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APP/Z3825/W/24/3354737- Fig Tree House

Following the submission of the appeal against the refusal of the proposed two-storey dwellinghouse and vehicular access, the Local Planning Authority would refer the Inspector to the Delegated Report, and would like to reiterate the reasons for refusal as follows.

The below documents have been submitted to the Local Planning Authority as part of the Appeal.

- Combined decision Kilnwood Vale.
- Proposed front, rear and side elevations.
- Proposed site plan.
- Proposed floor plan.
- Proposed plan set.
- Appeal Statement.
- Water Neutrality Statement.

Refusal Reason One:

Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2023), thus the Local Planning Authority is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

The applicants appeal statement ascertains that the Local Planning Authority (LPA) received a Water Neutrality Statement as part of the original submission documents, and again on

September the 3rd 2024. The originally submitted document appears to have been sent in the post, based on the picture in the appeal statement, the LPA do not have a record of receiving this and the applicants appeal statement does not provide record of postage. Given the provision of the statement would be a substantial addition to the proposal to request this, the Officer did not deem it suitable to request the statement. The LPA do not dispute that the statement was received on the 3rd of September 2024.

In terms of whether or not it was correct for the Council to decline the submission of further information, paragraph 38 of the NPPF states:

'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible'
[emphasis added]

Paragraph 188 goes on to state:

'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'
[emphasis added]

Given that the appellant did not demonstrate water neutrality, an appropriate assessment (Appendix 6) did not conclude that the proposal would not affect the integrity of the designated sites. Therefore, the presumption in favour of sustainable development does not apply. Accordingly, the requirement of paragraph 38 of the NPPF is not applicable in terms of the Council's approach in determining the application. The Council therefore upholds its decision to not allow the submission of further information in support of the application.

In response to the first reason for refusal, the appellant suggests that matters relating to water neutrality can be dealt with by way of a 'Grampian style' condition. Whilst it is appreciated that this approach was accepted by the Inspectorate in the case of the cited appeal in the appellant's statement, to benefit from a Grampian style condition the prospect of water availability is required. The Local Planning Authority is currently reviewing Grampian style conditions and our consultants are currently reviewing the Draft 2024 Southern Water, Water Resource Management Plan (WRMP), to establish whether there will be any water available from Southern Water to enable the Horsham Council's emerging Offsetting Scheme (SNOWS) to offset development. Note that SNOWS is not an operational offsetting scheme as of yet. The need to understand the WRMP is important because approximately 88% of SNOWS capacity moving forward is derived from Southern Water efficiency savings. The remaining 12% is to come from other sources of water as yet unsecured. Therefore, if the WRMP data reveals that there will be no surplus water supply during the lifetime of a planning permission i.e. three years, then there would be no prospect of the development proposals being able to benefit from this condition. The PPG sets out that a Grampian style condition can only be considered appropriate if there is a prospect of the required action taking place within the time frame of a planning permission.

At this stage there is therefore no certainty of the water availability and therefore as to whether this application could benefit from a Grampian style condition. The Local Planning

Authority will update the Planning Inspectorate in the new year if our position changes on this matter.

Turning to the matter of whether the Water Neutrality Statement provided at appeal is acceptable, as this matter has now been passed to the Planning Inspector to determine, the Planning Inspectorate is now the 'competent authority'. The Local Planning Authority would like to highlight; however, that the existing offsetting shower water usage of 78.66 l/p/d appears very high. They would also like to note that the consideration of the WNS in the appeal may prejudice interested parties as that have not had the opportunity to review the statement.

In the absence of a strategy to demonstrate water neutrality through the incorporation of on-site measures and appropriate offsetting actions, there is no certainty that the proposal will not contribute further to the existing adverse effect on the Arun Valley SAC, SPA and Ramsar sites, contrary to policy 31 of the HDPF and NPPF paragraphs 180 and 182.

Therefore, if the Planning Inspector is to agree with the appellant's view with regards to the principle of the development (reason for refusal 1) and is minded to allow the appeal on this basis, then (as the competent authority) the Inspector must undertake an appropriate assessment and the likely effectiveness of any mitigation measures, including (amongst other things) the contents of the appellant's water neutrality statement that has now submitted as part of the appeal, in consultation with Natural England. If Natural England object to the strategy advanced, then the appeal should be dismissed on these grounds. In the case that the Inspector is minded to agree with the reasons for refusal: recent Counsel advice advised that the Habitats Regulations dictate that Natural England should be consulted in any case (21-day period), though their comments are not necessary for determination.

Reason for Refusal 2

The proposed development would be of a design, scale, and proportion, which when considered alongside the limited spacing between the boundaries, would result in a cramped form of development that would detract from the overall character and visual amenities of the immediate surroundings and wider street scene. The proposal would therefore be contrary to Policies 32 and 33 of the Horsham District Planning Framework (2015) and Policy 12 of the Henfield Parish Neighbourhood Plan.

The appellants statement provides some responses to these elements and states: *"Consistent with and greater than many of the properties in the vicinity the proposed dwelling allows 1m to each side boundary. The proposed plot width is reflective of the development grain within the area. It is wider than the properties on the other side of the road."*

The appellant has also stated that "*The dormer cheeks are set in from the roof and set off the eaves. The rear dormer being less than 50m3 would otherwise be permitted development. The dormer would at best be glimpsed from the streetscene far from the Council's analysis of 'significant and demonstrable harm to the townscape character and visual amenity of the street scene'."*

The proposed property would be detached, in itself a variation from the predominate immediate streetscene of existing semi-detached dwellings. The elements of the development cumulatively, as discussed in the Officer Report, combine to result in a development which appears compressed in appearance. While two plots across the road may be or a similar size, these are semi-detached. The semi-detached nature of the

buildings allows them to be close at one boundary and yet appear separate from their non-attached neighbours. The addition of the dwelling proposed by this appeal, so close to Tudor House, would result in a terracing effect, between two detached dwellings.

While a dormer added to an existing dwelling may be permitted development the dormer in the context is considered as part of a new dwelling, not as a later addition. It would appear that the rear dormer would be built in line with the first floor element of the proposed dwelling, so that the proposal would appear as a three storey dwelling when viewed from the rear. It is considered this design would result in a large and dominant addition, which would be further exaggerated by the flat roof of the proposed feature. The proposed dwelling would therefore be of a proportion, scale, and massing that would be out of keeping with the immediate surroundings, and would appear off-balanced and top heavy.

When considered alongside the limited spacing between the neighbouring properties, the proposal would appear as a cramped form of development that would detract from the rhythm and build pattern.

Conclusion

The Council remains of the view that the scheme as submitted would be contrary to the relevant policies of the Horsham District Planning Framework and NPPF. The Inspector is therefore respectfully requested to dismiss the appeal.

Yours sincerely,

Alice Johnson
Applications Team
Horsham District Council

List of Suggested Conditions

Standard Time Condition: The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Pre-Commencement (Relevant Works) Condition: No external works shall take place until specifications of external materials and surface finishes have been submitted to and approved in writing by the Local Planning Authority. The relevant works must not be executed other than in complete accordance with these approved details.

Reason: As this matter is fundamental to ensure that the significance of the designated heritage asset, and the character, appearance and integrity of the building, is not prejudiced, thereby preserving the special architectural or historic interest which it possesses, and to comply with Policy 34 of the Horsham District Planning Framework (2015).

Pre-Commencement (Slab Level) Condition: No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

***Pre-commencement (slab level) Condition**: No development above ground floor slab level shall commence until full details of the water efficiency measures and rainwater/greywater harvesting system required by the approved water neutrality strategy (received 12th of December 2024) have been submitted to and approved in writing by the Local Planning Authority.*

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until a fire hydrant(s) to BS 750 standards or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) has been installed, connected to a water supply with appropriate pressure and volume for firefighting, and made ready for use in consultation with the WSCC Fire and Rescue Service. The hydrant(s) or stored water supply shall thereafter be retained as such.

Reason: In accordance with fire and safety regulations in accordance with Policy 33 of the Horsham District Planning Framework (2015).

***Pre-Occupation Condition**: No dwelling hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for that dwelling has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, and completion of the as built Part G water calculator or equivalent. The installed measures shall be retained as such thereafter.*

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until details of secure and covered cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. No dwelling (or use) hereby permitted shall be occupied or use hereby permitted commenced until the approved cycle parking facilities associated with that dwelling or use have been fully implemented and made available for use. The provision for cycle parking shall thereafter be retained for use at all times.

Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).

Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until the car parking spaces (including garages where applicable) necessary to serve it have been constructed and made available for use in accordance with approved block plan. The car parking spaces permitted shall thereafter be retained as such for their designated use.

Reason: To provide car-parking space for the use in accordance with Policy 40 of the Horsham District Planning Framework (2015).

Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until details for the provision for the storage of refuse and recycling facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided prior to occupation (or use) of the development hereby permitted and thereafter be retained for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to first occupation of the development and shall thereafter remain as such.

Reason: To provide electric vehicle car charging space for the use in accordance with Policies 35 and 41 of the Horsham District Planning Framework (2015) and the WSCC Parking Standards (2019).

Regulatory Condition: No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabits per second through full fibre broadband connection has been provided to the premises.

Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015).