



Appeal Decision

Site visit made on 11 January 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Appeal Ref: APP/Z3825/W/21/3278332

**Land Parcel at Grid Ref Easting: 511759, Grid Ref Northing: 115115,
Muttons Lane, Ashington RH20 3AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Bennett against the decision of Horsham District Council.
 - The application Ref DC/21/0533, dated 5 March 2021, was refused by notice dated 16 June 2021.
 - The development proposed is described as 'outline application for the erection of a dwelling house with all matters reserved'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline, with all matters reserved. However, none of the submitted plans have been marked as being for illustrative purposes only, and I am therefore able to assess the siting and design of the proposed dwelling, where sufficient information has been provided.
3. Different Easting grid references for the appeal site have been provided in the application form and the appeal form. As the reference provided in the appeal form matches that used in the description of the site address provided by the appellant, I have referred to that in the banner heading above to avoid any uncertainty. Different descriptions of the development proposed have also been provided in the application form and the appeal form. As the description provided by the appellant in the appeal form is a clearer and more concise description of the same development, I have referred to that in the banner heading above.
4. The Ashington Parish Neighbourhood Development Plan (2021) (ANP) was 'made' with effect from 24 June 2021, after the Council issued its decision. The Council's decision notice referred to draft policies contained within the ANP, which have not changed since. Both of the main parties have referred to policies which are now in effect, and I have had regard to them in making my decision.
5. During the course of the appeal the Council received a position statement from Natural England (NE) in respect of all planning applications within the Sussex

North Water Supply Zone (SNWSZ)¹. The position statement outlines NE's concerns about groundwater abstraction within the SNWSZ. It explains that NE cannot, with certainty, conclude that further groundwater abstraction within the SNWSZ will not have an adverse effect on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. The advice of NE is that no new developments should add to this impact, which means that any new residential development within the SNWSZ should demonstrate water neutrality. The appeal site is located within the SNWSZ and the Council raised this issue in its appeal statement, on which the appellant had the opportunity to comment.

Main Issues

6. The main issues are: i) the principle of the proposed development with specific regard to its location; ii) the effect of the proposed development on the character and appearance of the area; and iii) the effect of the proposed development on European protected species and habitats, with specific regard to Great Crested Newts, bats, the Mens SAC, and the Arun Valley SAC, SPA and Ramsar site.

Reasons

Location of the Proposed Development

7. The appeal site is a small area of woodland located on a lane within the countryside, outside any defined settlement boundary. There are a number of remote dwellings located in the surrounding area, including a bungalow on the opposite side of Muttons Lane and more substantial buildings at either end of the lane and along Rock Road, but these do not alter the fact that the appeal site is in a countryside location.
8. Policies 1 and 2 of the Horsham District Planning Framework (2015) (HDPF) outline its strategic aims, which include a presumption in favour of sustainable development and an intention to focus development in and around the key settlement of Horsham, while allowing growth in the rest of the district in accordance with the settlement hierarchy. The settlement hierarchy is identified by Policy 3 of the HDPF which directs development first to the built-up area of Horsham followed by towns and villages, and then unclassified settlements. This accords with Policy ASH1 of the ANP, which focuses new development within the built-up boundary of Ashington Village. Policy 4 identifies five exception criteria where development will be allowed outside the settlement boundary, but none of those criteria could be said to apply to the proposed development.
9. Policy 26 of the HDPF states inappropriate development which is not essential to its countryside location should be resisted outside built-up areas to, amongst other things, ensure that it enables the sustainable development of rural areas. Where development is essential to its countryside location, it must meet additional criteria, which can include supporting the needs of forestry. In addition, development should not lead to a significant increase in the overall level of activity in the countryside and should protect and/or conserve and/or enhance the key features of the landscape character in which it is located,

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

including the development pattern of the area and the pattern of woodlands, fields and trees, amongst other things.

10. The appeal site is made up of unmanaged Hazel and Oak trees, which were planted at some point in the early twentieth century, all of which are covered by a Tree Preservation Order (TPO). The Council has authorised woodland management works² at the appeal site which would comprise the felling and re-coppicing of a substantial number of trees. The appellant has stated "the owner of the property would have to be the one who has the responsibility of woodland management and maintaining the environment according to the TPO that existed after the erection of the dwelling", but this falls a long way short of demonstrating a dwelling is essential in this location for those purposes or to support the needs of forestry.
11. The area of woodland is small, and a large proportion would be occupied by the proposed dwelling. I am not convinced that the management of the woodland forming the appeal site would necessitate a dwelling on the site, even if the felling and maintenance was to be undertaken over a prolonged period of time to allow a sensitive recovery of the woodland. The proposal would not therefore be essential to its countryside location.
12. The proposed development would be unacceptable in principle on account of its location outside of any defined settlement boundary, where none of the relevant exception criteria referred to above would apply. The proposal would therefore fail to accord with Policies 1, 2, 3, 4 and 26 of the HDPF, the aims of which I have set out above.

Character and Appearance

13. As a small area of unmanaged woodland on a narrow lane bounded by fields and other areas of woodland, the appeal site and its surroundings are distinctly rural in character. The appellant has advised that the proposed dwelling would be erected within a natural clearing which would require the removal of less trees than those approved by the Council in the decisions referenced at footnote 2, but I have not been provided with the full details of which trees would need to be removed as the application has not been accompanied by any arboricultural plans or surveys.
14. The proposed dwelling would be single storey in height and of a contemporary design, constructed of cross-laminated timber and clad in larch and standing-seam zinc with dark finishes. It would be constructed on a floating floor slab set on screw piles to limit root damage to surrounding trees, but no details showing how this would be achieved have been provided. There are also no details to support the appellant's view that the proposal comprises the highest quality design and environmental credentials.
15. The appellant has described its appearance as being 'stealth-like' and its roofline resembling several 'shed-like' buildings huddled together, which would blend with its environment. However, no aspects of its design would be truly outstanding and it would have an unwelcoming utilitarian appearance which would be out of scale and context with its rural, densely planted surroundings. This would be clearly appreciable from the lane and surrounding fields, where

² Council references DC/17/1966 and DC/19/2330 approved under the Town and Country Planning (Tree Preservation) (England) Regulations 2012

the proposed dwelling would be seen as an unsympathetic feature within the woodland landscape.

16. The proposal would therefore harm the woodland setting and rural character and appearance of the area, contrary to Policies 25, 26, 32 and 33 of the HDPF and Policy ASH5 of the ANP. These seek to conserve and enhance landscape character and the natural environment, protect the rural character and undeveloped nature of the countryside, and require new development to be of high quality design.
17. The main parties disagree as to whether the proposal would be 'isolated' as referred to by Paragraph 80 of the Framework. Having regard to the judgement in *Braintree*³ and the context of that part of the Framework, as the appeal site is physically separate and remote from any defined settlement, the proposed dwelling would constitute 'an isolated home in the countryside', despite the existence of other remote dwellings nearby.
18. Paragraph 80 of the Framework advises that the development of isolated homes in the countryside should be avoided unless certain circumstances apply. The appellant has claimed that part (e) of Paragraph 80 allows new isolated homes in the countryside where their design is of exceptional quality; however, this is a misinterpretation of the guidance, which does not advise other considerations, including the development plan, should be ignored. As I have found the design of the proposal would not be of the exceptional quality referred to by Paragraph 80, the Framework does not offer any support for the proposal in this regard.

Protected Species and Habitats

19. Minimal information has been submitted as part of the application, which proposes substantial works within an undeveloped area of woodland. The appellant has clarified that the appeal site does not comprise 'ancient woodland', but no information has been provided relating to the ecological impacts of the proposal. The Council's submissions include a desk study of the ecological impacts of the proposal⁴, which advises the appeal site comprises 'Lowland Mixed Deciduous Priority Woodland habitat', which would be likely to support species including, but not limited to, Great Crested Newts and bats. The appeal site is also located within the wider conservation area of the Mens SAC and the SNWSZ.
20. Great Crested Newts and all bat species are designated and protected as European protected species under the Habitats Regulations⁵. The information before me suggests the appeal site has the potential to support these protected species, and the Mens SAC supports Barbastelle bats. I am obliged by the Habitats Regulations to assess the effect of the proposed development on European protected species and habitats.
21. Circular 06/2005 states it is essential that the presence or otherwise of protected species and the extent that they may be affected by a proposal is established before any planning permission is granted, and that the need to ensure ecological surveys are carried out should not be required by condition other than in exceptional circumstances. I am satisfied that there is a

³ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610

⁴ Letter dated 3 November 2021 from Neil Harvey of Place Services' ecological advice service

⁵ The Conservation of Habitats and Species Regulations 2017 (as amended)

reasonable likelihood that Great Crested Newts and bats could be affected by the proposal through its construction works and associated activity within and in the wider conservation area of the habitats referred to above.

22. As set out in NE's position statement, the appellant would need to demonstrate the proposal achieves water neutrality for me to conclude it would not be likely to adversely affect the integrity of the Arun Valley SAC, SPA or Ramsar site. In the absence of a strategic approach, NE's position statement outlines an interim approach for projects to achieve water neutrality which includes the minimisation of water use by demonstrating new dwellings would consume no more water than 85 litres/person/day in addition to sufficient offsetting. I have not been presented with any information relating to the water consumption of the proposal and although some details in this regard could be required to be approved at reserved matters stage, I need to be convinced the proposal is capable of achieving water neutrality. In the absence of any information to demonstrate whether this would be possible or how it would be secured, I cannot conclude the proposal would not be likely to adversely affect the integrity of the Arun Valley SAC, SPA or Ramsar site.
23. In the absence of an ecological assessment confirming protected species and habitats would not be affected, or the identification of securable appropriate mitigation or compensation measures, I cannot conclude that the proposal would not be likely to adversely affect European protected species or habitats. This would be contrary to Policy 31 of the HDPF, which seeks to protect biodiversity.
24. I would need to undertake an Appropriate Assessment in accordance with the Habitats Regulations if I was minded to grant planning permission. However, as I have found the proposed development would result in harm contrary to the development plan in respect of the first and second main issues, there is no need for me to consider this matter further.

Conclusion

25. For the reasons given above I conclude that the proposal would fail to accord with the development plan and there are no material considerations, including the Framework, that would indicate planning permission should otherwise be granted. The appeal should therefore be dismissed.

L Douglas

INSPECTOR