



Appeal Decision

Site visit made on 21 February 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/R3650/W/22/3304422

Haybarn, Dye House Road, Thursley, Godalming GU8 6QN

- 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 Paul Wedge against the decision of Waverley Borough Council.
 - The application Ref WA/2022/00214, dated 15 December 2021, was refused by notice dated 23 June 2022.
 - The development proposed is the conversion of existing stables to grooms accommodation.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the Wealden Heaths Phase I Special Protection Area (WHSPA).

Reasons

Background

3. The appeal scheme proposes the conversion of part of an existing stable building to residential accommodation. The stable building is itself part of a much larger site of some 11.3 hectares. In addition to this stable building the whole site includes an equipment barn, an outdoor arena, indoor school, another stable building plus the appellant's dwelling. Although much of the site is beyond 400m of the WHSPA, the appeal building is within 400m, 'as the crow flies'.
4. There is no objection from the Council regarding the site's Green Belt location or the need for the accommodation itself, given the nature and scale of the equine activities on site. Given the evidence before me and my own observations, I have no reason to disagree with the Council's conclusions on these matters.
5. The WHSPA itself contains other designated sites, including the Thursley, Hankley, and Frensham Commons Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). Within the designated area there are some of the finest remaining heathland on the Lower Greensand in southern England and it is of national importance for its bird, reptile and invertebrate populations. It is designated for its population of breeding nightjar, woodlark and Dartford warbler. These species nest on or near the ground and as a result are susceptible to predation and disturbance.

6. The Waverley Borough Council Local Plan Part 1: Strategic Policies and Sites Pre-Submission Draft July 2016 (SPSP) Habitats Regulations Assessment concluded that the delivery of large amounts of new development within 400m of the WHSPA could result in adverse effects on the integrity of that site. However, significant levels of development were not anticipated. Indeed, up until 2032, approximately 40 dwellings and gypsy & traveller pitches were anticipated within 400m of the WHSPA. Natural England was content that such a scale of development could be accommodated without requiring mitigation.
7. It appears that as a result of this there is no local plan policy which explicitly prohibits residential development within 400m of the WHSPA. Policy NE1 of the Waverley Local Plan Part 1 2018 (LPP1) requires any scheme within 400m of the WHSPA to undertake a project level Habitats Regulations Assessment, to demonstrate there will be no significant adverse effects on the ecological integrity of the WHSPA.
8. However, since 2016, the projected level of development within 400m of the WHSPA is said to have been exceeded and I have no evidence to the contrary. As a result, Natural England objected to the proposal because of its location, where mitigation measures are unlikely to protect the integrity of the SPA, and so further residential development should not be permitted.

Screening for Likely Significant Effects

9. The Council undertook a screening assessment, noting that the anticipated impacts from this development, either on its own or in combination with other plans and projects, would principally be increased access for recreation purposes, including dog-walking, as well as possible urbanisation impacts.
10. The appellant's case is based on a particular set of circumstances in relation to this site and proposal rather than implementing specific measures intended to avoid or reduce the harmful effects of the project on the site. A distinction can be made between measures which are integral to the design and physical characteristics of a proposed development (eg location, layout) and those which are intended primarily to avoid or reduce effects on European sites. It is not appropriate, at screening stage, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site.
11. The site is within 400m of the boundary of the WHSPA, but direct access to it would not be possible without traversing a small ravine. Furthermore, any future occupants of the proposed accommodation would need to trespass through neighbouring properties to gain access to the SPA 'as the crow flies'.
12. However, it seems to me that part of the appellant's case rests not just on the location of the site but also on the occupant being specifically employed as a groom on the site. Occupation of the unit could be controlled through a planning condition. However, in my view such a condition would amount to a measure intended to screen out likely significant effects of the project. Other possible measures such as removal of permitted development rights to avoid urbanisation would similarly be a restriction on the project and intended to reduce harmful effects. Such conditions should not be considered when screening for likely significant effects.
13. Therefore, considering the development in its broadest form, as an unfettered residential use, it could result in urbanisation and additional demand for

recreation locally, and such activity within the WHSPA could contribute to a deterioration of the quality of the habitat on which the birds depend. While any increase in activity resulting from the development alone would be likely to be limited, it is likely that in combination with other developments, the proposal would have a significant impact on the integrity of the WHSPA.

Appropriate Assessment

14. Direct access to the WHSPA would necessitate exiting the main site and travelling along a private lane to reach Dyehouse Road. The appellant estimates the actual distance that would need to be travelled to reach the WHSPA to be nearly 1.5km. The Council does not disagree with this figure.
15. If the stable building were located elsewhere on the Haybarn site it would be beyond 400m of the WHSPA but all other factors would remain the same. In this respect I note that there are other buildings on site which may be over 400m from the WHSPA. Some of these may not be suitable for conversion but I have no definitive evidence to show that other solutions for providing the accommodation that is needed, involving existing buildings that are beyond 400m of the WHSPA, could not be made available. On this basis I am unable to conclude that what is before me is the only possible option.
16. The new unit would not have its own dedicated curtilage, which given the site's wider activities is understandable. However, the occupant would have access to most of the land which makes up Haybarn's grounds. Furthermore, a groom would spend extended periods of time outside and, according to the appellant, use parts of the WHSPA for exercising the horses.
17. The Haybarn site would offer a different character and environment to that of the WHSPA site but it is not realistic to necessarily expect the groom to use the Haybarn site for all their recreational needs, even if they were exercising horses on the WHSPA as part of their role as a groom. Having access to the Haybarn's 11.3 hectares would reduce the need to use the WHSPA for recreational activities but the test is to ensure that it doesn't happen at all.
18. I have considered whether an occupancy condition to ensure the unit was only occupied by someone employed at the Haybarn site as a groom would be an effective measure. Whilst occupation of the unit being restricted to a groom may lessen the probability of the WHSPA being used for recreational purposes, it would not control the behaviour of an individual and so would not guarantee that they would not use the WHSPA for recreational purposes. As such, it would therefore fail to be effective in preventing harm to the protected area.
19. The size of the accommodation would limit the potential for dog ownership although would not entirely remove it. It is suggested that the groom would not be permitted to have dogs although it is not explained how this would be controlled or enforced. Restrictions on pet ownership in perpetuity, certainly by means of a planning condition, would be unreasonable and unenforceable.
20. Although the proposal would represent residential gain within 400m of the WHSPA, the scheme entails the conversion of part of an existing stable block. The proposed physical alterations to the building are relatively limited and contained. There would be no physical extension to the existing building. On this basis, the design, nature and scale of the works would not represent an urbanisation of either the WHSPA or appeal site. Removing the option to

extend the unit through permitted development would be a restriction rather than a form of mitigation but would help to avoid a risk of further urbanisation.

21. An Appropriate Assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposal or project. The measures discussed above may minimise the risk but would not take it away altogether. I therefore find that there would be, in combination with other plans and projects, an adverse effect on the integrity of the WHSPA.
22. The proposal would therefore conflict with Policy NE1 of the WBLP which requires development which is likely to have a significant adverse effect on the ecological integrity of the WHSPA to demonstrate adequate measures to avoid or mitigate potential adverse effects.
23. The proposal would also fail to comply with the Conservation of Habitats and Species Regulations 2017 which requires the competent authority before granting consent, to carry out an Appropriate Assessment in circumstances where a proposal is likely to have a significant effect on a European site.

Other Matters

24. The WHSPA is used for a range of activities, including by the military and film crews. These in themselves do not provide a reason for allowing this appeal. Indeed, the test is whether the proposal would either on its own or in combination with other plans or projects be likely to have a significant effect on a European site.
25. Previous appeal decisions on the site have related to the provision of new buildings, including a new dwelling, but the question of the WHSPA did not appear to be a contentious issue at that time. However, the current appeal, which is for the change of use of an existing building, must be considered on its own merits and in the light of the particular reason for refusal.

Conclusion

26. Permanent on-site accommodation for a groom would have benefits for the site's operation and the welfare of the horses. However, these benefits would not outweigh the significant harm to the integrity of the WHSPA, which is protected for its international importance.
27. The proposal would not accord with the development plan and there are no other material considerations to indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, this appeal should be dismissed.

Stewart Glassar

INSPECTOR