



Appeal Decision

Site visit made on 23 May 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2023

Appeal Ref: APP/Z3825/W/22/3294122

Rye Farm, Hollands Lane, Henfield BN5 9QY

- 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 Andy Barrott against the decision of Horsham District Council.
 - The application Ref DC/20/2266, dated 16 November 2020, was refused by notice dated 24 September 2021.
 - The development proposed is the erection of 3 x new build dwellings; in the alternative to 4 dwelling prior approval conversion permissions granted under DC/20/0604.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Andy Barrott against Horsham District Council. This application is the subject of a separate Decision.

Main Issues

3. Based on my reading of the evidence, I consider the main issues to be:
 - the effect of the proposed development on flooding.
 - the effect of the proposal on the character and appearance of the area, including the setting of the nearby heritage asset.

Reasons

Flood Risk

4. The proposed development would be accessed via a private track off Hollands Lane. Based upon my site observations, it appeared that this is the only road access to the appeal site. The proposed dwellings would be located within Flood Zone 1. However, a section of the access track would be located within Flood Zones 2 and 3. I am advised by the Council that planning permission¹ was granted for the widening and raising the height of part of the access track to enable access to the farm during a flood event. There is however no indication that the planning permission was implemented, could still be implemented or that this guarantees a safe access and egress during a flood event.
5. Paragraph 167 e) of the Framework indicates that development should only be allowed in areas at risk of flooding where, it can be demonstrated that safe access and escape routes are included, as part of an agreed emergency plan. I am also mindful of the advice set out within the Planning Practice Guidance,

¹ DC/10/2634

which, with regards to ensuring a development is safe for its lifetime, states that a site-specific flood risk assessment (FRA) may need to show that appropriate evacuation procedures and flood response infrastructure are in place to manage the residual risk associated with an extreme flood event.

6. It has been put to me that a planning condition could be imposed to secure the submission and implementation of an appropriate evacuation and escape procedure. Nevertheless, based on the available evidence, I cannot be certain that such a plan could show that the occupants of the development or the emergency services would be able to safely access and exit the site during a flood event or evacuate before an extreme flood. Consequently, by deferring the submission of an evacuation and escape procedure until after the grant of permission, I cannot conclude that future occupiers would not be put at risk from flooding. In coming to this view, I have had regard to the consultee advice. I also acknowledge that the occupants of the appeal scheme could seek refuge in their dwelling during a flood event and could also register with the Environment Agency for flood alerts. This however does not negate the need for a safe access and egress to be provided.
7. I have been referred to an appeal decision on land to the south of Granny Lane² where the Inspector found that an access through the flood zone was appropriate. However, from the decision it appears that this assessment was informed by flood modelling data and anecdotal information relating to historical flooding. In this case, there is no substantive evidence before me which would justify the proposal on the same basis. Moreover, unlike the appeal proposal, the referenced appeal included an emergency access in addition to the proposed access. Consequently, I am not persuaded that the schemes are comparable.
8. For these reasons, I find that the proposed development conflicts with Policy 38 of the Horsham District Planning Framework (excluding South Downs National Park) 2015 (Local Plan) which amongst other aspects seeks to ensure that flood risk is not increased.

Character and appearance

9. The appeal site lies within the Major River Valleys: Steyning and Henfield Brooks Landscape Character which is described within the Council's Landscape Character Assessment 2003 (LCA) as an alluvial floodplain landscape which is mainly pastoral with cattle grazing, but with some arable farmland at the edges. Due to the openness of the area and its intrinsic landscape qualities, the LCA indicates that the overall sensitivity to change is high.
10. Two large, steel framed agricultural buildings currently occupy the appeal site. Although now severed from the nearby Rye farmhouse (grade II listed), now known as Rye Island, the site forms part of the historic farmstead and is predominantly bound by parcels of relatively flat agricultural land. The open and unspoilt character of the area surrounding the appeal site provides a pleasant, rural setting. In this regard, the site is a contributor to the pattern of rural land uses identified within the LCA and positively contributes to the character and appearance of the host landscape.

² APP/Z4718/W/21/3279040

11. The existing buildings would be replaced by 3 detached dwellings, the overall design and layout of which would resemble a traditional farm complex. The proposed units would comprise of 2 single storey timber cart sheds together with a two-storey barn which, overall would be of lesser scale to the existing buildings. The use of traditional agricultural building materials including brick and timber cladding would reflect the materials used in the nearby Rye Farmhouse and would also complement the setting of the site. Therefore, whilst distinctively different to the existing agricultural buildings, the overall appearance, form and scale of the development would not be wholly uncharacteristic of a traditional farm building complex. Thus, in this regard the development would not read as an incongruous form of development.
12. The proposal would extend beyond the existing envelope of the appeal site and would introduce domestic paraphernalia including garages, driveways and associated hardstanding. However, the submitted plans indicate that these areas would be located within the central courtyard meaning that they would be largely screened from public view. The existing hardstanding would be also offset with grassed areas thereby softening the scheme. Consequently, I find that the introduction of this paraphernalia, although alien to the current use and character would not result in an undesirable suburbanising effect of the site. Details of all hard and soft landscaping could be secured by condition and thus ensure that the visual effects of the development are managed.
13. Visibility of the proposal would be relatively localised however I recognise that there may be sight of the proposal from higher vantage points within the South Downs National Park. Be that as it may, from these locations, the appeal scheme would be viewed in conjunction with the nearby buildings and would therefore read as part of the building complex. For these reasons, and notwithstanding the sensitivity of the landscape, I do not consider that the proposal would be visually obtrusive.
14. Rye Farmhouse lies to the east of the appeal site. I observed on my site visit that there are several intervening buildings and structures located between the appeal site and this designated heritage asset. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out, that in considering whether to grant planning permission for a development which affects a listed building, or its setting, the decision maker must have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
15. Based on the available evidence, it appears that the significance of the listed building is its architectural appearance and historic value. It appeared to me that the setting of the listed building is largely informed by the surrounding countryside which contributes positively to its significance. The design and layout of the proposed development would be reminiscent of a traditional farmstead and therefore would not be discordant in the context of the rural landscape. However, the scheme would result in the replacement of the existing utilitarian buildings and the introduction of more ornate dwellings and associated domestic paraphernalia, which would be uncharacteristic of this particular farmstead and setting. In doing so, the appeal scheme would have a negative effect on the setting of the listed building and its significance.
16. In considering the impact of a proposed development on the significance of a designated heritage asset, I am required to give great weight to the asset's

conservation. Given the scale of the proposal, I find that the harm amounts to less than substantial in the Framework's terms. In such circumstances, Paragraph 202 of the Framework sets out that this harm should be weighed against the public benefits of the proposal. The Council is unable to demonstrate a five-year housing land supply. The appeal scheme would result in the delivery of three dwellings in an area where it is accepted that there is a housing shortfall, contributing to the provision of housing in the district. In this instance, I find that the public benefits put to me by the appellant would outweigh the less than substantial harm identified.

17. In concluding this matter, I find that the appeal proposal would not harm the character and appearance of the area. While there would be less than substantial harm to the setting of the listed building and its significance, this would be outweighed by the public benefits. As such, the proposal accords with Local Plan Policies 32, 33 and 34. These policies, amongst other factors seek to ensure that development is of a high quality and inclusive design which respects the character of the area, including its overall setting and preserves and enhances the historic environment. It would also be consistent with the Framework's design and heritage objectives.

Other Matters

18. Prior Approval (PA) has previously been given for the conversion of the agricultural building to four dwellings at the site and this proposal would be an alternative form of development. However, the PA is subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations), which require the local planning authority to confirm that, following an Appropriate Assessment, development can proceed. An application under regulation 78 has been refused and, therefore, the evidence suggests that this alternative development is not proceedable. Consequently, I attach no weight to this potential fallback position.
19. I also note the appellant's agreement of the conditions recommended by the Council. However, the identified conditions would not address the harm that I have identified or make the development acceptable. I have also had regard to the appellant's assertions regarding the energy efficiency of the proposed dwellings, but in the absence of a realistic fallback position, it has not been shown that there would be substantial benefit over the existing circumstances at the site, so this matter is of limited weight.
20. The appeal site lies outside of a built-up area and therefore for the purposes of Local Plan Policy 26 lies within the countryside. In such locations, Policy 26 sets out that proposals must be essential to their countryside location, and in addition meet one of the criteria listed at 1-4. In the absence of a realistic fallback and given that the proposal would not satisfy any of the relevant criteria, the Council submits that the principle of development would conflict with the development plan's spatial strategy. Whilst noting the Council's submission, given my findings above, I have not considered the principle of the development any further as this would not lead me to a different conclusion.
21. Natural England's Position Statement for Applications within the Sussex North Water Supply Zone (NEPS) was published in September 2021. Therein, Natural England (NE) advised that it cannot be concluded that the existing abstraction of groundwater within the Sussex North Water Supply Zone (the zone) is not having an adverse impact on the integrity of the Arun Valley sites which

includes the Arun Valley Special Area of Conservation, the Arun Valley Special Protection Area and the Arun Valley Ramsar Site. These protected sites are designated under the Habitat Regulations. The appeal site lies within the zone and therefore, in accordance with the NEPS, mitigation measures are required to make the development acceptable and avoid an adverse effect on the integrity of the designated site. Whilst I have had regard to the appellant's submissions on this matter, as there would be no effects on the protected sites arising from my decision, there is no need for me to conduct an Appropriate Assessment.

22. In determining the planning application, Members are not duty bound to follow the advice of its professional officers subject to their reasoning being substantiated by clear evidence. Whilst I understand the appellant's frustrations that the planning committee reached a different view, that was the ultimate decision of the Council.
23. Inconsistencies in decision making have been brought to my attention by the appellant. However, whilst reference is made to other decisions within the Council's administrative area, there are no substantive details before me to indicate how these relate to the appeal proposal. Therefore, I am unable to make any informed or definitive conclusions. In any case, I have determined the appeal based on the planning merits and evidence before me.

Planning Balance and Conclusion

24. The Council does not dispute the appellant's assertion that it is unable to demonstrate a five-year housing supply. Paragraph 11 of the Framework directs that where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. In this case, the appeal development would be located in an area at risk of flooding, and I have identified a risk of adverse effects in this regard. This provides a clear reason for refusing the development and thus the presumption in favour of sustainable does not apply. It is therefore not necessary for me to consider whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole.
26. In concluding the appeal, having regard to the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Wilkinson

INSPECTOR