



Appeal Decision

Site visit made on 24 April 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2023

Appeal Ref: APP/Z3825/W/22/3308627

Pemberley, Copsale Road, Maplehurst RH13 6QY

- 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 Miss R Wedekind against the decision of Horsham District Council.
 - The application Ref DC/21/1946, dated 23 August 2021, was refused by notice dated 17 May 2022.
 - The development proposed is conversion of existing barn to a two-bedroom carbon neutral live/work dwelling with landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the site is a suitable location for housing, having regard to its accessibility to services and facilities; and
 - b) the effect of the proposed development on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site.

Reasons

Suitability of location

3. Maplehurst is a small, rural village focused on the junctions of Copsale Road and Park Lane with Maplehurst Road. The appeal site lies to the west of the village and comprises an open field containing a manège and a recently erected stable block in the north-western corner. To the rear of the new stables is an older stable building, now redundant, which it is proposed to convert to a live/work dwelling. The development would be accessed by an existing unmetalled track which links with Copsale Road, alongside Sheepwash Farm.
4. The spatial strategy within Policy 2 of the Horsham District Planning Framework (2015) (HDPF) seeks to focus development in and around the key settlement of Horsham and allow for growth in the rest of the district in accordance with the identified settlement hierarchy. This hierarchy is defined within Policy 3, which places Maplehurst within the category of an 'unclassified settlement'. These are settlements with few or no facilities or social networks and limited accessibility that are reliant on other villages and towns to meet the needs of residents. Unlike settlements further up the hierarchy, Maplehurst does not have a built-up area boundary (BUAB). The appeal site lies outside of the main cluster of development and should be treated as countryside for policy purposes.

5. Policy 26 of the HDPF restricts development outside of BUABs to that which is essential to its countryside location. The proposal would not be providing accommodation for a rural worker in connection with an established or developing rural enterprise. However, I note that the appellant is hoping to build up a small-scale equine stud alongside her home-based accountancy business. There would be some practical benefits in her living at the site, to provide security and ensure animal welfare during foaling, and I note that the proposal has the support of the appellant's veterinary surgeon. These are considerations to be weighed in the planning balance, but the evidence falls short of demonstrating an essential functional need to live on site in compliance with Policy 26.
6. The Nuthurst Parish Neighbourhood Plan 2015 (NPNP) permits very small-scale infill development within the confines of Maplehurst but otherwise it expects that proposals shall conform to development plan policies in respect of the control of development in the countryside. Since the site does not have the characteristics of infill development or lie within the main built-up part of the settlement, it cannot be justified by reference to NPNP Policy 1.
7. The decision notice also cites Policy 4 of the HDPF. This strategic policy supports the growth of settlements, but development outside BUABs is only supported where the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge. The site is neither allocated nor can it reasonably be described as adjoining an existing settlement edge. As such, the scheme cannot be justified under Policy 4.
8. The site is within reasonable walking distance of Maplehurst. The journey involves walking along an unlit lane without footways, but the edge of the main built-up part of the village is only 200m from the site entrance. However, future occupants of the proposed dwelling would have limited cause to travel to the village by virtue of its very limited range of facilities comprising little more than a public house. There is also a bus stop on Maplehurst Road, but the infrequent service (only one bus per week in each direction) is unlikely to encourage use of public transport.
9. The nearest settlement with a range of services and facilities is Southwater, more than 4 miles away by road. The journey is shorter on foot or by bicycle, given the ability to use the Downs Link, but it is still some distance and future residents would be inclined to use the private car for most everyday trips. The National Planning Policy Framework (the Framework) notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that sites to meet business and community needs in rural areas may have to be found in locations that are not well served by public transport. Nevertheless, I am not persuaded that the site would be a suitable location for housing, having regard to the principles of sustainable development.
10. I conclude that the proposal conflicts with Policies 2, 3, 4 and 26 of the HDPF and Policy 1 of the NPNP. Under the provisions of s38(6) of the Planning and Compulsory Purchase Act 2004, any grant of planning permission for a dwelling in this location would need to be justified by other material considerations.

European sites

11. The appeal site falls within the Sussex North Water Supply Zone. Natural England has raised concerns over the impact of groundwater abstraction on a number of designated sites which include the Amberley Wild Brooks Site of Special Scientific Interest (SSSI) and Pulborough Brooks SSSI. These form part of the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. These 'European sites' are legally protected for their wintering birds, wetland habitats, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants.
12. Natural England is undertaking work to establish the condition of the SSSIs that make up the European sites. However, based on water levels, the present indication is that the sites' condition is Unfavourable. Some areas have been shown to be linked hydrologically to a layer of rocks from which water is currently being abstracted, and in other locations the hydrological link cannot be ruled out. Consequently, it is impossible to eliminate the possibility that the existing public water supply abstraction within the Supply Zone is having an adverse effect on biodiversity. Any further development which requires an increase in water abstraction would be likely to have an adverse impact on the European sites. This includes modest developments such as that proposed, due to their in-combination effects with other plans and projects.
13. Natural England is working in partnership with relevant authorities to develop a strategic long-term approach, but in the interim its advice is that schemes may only proceed where it can be demonstrated that they would be water neutral – in other words the proposed development should not result in a net increase in water consumption from the public supply.
14. The application was accompanied by a Water Neutrality Report, and this was supplemented by a report with the appeal and a Water Neutrality Appeal Note dated 21 June 2023. Further submissions were made following consultation with Natural England. The introduction of a dwelling on the site would generate additional demand for water, but the proposal is to meet this need, including potable needs, through rainwater harvesting from the roof of the converted barn. The roof of the recently constructed stable block would be used to supply all the water needs of the stables.
15. The advice from Natural England is that, provided the delivery and maintenance of the mitigation measures can be suitably secured, water neutrality can be achieved for this development. Although there is some suggestion from the appellant of a degree of betterment, this would be very modest. I have therefore attached it limited weight as a factor in favour of the scheme.
16. The on-site water neutrality measures could be secured through a negatively worded planning condition, in the event of planning permission being granted. Subject to this, the proposal would not harm the integrity of the Arun Valley SPA, SAC and Ramsar site. The requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 would be met and there would be no conflict with HDPF Policy 31 or Framework Paragraph 180.

Other material considerations

17. The appellant has referenced various planning permissions for sites in the district which have involved the conversion of rural buildings outside of BUABs.

The circumstances of each permission are specific to the case, for example in terms of the location in relation to the nearest settlement, the level of services and facilities in that settlement and access to public transport for travel further afield. Nevertheless, the common theme is that the Council has been routinely attaching weight to the Local Plan Review which takes a more flexible approach towards the conversion of buildings in the countryside to other uses. Some of the presently unclassified settlements, Maplehurst included, would become 'Secondary Settlements'.

18. Emerging plans are addressed in Paragraph 48 of the Framework. This states that weight may be given according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the Framework. In the case of Horsham, the Regulation 18 Draft Local Plan has been consulted upon, but it has not been submitted for examination. Moreover, the Council has taken the decision to delay its local plan. Although the Council has been relying upon the 'direction of travel' of policy in its decision-making, the new local plan is at an early stage of preparation and there is the possibility that it may be found unsound or modified before adoption. The Council's decisions on other sites are a material consideration, but I am not bound by them, and it is premature to rely upon emerging policy which is embryonic and untested at examination. The Inspector for a previous appeal¹ at the site attached no more than limited weight to the emerging Local Plan Review and, applying the tests of the Framework, I shall do the same.
19. The site is not isolated for the purposes of Paragraph 80 of the Framework and national policy does not place a blanket ban on new homes in the countryside. Nevertheless, it is still necessary to consider whether the site represents a suitable location for housing having regard to its accessibility to services and facilities and the overall objectives of the Framework. My view, which aligns with the findings of the previous Inspector, is that the location is unsuitable.
20. My attention is drawn to appeal decisions which have been issued since the last appeal was determined. The appeal for Dyke Farm was dismissed, but the Inspector raised no concerns over the sustainability of the location. Although that site was outside of BUABs it was 'reasonably well located' in relation to services, facilities and amenities in Pulborough and West Chiltington, and within a 5-minute walk of bus stops and a regular bus service to, amongst other places, Pulborough railway station.
21. The proposal for Wychwood Barn was materially different to the current appeal case in that the principle of conversion was accepted under a Neighbourhood Plan and therefore the scheme was compliant with the development plan. I also note that the site is closer to services and facilities in higher order settlements.
22. I have taken account of the fact that the proposal is for a live/work dwelling and the appellant's intention to run her accountancy business from home. Living on-site would also mean that the appellant no longer needs to travel back and forth from her present residence to care for her horses. However, the benefits in this regard would not necessarily apply to subsequent occupiers and the live-work element would not obviate the need for travel by private car to access shops and services.

¹ APP/Z3825/W/20/3247480

23. Whilst I note the suggestion that occupancy of the dwelling be tied to the adjacent paddock land, there can be no guarantee that subsequent occupiers would keep horses. Neither can future residents of the dwelling be obligated to work from home – they may equally choose to commute to work. This tempers the weight that I can attach to the appellant's personal circumstances and the reduction in carbon emissions resulting from her proposed relocation.
24. The proposal would make use of an existing building to provide a carbon neutral dwelling and new planting would deliver some minor landscape and biodiversity gains. These are modest benefits to be factored into the balance. The development would maintain the rural character of the area, although the discreet and unobtrusive location means that there would be no significant enhancement to the setting of the building. The scheme would have a broadly neutral impact in visual terms.
25. The appellant's commitment means that the scheme is likely to be delivered quickly, thereby making a very modest contribution to the district's housing supply. The proposal would also help to support, albeit only in a minor way, the vitality and viability of the rural community in Maplehurst. These are all factors which weigh in favour of a grant of planning permission.
26. Policy 10 of the HDPF indicates that proposals for the conversion of rural buildings to business and commercial uses will be considered favourably over residential in the first instance. The appellant has drawn attention to the condition on the planning permission for the barn restricting commercial use. However, this does not conclusively demonstrate that commercial use of the building would be inappropriate. It simply means that any proposal would need to be the subject of a planning application (possibly because the application was considered on the basis of private use of the stables by the landowner).

Planning Balance and Conclusion

27. The Council concedes that is unable to demonstrate a five-year supply of deliverable housing sites. Its Annual Monitoring Report for 2020/21 calculates a supply figure of 4.0 years and I have seen no evidence to indicate that there has been any improvement. This represents a material change to the previous appeal where the Inspector made their decision on the basis that a housing shortfall had not been adequately demonstrated. Paragraph 11 d) of the Framework indicates that where the requisite supply of housing land does not exist, the policies which are most important for determining the application should be deemed to be out-of-date. This includes Policy 26 of the HDPF and therefore the location of the site in the countryside outside of BUABs is not determinative in this case. Policies 2, 3 and 4 of the HDPF are also deemed to be out of date, although the settlement hierarchy remains relevant to informing decisions on proximity to services and facilities.
28. The Framework states that in circumstances such as this, permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 7 confirms that the policies referenced in the first limb of Paragraph 11 d) include those relating to habitats sites. However, my finding that the proposal would not cause harm to the integrity

of the Arun Valley SPA, SAC and Ramsar site means that the proposal should be considered against the tilted balance within Paragraph 11 d) (ii).

29. The proposal would make a very modest contribution to the supply of homes in the district and the chances are that the new dwelling would be delivered quickly. The scheme would provide a carbon neutral dwelling and minor landscape and biodiversity gains. It would also help to support, albeit only in a small way, the vitality and viability of the rural community in Maplehurst. There would also be a degree of betterment in relation to the water neutrality issue. Although wide ranging, these benefits would not be significant in overall terms.
30. The harm arising from the site's location outside of BUABs carries limited weight, owing to the Council's housing land supply position. Nevertheless, I have attached some weight to the conflict with the strategy set out within Policy 2 of the HDPF. The nature of the development as a live-work dwelling would remove the daily commute, at least for the appellant, but occupiers of the property would still be heavily dependent on the private car for access to everyday services and facilities. The long-term carbon emissions, including those associated with future occupiers, would be likely to significantly outweigh the reductions resulting from the appellant's move to the site.
31. I have given careful consideration to all the evidence before me, including the representations of support and the information presented on the Council's approach to applications for other sites in the district. However, in the overall planning balance, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, I find that the proposal does not constitute sustainable development and the conflict with the development plan is not outweighed by other considerations.
32. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR