAC and Ramsar site. Because of the provisions of the Habitats Regulations, this is an overriding consideration, notwithstanding any benefits the proposal may bring. Overall, it would be contrary to the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

B Phillips

INSPECTOR