



Appeal Decision

Site visit made on 6 June 2017

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th June 2017

Appeal Ref: APP/Z3825/W/17/3170390

Small brownfield site enclosed by London Road (to W/NW), A24 slip road (to S) and BP filling station (to E), Ashington, West Sussex

- 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 Mr Giles de Sade against the decision of Horsham District Council.
 - The application Ref DC/16/2235, dated 3 October 2016, was refused by notice dated 13 February 2017.
 - The development proposed is described in the application form as "to place on the site a single, non-permanent residential unit changing the land from unused fallow/brownfield to residential. To remove, replace and/or manage existing low quality planting and provide site access from London Road".
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Decision

1. The appeal is allowed and planning permission is granted for a single, non-permanent residential unit changing the land from unused fallow/brownfield to residential. To remove, replace and/or manage existing low quality planting and provide site access from London Road at Small brownfield site enclosed by London Road (to W/NW), A24 slip road (to S) and BP filling station (to E), Ashington, West Sussex in accordance with the terms of the application, Ref DC/16/2235, dated 3 October 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant used the site description to identify the site in the application form; they did not use a site address. Having visited the site I am content that the description accurately reflects the address of the appeal site and I have used the description from the application form.
3. It has been drawn to my attention that reference to policy "34" of the Horsham District Planning Framework 2015 (HDPF) in the decision notice was a typographical error which omitted a comma between "3" and "4". It is clear from the officer report that Policies 3 and 4 were considered, and this is also clear from the Council's statement. Accordingly I have had regard to Policy 3 and 4 of the HDPF in determining this appeal.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding area having particular regard to the overarching strategy for development in the District, and planning policies relating to the countryside.

Reasons

5. The appeal site is a modest sized area of land which sits adjacent to a petrol station, the A24 slip road, and the access road to the petrol station. Policies 1, 2, 3 and 4 of the HDPF seek to direct development toward the key settlement of Horsham, with additional growth in the district approved in accordance with the identified settlement hierarchy.
6. The appeal site is located to the north of Ashington Village, and it falls outside of the Built Up Area Boundary (BUAB) as referred to in Policy 3. However, the site physically and functionally appears very much part of the BUAB. It is surrounded by development and highway infrastructure on all sides, and is within walking distance to the village centre where there is access to services, including transport links and a school. Therefore, it is my view that the site is on the edge of the settlement, and seen within the context of the BUAB, and this is a matter to which I attach significant weight.
7. Although the appeal site is within the countryside for policy purposes, it was clear from my site visit that the site and its immediate surroundings are not comparable to open countryside. Having assessed the evidence, and taking into account the history of the site with respect to the development of the A24, I agree with the appellant's assessment that the site is more akin to a brownfield site. Whilst following the adoption of the HDPF 2015, the area has remained designated as countryside, the site in its current condition does not make any important contribution to the rural qualities of the countryside, and in my view the proposal would not cause any material harm to the character and appearance of the area.
8. The appeal site slopes away towards the south, where the hummer barge would be sited. The structure would be slightly raised to limit its impact on wildlife, however it would still be substantially screened from public view. As the site is enclosed on the south, east and west by mature vegetation and trees, any glimpses of the proposal from the northern boundary, where the access would be located, would be limited due to the layout of the driveway and boundary treatment. The external materials would be designed to mimic those used on the industrial development that has taken place adjacent to the BP garage and so it would respect the immediate built form.
9. I have been referred to Paragraph 55 of the Framework which requires special circumstances to allow isolated dwellings in the countryside. However, I do not consider the appeal site to be in an isolated location due to the developed nature of the surrounding area and its location on the edge of the settlement.
10. I accept that the appeal site is not allocated in the HDPF, and the parish of Ashington is yet to produce a neighbourhood plan. I also acknowledge that the proposal would not make any significant contribution to any identified housing need. However, it is my view that the proposal would be contained within an existing defensible boundary formed by the development and infrastructure around it, and it would maintain the landscape and townscape character. Moreover, it would not prejudice comprehensive long term development, it would simply utilise a currently vacant and overgrown piece of land without harm to its surroundings. Furthermore, the proposal seeks to enhance the ecology of the site, which would be a material benefit.

11. As such, I find that although the proposal would not comply with the development strategy in the context of HDPF Policies 1,2, 3 and 4, and, under the terms of Policy 26, it would not be essential to a countryside location, it would not be materially at odds with the overall objectives of these policies to provide for sustainable development and protect the natural beauty and amenity of the district's countryside. reasons,
12. Overall I find that there are material considerations in favour of the proposal that outweigh the conflict with the development plan.

Other Matters

13. I have been referred to an appeal within the vicinity of this appeal site¹. This appeal was determined prior to the HDPF 2015 and the circumstances were materially different at that time. Nonetheless, the site would contribute to the context and setting of the appeal site and I have taken this into account. .
14. I have had regard to all other matters raised, including the concerns relating to dormice living on the appeal site, and I have imposed a condition to address this. None of the other matters affects the conclusion that I have reached in respect of the proposal.

Conditions

15. I have considered the imposition of conditions in accordance with advice in the Framework and Planning Practice Guidance. I have considered the appellant's comments in respect to a number of details having been submitted. However I consider that the conditions are necessary in the interests of proper planning.
16. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. Conditions to secure appropriate refuse disposal facilities, finishing materials, slab levels, landscaping, boundary treatment, are necessary in the interests of protecting the character and appearance of the area. Conditions relating to parking, site access and construction management are necessary to ensure highway safety. A condition securing the proper assessment of noise is necessary to protect the amenity of occupiers of the proposal. In the interests of protecting wildlife, fauna and flora I have included conditions relating to landscaping, ecology and tree protection. I have imposed a condition requiring a programme of archaeology work as requested by the County Council. A condition requiring cycle stores is included to promote sustainable development.
17. I have had regard to the Council's suggested condition restricting permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. On the limited evidence before me I consider that such a condition would not meet this test of necessity.

Conclusion

18. For the reasons given above, and having taken into account all other matters, I conclude that the appeal should be allowed.

¹ Ref APP/Z3825/W/15/3035788

J Ayres

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; Block plan; Site location and context; Plans and Elevations (dated 28.09.16); Internal layout and cross-sections (dated 28.09.16); Planting – South elevation (dated 01.001.17; Planting – East elevation (dated 01.01.17; Planting Schedule (dated 13.12.16); Site access and visibility splay (dated 31.10.16); Parking and turning (dated 17.11.16).
- 3) No development shall commence until a scheme for sound attenuation against external noise has been submitted to and approved by the Local Planning Authority. The approved sound attenuation works shall be completed before the dwelling is occupied and shall be retained thereafter.
- 4) No development shall commence until an ecological mitigation and enhancement plan indicating how provision will be made for protected species and their habitats has been submitted to and approved by the Local Planning Authority in writing. The approved provisions shall be implemented before development commences and shall thereafter be retained and maintained in accordance with the approved details.
- 5) No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until a detailed Arboricultural Method Statement outlining measures to protect and retain trees to be retained on site and adjacent the site has been submitted to and approved in writing by the Local Planning Authority. This shall provide for the long-term retention of the trees. The scheme shall be implemented strictly in accordance with agreed details.
- 6) No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for method of access and routing of vehicles during construction, all temporary contractors buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.
- 7) No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be commenced until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and that provision for analysis, publication and

- dissemination of results and archive deposition has been secured and approved by the Local Planning Authority in writing.
- 8) No development above slab level shall be commenced unless and until a schedule of materials and samples of such materials and finishes and colours to be used for external walls and roofs of the proposed dwelling have been submitted to and approved by the Local Planning Authority in writing and all materials used shall conform to those approved.
 - 9) Prior to the first occupation of any part of the development hereby permitted, the parking, turning and access facilities shall be implemented in accordance with the approved details as shown on the approved plan and shall be thereafter retained as such.
 - 10) Prior to the first occupation of any part of the development hereby permitted, visibility splays for the access serving the development shall be provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
 - 11) Prior to the occupation of the dwelling hereby approved, details of the provision of facilities for the parking of cycles shall be submitted to and approved by the Local Planning Authority and the facilities so provided shall be thereafter retained solely for that purpose.
 - 12) The dwelling hereby permitted shall not be occupied unless and until provision for the storage of refuse/recycling bins has been made within the site in accordance with details to be submitted to and approved in writing by the local planning authority.
 - 13) Prior to the first occupation of any part of the development hereby permitted, full details of the hard and soft landscaping works shall be submitted to and approved, in writing, by the Local Planning Authority. The approved landscape scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Any plants, which within a period of 5 years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

END OF SCHEDULE