



Appeal Decision

Site visit made on 7 September 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2022

Appeal Ref: APP/Z3825/W/21/3284866

Land at Ashington House, London Road, Ashington, Pulborough RH20 3AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Sue Harr against the decision of Horsham District Council.
 - The application Ref DC/21/0445, dated 12 February 2021, was refused by notice dated 15 April 2021.
 - The development proposed is permission in principle for residential development (between 1 and 9 dwellings).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. The Ashington Neighbourhood Plan (ANP) was 'made' in May 2021 after the Council refused permission. I therefore attach full weight to the ANP in my decision as it now forms a part of the development plan for the area.
5. Since the Council made its decision, Natural England (NE) issued a position statement with regards to the Sussex North Water Supply Zone² in relation to their effect on European protected sites and habitats within the Arun Valley. This includes the Special Protection Area, Special Area of Conservation and Ramsar site (the protected habitats sites). The appeal site is located within this zone. I have sought the parties' views on this matter. I return to this later in my decision.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

² Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach

Main Issue

6. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

7. The appeal site comprises a parcel of land on the western side of London Road. It lies within the substantial grounds of Ashington House (formerly Holmbush House), a Grade II listed building. The appeal site lies to the north of Ashington Village, some 190 metres from the built-up area boundary (BUAB). It therefore lies within the countryside for planning purposes.
8. Directly to its south and further west there is some sporadic residential development, including Hazelbank, a small cul-de-sac development adjacent to a traffic roundabout and to the north of the defined village boundary. On the opposite side of the road there is a petrol filling station and services for the nearby A24 road, also outside the defined village boundary.
9. The Council refused the application due to conflict with the spatial strategy, harm to a heritage asset and harm to the character and appearance of the area. I deal with each of these in turn.

Spatial Strategy

10. The Council's strategy for managing housing growth is set out under Policies 2, 3 and 4 of the Horsham District Planning Framework 2015 (the HDPF). These together seek to focus development in the main settlements and allow for growth in the rest of the district in accordance with the identified settlement hierarchy, with Policy 4 allowing for some growth of settlements outside BUAB subject to certain criteria. The reason for this approach is to maintain the District's unique rural character and to ensure that the needs of the community are met through sustainable growth and suitable access to services and local employment.
11. Ashington is defined as a medium village within the settlement hierarchy and considered to have a moderate range of services and facilities together with some access to public transport. In terms of the criteria set out under Policy 4, the appeal site has not been allocated for development and does not adjoin the settlement edge.
12. The provision of between one and nine dwellings would be appropriate to the scale and function of the settlement. There is nothing before me to suggest that it would prejudice comprehensive long term development. However, the proposal, whilst making a contribution to general housing supply, would not meet an identified need nor provide enhancement of community facilities and services. The appeal site is enclosed on two boundaries only, with London Road and separated by a simple post and rail fence from an adjoining paddock. I return to the effect on character in more detail below, however, the proposal would not maintain or enhance the landscape character of the area. For all these reasons, the proposal would not meet the requirements of Policy 4.
13. The countryside is protected by Policy 26 which requires proposals within the countryside to be essential to its countryside location and to meet one of four criteria, namely supporting agriculture or forestry, enabling mineral extraction

or waste disposal, providing for informal recreation or enabling the sustainable development of rural areas. The proposal would not meet the first three criteria. Whilst the provision of up to nine dwellings could contribute to the sustainable development of rural areas given its proximity to the settlement, it has not been demonstrated that the proposal is essential to its countryside location.

14. I recognise that the distance of the site from the BUAB is not significant. However, an area of paddock physically separates the site from the nearest development to the south and west. Furthermore, due to the absence of either frontage development or a footpath along London Road between the appeal site and Hazelbank to the south, the site appears both visually and functionally separate from the village.
15. The centre of Ashington, which provides a number of services and facilities, including shops, a school and a bus stop would be some 800 metres walk from the appeal site and therefore accessible. The proposal would therefore help to maintain the vitality of the settlement and the rural community. In this respect, the scheme would help to promote sustainable development in rural areas, as advocated under paragraph 79 of the Framework.
16. The appellant has argued that Policy ASH1 of the ANP and Policies 4 and 26 of the HDPF are overly restrictive in relation to development beyond the BUAB, particularly in view of no policy allowance for windfall development within the spatial strategy. In this regard, she considers it to be inconsistent with the National Planning Policy Framework (the Framework) and the need to significantly boost the supply of housing. However, whilst windfall development is not explicitly mentioned within these policies, they provide sufficient flexibility to allow for windfall development where it accords with other requirements.
17. My attention has been drawn to a number of appeal decisions supporting development outside but near to the BUAB. This includes an appeal³ for a temporary residential unit on a small brownfield site adjacent to the petrol filling station. The Inspector, in allowing the appeal, found that the site appeared both physically and functionally part of the BUAB. I have not found that to be the case in this appeal for the reasons I have set out.
18. I appreciate that under the Emerging Horsham Local Plan 2019-2036 there are proposed amendments to the BUAB for Ashington which, if adopted, would bring the boundary closer to the appeal site. However, these boundary changes have not been adopted and, even if they were, would not overcome the physical and visual separation of the appeal site due to both its rural character and its location beyond a paddock forming part of an adjacent property.

Setting of the listed building

19. The appellant disputes the requirement to consider heritage impacts at this stage on the basis that it would be premature to conclude that any adverse or negative impacts would occur.
20. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) confirms that the statutory requirement with regards to listed buildings applies to permission in principle.

³ APP/Z3825/W/17/3170390

21. Ashington House is a sizeable, detached dwelling positioned at the far end of a long drive leading off London Road. Immediately outside the house there is formal circular driveway and lawn enclosed by dense evergreen hedges beyond which is surrounded by the historic parkland, providing a sense of distinction within the locality. The house sits in an elevated position and the parkland slopes down towards London Road which runs along its eastern boundary from which it is separated by mature trees and vegetation. This sets Ashington House apart from the nearby village and sporadic development within the surrounding area.
22. The appeal site and wider parkland form the surroundings in which the listed building is experienced and forms part of its setting. This area of open grassland land makes a positive contribution to the significance of the asset in providing a visual, historic and functional separation between the dwelling and its formal gardens and the surrounding countryside and village. It also contributes to a sense of grandeur for a large, detached dwelling in the countryside.
23. The proposal to develop a sizeable area of this parkland for between one and nine dwellings would encroach into the setting of the listed building, diminishing the degree of separation between it and the built-up area to the south. The introduction of domestic paraphernalia and comings and goings associated with residential uses would also change the character of this part of the setting which is undeveloped, secluded and, notwithstanding the noise from the nearby A24 road, relatively tranquil. No detailed proposals are being put forward at this stage and the quantum of development is set out as a range, nevertheless the introduction of a domestic curtilage around the appeal site would detract from the parkland. This would reduce the contribution of the setting to the significance of the listed building.
24. The house and the site are some distance from each other with the site sitting at a lower level. The proposed development would nevertheless intrude into that undeveloped and open parkland, eroding the sense of separation and distinction which exists between the listed building and the more developed areas and fields of the surrounding area.
25. I find this would lead to significant but less than substantial harm to the designated heritage asset. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed building or its setting in accordance with Section 66(1) of the Act. Paragraph 202 of the Framework states that such harm should be weighed against the public benefits of the proposal.
26. The proposal would provide up to nine dwellings in a reasonably accessible location where future occupants would not be wholly reliant on private cars. This would contribute to housing supply within the District, providing choice in the local housing market. The scheme would also support local job creation during the construction of the proposed houses with future occupants spending income locally as well as supporting local services and facilities, thereby helping the ongoing vitality and viability of these. The development may provide some site enhancements in terms of biodiversity net gains. Whilst the appellant has suggested it would visually improve the appearance of the site, given my conclusions above and the absence of any detail, I give this very limited weight.

27. There are social, economic and environmental public benefits of the scheme. However, the extent of these is dependent upon the quantum of development and how any scheme would be designed and implemented. Even based on the maximum quantum of development, I am not satisfied that the public benefits of the scheme would outweigh the less than substantial harm to the designated heritage asset.
28. I recognise that an assessment of the effects of the proposed development is limited at this stage due to the absence of any design details. Nevertheless, the principle of locating between one and nine dwellings within the historic parkland and the setting of the Grade II listed building would change the character of this historic landscape. I appreciate that the appellant could seek to construct subterranean housing which would have a limited visual impact. However, even if dwellings were to be designed in such a way, there would nonetheless be domestic gardens and vehicle movements associated with the proposed development. This therefore does not lead me to a different conclusion that the principle of developing the parkland with up to nine houses would be harmful to the heritage asset.
29. I acknowledge that permission in principle is subject to a Technical Details Consent approval before permission is granted. I accept that matters relating to heritage could be given full consideration at this second stage and, if found to be harmful, could result in a refusal of that application. However, I have found that the principle of this development in this location would be harmful and not outweighed by the public benefits of the scheme.
30. I also recognise that parts of the parkland have already been separated and are now occupied by the entirely independent residential dwellings at the Oast House, Oast Cottage and Oast house Barn to the west. However, I have no details of the circumstances of these past changes. In any event, such development does not justify further separation and division of the site.
31. The proposed development would therefore conflict with Policy 34 of the HDPF and Policy ASH4 of the ANP which together seek development that retains and improves the setting of heritage asset and respects the significance of the local context of the asset and its positive contribution to local character and distinctiveness.

Character

32. London Road, where it extends northwards beyond both the petrol filling station and Hazelbank, has no footway, streetlighting or road markings and is enclosed by mature trees and vegetation. These give it a rural character which visually sets it apart from the built-up area and the stretch of London Road closer to the village.
33. The proposed development would be located along this rural stretch of London Road. It would be reasonably close to the footpaths along London Road which connect the development to the south and opposite to the village. Therefore, despite its proximity to the defined village and these other developments, this part of London Road is not characterised by development. It would not be viewed in the context of development to the south or west but would instead appear as an anomalous development off London Road with little relationship to either the village or the existing pattern of development.

34. The area does not form part of a designated landscape. Nonetheless, the proposal would erode the rural character through the introduction of residential development, a driveway and domestic gardens. This would appear to encroach into the countryside, harming the landscape character of the area. This therefore adds to my view that the location of the proposal would be inappropriate.
35. The proposal, due to its proximity to other development and the village would not result in an isolated home in the countryside in terms of paragraph 80 of the Framework. Nevertheless, it would be sufficiently apart from the established pattern of development to appear out of character.
36. For the above reasons, I conclude that the site is unsuitable for residential development, having regard to its location, the proposed land use and the amount of development. It would therefore conflict with Policies 3, 4, 26 and 34 of the HDPF and Policies ASH1 and ASH4 of the ANP as referred to above. It would also not accord with Policies 25, 32 and 33 of the HDPF and Policy ASH5 which together seek development that protects and enhances the landscape character, contributes to a sense of place and complements locally distinctive character, keeps the rural village feel of Ashington and is sympathetic to the landscape setting. It would also conflict with the Framework which seeks development that is responsive to local circumstances and supports housing development that reflects local needs in rural areas.

Other Matters

37. Article 5B(1) of The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 provides that permission in principle cannot be given for habitats development. This is defined in Article 5B(5) as development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site; and for which the competent authority has not given consent, permission, or other authorisation in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
38. Regulation 63 of the Habitats Regulations prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.
39. The PPG⁴ explains that where development is likely to have a significant effect on the European site without any mitigating measures in place, an appropriate assessment should be undertaken before consideration of the grant of permission in principle.
40. NE is concerned about groundwater abstraction within the Sussex North Water Supply Zone which is having a detrimental impact on the protected habitats sites. NE therefore advises that new development should not add to this impact and should therefore achieve water neutrality.
41. The appeal site falls within this zone. The proposal for up to nine additional dwellings would increase water demand. This would be likely to have a

⁴ Paragraph: 005 Reference ID: 58-005-20190315

significant effect on the protected habitats sites either alone or in combination with other plans and projects.

42. I have not been provided with any information about likely water usage associated with the proposal. Furthermore, no mitigation to provide water neutrality has been proposed. In the absence of this information, I am unable to conclude that the proposal would not adversely affect the integrity of the sites.
43. Had I been minded to allow the appeal, I would have had to make an appropriate assessment of the implications of the plan or project for the protected sites, both together and in combination. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.
44. I appreciate that issues around water neutrality within this area may be reducing the number of applications being determined with a potential knock on effect on housing delivery for the district. However, the requirement to consider the effects of the proposed development on the integrity of the protected habitats sites is a statutory duty.

Planning Balance and Conclusion

45. Recent appeal decisions⁵ have established that the Council cannot demonstrate a five year supply of deliverable housing sites. The appellant has argued that the most important policies for determining the application are therefore out-of-date. On this basis, paragraph 11d)ii. of the Framework should apply.
46. However, given my conclusions on the harm to the setting of a designated heritage asset, in accordance with footnote 7 to paragraph 11 of the Framework, the tilted balance does not apply.
47. I have not assessed the effects of the scheme on the protected habitats sites for reasons set out above. However, even if I were to find that mitigation could be provided in this regard which would avoid harmful effects, this would be a neutral factor.
48. The proposed development would be development in the countryside and of a type not linked to a rural use. It would not accord with the spatial strategy. It would also detract from the significance of the Grade II listed building and would harm the rural character of the area in which it lies. Whilst there would be benefits of the scheme, even those associated with the maximum quantum of development permissible under a permission in principle, would not outweigh the harm I have found.

Conclusion

49. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

⁵ APP/Z3825/W/21/3266503 and APP/Z3825/W/20/3257700