



Appeal Decision

Hearing held on 26 September 2023

Site visit made on 25 September 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal Ref: APP/Y9507/W/23/3322382

Land at Gravel Pit, Loves Corner, Longfurlong, Clapham, West Sussex

- 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 Barry Boxhall against the decision of the South Downs National Park Authority.
 - The application Ref SDNP/22/03525/FUL, dated 20 July 2022, was refused by notice dated 8 December 2022.
 - The development proposed is described as 'The relocation of Lansdowne Nursery from Ferring including the erection of glasshouses and agricultural workers dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An application for an award of costs was made by Mr Barry Boxhall against the South Downs National Park Authority (the 'authority'). However, this was subsequently withdrawn at the hearing. The appellant sought to submit amended drawings at the appeal stage. These had been submitted to the authority during its consideration of the application but rejected and not consulted upon¹. The proposed amendments included alterations that would have been of interest to the public. Therefore, accepting the drawings would deprive interested parties an opportunity to comment on a material change to the proposal. The amended plans were not accepted for this reason.
3. The appellant also sought to submit reptile, dormouse and bat survey reports as late evidence. The latter two were tabled only days before the hearing. The undertaking of these surveys had been recommended in a preliminary ecological assessment that had been issued to the appellant in January 2022. It is unclear why these surveys were not undertaken before a planning application was submitted. The subsequent appeal was therefore submitted without this crucial evidence. The appellant also attended the hearing without his Ecologist, so it was difficult to explore at the hearing the recommendations set out in the survey reports.
4. Nevertheless, the authority adopted a helpful approach at the hearing and confirmed that they were content for me to accept the survey reports and would provide written comments from their Ecologist. The information was also posted on the Council's website so that interested parties could provide

¹ Whether to accept amendments in such circumstances is at the discretion of the local planning authority – see Planning Practice Guide - Paragraph: 061 Reference ID: 14-061-20140306

representations on this matter if they so wished. The appellant was afforded a chance to submit final comments in response to the submissions received.

5. It has ultimately transpired that the dormouse survey report which was the subject of discussions at the hearing was prepared with reference to the amendments I had already rejected. The appellant therefore sought to submit another version of the report directly to the authority after the hearing. I have not accepted this document as it would be procedurally unfair to do so. This is because the document was not referred to at the hearing and was not the version I was advised had been added to the Council's website. Thus, interested parties would be unaware of it.
6. In September 2023 the Government published a revised National Planning Policy Framework (the 'Framework'). The revisions relate to national planning policy for onshore wind development rather than anything relevant to the main issues in this appeal. Consequently, I have not invited further comments.

Background and Main Issues

7. During discussions at the hearing the authority explained that there are technical aspects of the proposed surface water drainage strategy that may require refinement and further clarification. However, it also understandably conceded that such details could be secured through the imposition of a condition in the event the scheme was otherwise acceptable. Accordingly, the alleged conflict with the development plan outlined in the authority's fourth reason for refusal has not stood up to scrutiny. This revised position chimes with the professional advice provided by the authority's drainage advisors and what I heard from the appellant's drainage consultant at the hearing. The condition could also ensure the sustainable drainage system is designed to be landscape led and contribute to eco-system services. As a result, I have not considered this point further as a main issue.
8. Similarly, it became apparent during the hearing that the appeal scheme could meet the specific requirements of Policy SD48 of the South Downs Local Plan 2014-33 (LP), including a BREEAM 'Excellent' rating for the commercial buildings, and energy and water efficiency standards for the proposed dwelling. It is unclear whether the scheme would meet some of the other aspirations set out in the Sustainable Construction Supplementary Planning Document, but as this goes beyond the requirements set out in the development plan, I have afforded any conflict with it very limited weight. In this context, the authority confirmed that a condition could be imposed to secure the requirements of Policy SD48 and therefore a conflict would not occur. Accordingly, I have not considered this point as a main issue either.
9. The authority also confirmed that although the information submitted regarding biodiversity net gain lacked clarity, a condition could nevertheless be imposed to secure a biodiversity net gain in habitats given the size of the site. As a result, there would be no conflict with the development plan on this account. The authority nevertheless maintained its concerns regarding the shorter-term effects of the proposal on existing bats, dormice and slow worm populations. Additional concerns were also raised at the hearing in respect of great crested newts. This is because the appellant confirmed that a pond on site would be dredged as part of the surface water drainage strategy.

10. Although not a reason for refusal, interested parties have raised concerns about drainage at the site and the Flood Risk Assessment identifies it as being of medium to high flood risk from groundwater. Accordingly, I raised this point with the authority and appellant before the hearing was opened. In so doing, I advised them that I wished to discuss whether a sequential test is required with reference to the National Planning Policy Framework (the 'Framework'). I have addressed this matter as a main issue given the evidence I heard.
11. Considering the foregoing, and having regard to the evidence before me, the main issues in this appeal are:
- The effect of the proposed development on the landscape;
 - Whether the appeal site is a suitable location for the proposed dwelling, having regard to the spatial strategy in the development plan;
 - Whether the appeal site is a suitable location for the proposal, having regard to policies relating to development in areas at risk of flooding.
 - The effect of the proposed development on biodiversity;

Reasons

The effect of the proposed development on the landscape

12. The 'landscape' for the purposes of my assessment includes the appeal site and its context. Therefore, in addition to the appeal site, the landscape includes the small mixed² settlement of Clapham Common, the A27, the Clapham Interchange, the A280, the wood and common land to the east of the appeal site and the enclosure fields to its west.
13. This landscape is in the Upper Coastal Plain Landscape Character Area (LCA), the key characteristics of which are summarised in the authority's landscape character assessment. These include its low lying and undulating form, the sense of transition from chalk downland to the flat coastal plain, the presence of streams and ponds, a strong network of hedges and hedgerow Oaks, mixed field sizes which support pasture and arable land uses, historic nucleated villages and other historic features such as ancient woodland.
14. The landscape exhibits some of these key characteristics including the field scape within the appeal site, which is delineated by a strong central hedge/tree belt with several Oak trees, and the historic common to its east. Overall, the landscape has areas that are representative of the LCA, including the appeal site, but there are also features that are not, such as the A27. Overall, the landscape is moderately representative of the characteristics of the LCA, albeit largely on account of the appeal site and common land.
15. When considering the attributes of the landscape, time depth analysis through historic mapping demonstrates that the area has been subject to significant change since 1783. There is continuity in some respects, such as the common land to the east of the appeal site, the route of the A280 and the presence of Patching Pond to the west. The appeal site's function as a small field also seems to go back some way.

² This settlement includes housing of various ages largely from the early 20th Century onwards, a recycling depot and a builders merchants all accessed from the A280

16. Otherwise, the boundaries of the common and historic field scape have altered, the modern untypical³ settlement of Clapham Common has been constructed and the A27 built. Thus, the historic fabric and intactness of the landscape, whilst recognisable, is degraded. This negatively effects its quality, especially as changes such as the A27 are incongruous. The A27 is also a feature that divorces the site and its context from the wooded landscape to the south, including Highdown Hill. Overall, the landscape condition is low to medium.
17. In terms of scenic quality there is a pleasant, glimpsed view from the site entrance into the appeal site. However, users of the A280 are likely to be moving at speed or, if walking, moving in a parallel direction to the site. The appeal site is otherwise well screened from the A280. There is a view looking west from the adjoining public right of way across the appeal site. This is generally a high-quality view given the absence of buildings⁴. There is also a pleasant view from the south of the appeal site looking north, although the rear elevations of the properties at Clapham Common are evident⁵, albeit distant and recessive. Overall, views across the appeal site afford the landscape a scenic quality of medium value.
18. The common land has a wild character, and this extends into the appeal site due to the dense vegetation around its boundaries and through its centre. Nevertheless, the noise from the A27 is ever present and this significantly reduces the tranquillity of the site when considered relative to other locations in the National Park (NP). Nevertheless, in visual terms the appeal site is open and rural, and this provides some tranquillity and character and contributes to the setting of the common. As a result, there is some low to medium perceptual interest despite the A27.
19. The submitted evidence demonstrates that the site is a good habitat for several notable species including bats, slow worms and dormice. The hedging and trees similarly support nesting birds and insects. The site also contributes to other ecosystem services such as drainage and as a carbon sink. In the wider landscape the common land is a priority habitat, which suggests some rarity. The landscape is therefore of medium to high conservation interest.
20. In terms of cultural heritage, the desk-based archaeological assessment suggests the site might have potential for bronze age and medieval remains. Above ground features are sparser and largely relate to the central tree belt. This marks the historic route of the Arundel Road, which may be a Roman route. The existing trees may not be very old though. The historic brick works to the north is no longer present, the appeal site is no longer part of a historic common and, as explained above, the field scape has been altered. There is nothing before me to suggest the landscape has any notable cultural or historic associations. The site is therefore of low cultural and associative interest.
21. There is public access to the common land, which also includes a Local Green Space⁶, but not the appeal site. That said, there is a public footpath that skirts the south-eastern corner of appeal the site. Evidence from residents suggests it is well used as part of a circular route to and from Clapham, and I have no

³ The typical settlements in the LCA are Anglo Saxon in origin and nucleated around a church – see the authority's landscape character assessment.

⁴ See Viewpoint (VP) 13 in the Landscape and Visual Appraisal

⁵ See VP14

⁶ Identified in the Clapham Parish Design Statement and Clapham Neighbourhood Plan

- reason to disagree. The medium scenic quality of the appeal site enhances the enjoyment of this route.
22. The appeal site has a spatial function in providing a buffer between the A27 and the small settlement of Clapham Common. However, this is not a long-standing relationship and Clapham Common is not a historic settlement. Moreover, this spatial function is not identified in published guidance or policy. Thus, the indications are that it is of low value in terms of landscape character.
23. When considering the value of the landscape, interested parties suggested that it is of high value because it is in the NP. This is a material point, but not determinative. This is because the statutory purposes of the NP seek to conserve what is of value and enhance what is not. In this respect, a national park is a broad sweep of land designated on account of its overall natural beauty. Within this landscape, there will be features and areas that detract from, or add nothing to, the natural beauty of the NP, the development of which could have a neutral effect. As a result, a value judgment is better informed by the attributes of the landscape and not just the designation.
24. In this respect, and when applying the value criteria in the Landscape and Visual Appraisal (LVA), the attributes underlying the local landscape character and visual amenity are of mixed interest and value. Some elements are of no value (such as the A27), whereas others are medium (the appeal site) or high (the common) and contribute to the high-level special qualities of the NP, which include the diversity of landscapes and the variety of wildlife. Overall, the landscape is of medium value and therefore of medium susceptibility to adverse changes caused by a development of the type and scale proposed. This translates to it being of medium sensitivity.
25. The appeal scheme would radically change the character and appearance of the appeal site to facilitate access by the public. In particular, the open pastoral field would be heavily urbanised by the access works and the construction of an internal road, car park and other built features, including a café, lighting and signage. The greenhouses would be light weight rural structures but would also be a built incursion into an otherwise scenic field.
26. The proposal would therefore erode the contribution the appeal site currently makes to the landscape as a track of grazing land moderately representative of the LCA. It would also seriously devalue the scenic and rural quality of the appeal site, especially from VPs 13-15 where the proposed dwelling would appear assertive, bulky and strident. VPs 13-15 are localised views, but they would nevertheless be from a section of well used footpath. The proposal would also diminish the quality of the central tree belt as a landscape feature and reduce tranquillity even further due to additional activity and built form.
27. The appeal scheme includes mitigation in the form of additional planting which overtime would increase the tree canopy in the appeal site. The new planting would include a dense area of woodland to the east of the proposed dwelling. However, once mature this would effectively block what is currently an open and attractive view. It is also of note that whilst landscaping can be used to soften or anchor a proposal in the landscape, it would nevertheless be unwise to seek to hide an otherwise unacceptable development in this way because the landscaping could fail or be removed in the future. Furthermore, the benefits from new planting cannot be considered independently from the harm caused

- by the new development, which would ultimately dominate the site and fundamentally alter its rural character and appearance.
28. The main area of the garden nursery would be set north of the central tree belt, but polytunnels, a balancing pond and an external plant cultivation area, which is likely to appear manicured, would all be located to the south. Accordingly, there would be a general sense of the proposal sprawling into the southern field, which is more sensitive to development given its location further away from Clapham Common and closer to the public footpath. This is a notable symptom of the proposal not being landscape led.
29. The appeal scheme would have a residual long term and negative effect on the landscape character and visual amenity of the appeal site and its immediate surroundings. This impact would be of a high magnitude. The effect on the wider contextual landscape would dissipate quickly the further one travels from the site. The overall effect can therefore be described as localised. Indeed, due to the noise of the A27, and the screening provided by existing and proposed landscaping, the presence of the appeal scheme would not be pronounced beyond the immediate boundaries of the site. Thus, the overall residual impact of the proposal would be medium adverse.
30. The methodology in the LVA indicates that the sensitivity of the proposal should be plotted against the magnitude of change to ascertain the significance of the scheme's overall effect. In this case, the landscape is of medium sensitivity and the magnitude of change would be medium adverse. This would result in a moderate overall effect. This would be of significance because it would be a noticeable change in the landscape, albeit to a limited area. Indeed, even a minor adverse effect can be significant in a national park given the statutory purpose to conserve and enhance natural beauty, which is a concept informed by landscape character and visual amenity. Therefore, the moderate effect would be of significance, in that it would matter.
31. In conclusion, the appeal scheme would result in a moderate and thus meaningful residual adverse impact on the landscape. The intrinsic character and beauty of the countryside would be harmed. It would therefore fail to adhere to the first purpose of the National Park, which is to conserve natural beauty. It would also be at odds with Policies SD1, SD2, SD4 and SD5 of the LP and Policy HD9 of the Clapham Neighbourhood Plan 2016-2034 (CNP), which collectively seek to conserve and enhance the landscape.

Spatial Strategy

32. To protect the landscape of the National Park, Policy 25 of the LP outlines a development strategy. It explains that the principle of development within defined settlements will be supported. But development outside these areas will only be permitted exceptionally and when it complies with relevant policies in the LP. In this regard, the development plan exceptionally permits new housing outside settlement boundaries in circumstances that include allocations, rural exception sites, rural workers dwellings and replacement dwellings. The proposed house would be outside a defined settlement boundary but is not allocated for development and is not an exception site.
33. Policy SD32 of the LP sets out the circumstances when a rural workers dwelling will be permitted. In this respect, the appellant has not made a case that the nature and demand of the work involved in operating the proposed garden

- nursery would make it essential for a rural worker to live at, or very close to, the appeal site. Indeed, there is no indication the business would suffer significantly from not having a worker permanently living on site.
34. Reference has been made to security, but it may be possible to address this through boundary treatment, CCTV cameras, signage, or private security contractors. The house would also be located at the back of the site and away from the site entrance. It would therefore offer little natural surveillance beyond neighbouring properties or act as a deterrent to those who may want to unlawfully enter the site. Nor has it been demonstrated that theft and damage would be a genuine and persistent risk.
35. Even if there were an essential need for a worker to live on site, it became apparent at the hearing that an existing worker, who is also a relative of the appellant and may be a company director, already lives in Clapham Common in a property that overlooks the appeal site. They would be on hand to attend the site at short notice. This indicates that there is no need for another worker to live on site. If a case could be made that a worker needs to live nearby, but not in sight and sound of the business premises, then the appellant already occupies a rural worker's dwelling at Ferring. This is only around three miles away. Interested parties also advised that properties near to the site have recently been available for purchase, and the appellant did not dispute this.
36. As a result, it has not been demonstrated that it is essential for a worker to live on site. Even if it were, then there is already an employee next door. If it is necessary to live nearby, then the appellant has an existing home in Ferring or could have purchased one. Moreover, the proposed dwelling would exceed the 120 square metre floor space threshold (gross internal area) for a rural workers dwelling in Policy SD32 by some way. Nor has the appellant demonstrated that the existing business is viable. And at 2.5 hectares, with perhaps only around 0.6 hectares of growing space, I am sceptical whether the business could be considered extensive. For all these reasons the appeal scheme would fail to adhere to Policy SD32 of the LP.
37. The appellant submits that Policy SD32 is not relevant because the proposal would be the relocation of an existing rural workers dwelling, which was found acceptable by Arun District Council. However, the authority suggested at the hearing that the appellant's existing home⁷ was granted to support a poultry business. The appellant did not dispute this. Accordingly, whether there is an essential need for a worker to live permanently at the appellant's business may not have been demonstrated previously. Moreover, much has changed since the Arun decision, including the creation of the NP. The appeal site is therefore in a different local planning authority area to the Ferring site and subject to a different local plan, which is predicated on limiting the scale and extent of development within the NP. As a result, Policy SD32 is very relevant to this proposal, which is seeking to erect a rural worker's dwelling in the NP.
38. The question, therefore, is whether demolishing the existing rural workers dwelling at Ferring is a material consideration that should outweigh the conflict with Policies SD25 and SD32. It is unlikely a new dwelling could be erected at the Ferring site under the 2002 permission given the conditions imposed⁸. A

⁷ Arun District Council reference FG/103/02/

⁸ Condition 2 requires works to have commenced on the erection of the new dwelling within five years of the permission. It would not be possible to erect a new dwelling on the site and comply with this condition.

future occupant of the Ferring site may look to apply for a new rural worker's dwelling, but there is no guarantee they would be successful given the requirement to demonstrate an essential need for a worker to live on site.

39. Accordingly, it is probably reasonable to suggest the appeal scheme would not result in an increase in the number of rural workers dwellings in the area. However, for the reasons I have already gone into, relocating the dwelling to the NP would harm the landscape and it has not been demonstrated to be essential for the enterprise in question. Therefore, demolishing the existing building is not a point that outweighs the development plan conflict.
40. For completeness, it is worth recording that Policy SD30 of the LP does permit the erection of replacement dwellings in the NP. However, when read in its proper context it is apparent that this policy only permits the replacement of dwellings that are already in the NP. By erecting a new dwelling in the NP as a replacement of one outside it, the visual impact in the NP would be increased and this would undermine what Policy SD30 is seeking to achieve.
41. In conclusion, the appeal scheme would be a new dwelling outside of a settlement boundary which would not be exceptionally supported by the development plan. The proposal would therefore be at odds with the spatial strategy in the development plan and material considerations do not outweigh this conflict. Accordingly, the appeal site would not be a suitable location for the proposed dwelling. Instead, the appeals scheme would undermine the objectives of the spatial strategy, and this would be harmful given the public interest in having a plan led system that provides consistency and direction.

Whether the appeal site is a suitable location for the proposal, having regard to policies relating to development in areas at risk of flooding.

42. When considering the flood risk of the site, the Lead Local Flood Authority (LLFA) stated that the appeal site is at a low-moderate risk of surface water flooding and a low risk from groundwater flooding. However, this response was based on a map dating to 2009 in the Strategic Flood Risk Assessment (SFRA) which is apparently lacking in detail. As a result, limited weight should be applied to the SFRA and the response from the LLFA when ascertaining the flood risk at the appeal site. Instead, the appellant has provided an up to date and site focussed flood risk assessment (FRA) which confirms that the site is at a medium to high risk of ground water flooding⁹.
43. Paragraph 161 of the Framework explains that to avoid flood risk to people and property, development plans should apply a sequential, risk-based approach to the location of development when taking account of all sources of flooding. This should be done by applying the sequential test. Paragraph 162 of the Framework explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It also includes an instruction that development should not be allocated or approved if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
44. The Planning Practice Guide (PPG) identifies rising groundwater as a source of flooding¹⁰. It also provides further guidance on the sequential approach¹¹ and

⁹ Incidentally, the Preliminary Ecological Appraisal records the presence of a waterlogged area

¹⁰ Paragraph: 001 Reference ID: 7-001-20220825

¹¹ Paragraph: 023 Reference ID: 7-023-20220825

test. In particular, that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk; that this means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding; and even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.

45. Importantly, the PPG states that only if a site is at a low risk from all sources should the sequential test not be undertaken¹². Therefore, the site's location in Flood Zone 1 is not determinative on whether the sequential test should be commenced. In addition, the PPG explains¹³ how the sequential test should be applied whereby areas of lowest risk of flooding are considered first, then medium and then high. In so doing the sequential test area will be defined by local circumstances relating to the catchment of the proposed development.
46. The appeal scheme is not supported by a sequential test that has listed other sites in a robustly defined sequential test area (STA), and then considered if they are of a lower flood risk and reasonably available. Given the wide catchment of the proposed development, the sequential test area could be quite generous. It would also include the appellant's current site at Ferring. In the absence of this information, the appellant has failed to establish that there are no sequentially preferable sites that are reasonably available.
47. Paragraph 163 of the Framework explains that if it is not possible for development to be in areas with a lower risk of flooding, the exception test may have to be applied. In effect, the Framework is stating that the exception test should only be applied once the sequential test has been undertaken. The PPG explicitly states this¹⁴. Therefore, as the sequential test has not been undertaken, the exception test in Paragraph 163 of the Framework is not relevant at this stage. This would have considered, amongst other matters, whether the site could be made safe for its lifetime by, for example, conditions being imposed that required the land levels to be raised. In the absence of a sequential test, the proposal is at odds with the Framework.
48. I therefore conclude that the proposal would be at a medium to high risk of flooding and this risk has not been adequately justified through an absence of sequentially preferable sites considered in a logical and robustly identified STA. The proposal would therefore be contrary to the Framework, which aims to sequentially direct development away from areas at risk of flooding to avoid flood risk to people and property. In this respect it's difficult to see how the proposal could adhere to Policy SD49 of the LP.

The effect of the proposed development on biodiversity

49. The bat activity survey report confirms that bats were recorded at the appeal site. The recorded activity was strongly associated with the vegetation around the periphery of the site *and* the central tree line. However, the mitigation in the report is focussed on providing a 5-10m semi natural buffer only around the boundary vegetation. It is unclear why the appellant's Ecologist is not recommending a buffer around the central tree belt as well given the activity recorded there. Moreover, the Preliminary Ecological Appraisal and the

¹² Paragraph: 027 Reference ID: 7-027-20220825

¹³ Paragraph: 024 Reference ID: 7-024-20220825 and Paragraph: 027 Reference ID: 7-027-20220825

¹⁴ Paragraph: 032 Reference ID: 7-030-20220825

Ecosystems Services Statement recommended a minimum 10m buffer around all woodland areas both on and adjacent to the site.

50. Given the importance of the central tree line to bat activity, I share the view of the authority, and its advising Ecologist, that a buffer should also be placed around this feature. However, the layout as proposed shows aspects of the proposal within 10m of the central tree belt and some within 5m. For example, the proposed dwelling, the access track from the goods yard, Glasshouse B and other parts of the scheme all appear to be very close to the central tree belt. Moreover, it would be difficult for any buffer around the central area to be separated from the rest of the site by a hedge or other form of boundary. It has not been demonstrated that other recommended mitigation measures, such as a wildlife pond and new planting would negate the need for a buffer. As a result, the necessary mitigation does not appear to be feasible.
51. The authority has also raised concerns regarding the proposal to breach the central tree belt in at least three locations to create accesses into the southern field. This would create gaps that could fragment the central tree belt as a linear feature. However, the survey report explains that 93% of the species recorded on site are tolerant to gaps and suggests the 'minor' fragmentation of the central hedgerow would not be problematic if the canopy is re-established with large trees planted either side of the gaps. On balance, this seems like a reasonable conclusion. Nevertheless, given the absence of a buffer around the central tree line, the appellant has not demonstrated that the proposal would protect bats.
52. The dormouse survey also identified nests within the boundary vegetation and one in the central tree belt. The recommended avoidance and mitigation measures include a 10m buffer zone around the retained boundary vegetation and a method statement for any clearance works. Compensation is also recommended in the form of tree planting and the provision of nest boxes. Nevertheless, it is unclear why a buffer is not considered necessary around the central tree belt given that it is suitable habitat and included a nest. Furthermore, I share the authority's concerns regarding the absence of like for like habitat compensation, as the details submitted do not demonstrate the proposed tree planting would be of the same quality as the dormouse habitat proposed for removal. As such, the authority's Ecologist has suggested that Natural England would be unlikely to grant a license for the works. As things stand, and when following a precautionary approach, the appellant has not demonstrated that the proposal would protect dormice.
53. The reptile survey identified a 'good' population of slow worms within the site and explains that the proposed level changes would result in their habitat being destroyed. As a result, the report recommends translocation to a receptor area within the appeal site for the duration of construction. However, during the hearing I sought clarification as to whether the receptor area would have sufficient carrying capacity. This is a concern of the authority's Ecologist because the receptor area would be much smaller than the habitat currently available within the appeal site and it is shaded by existing trees.
54. In response, the appellant's Ecologist has suggested that the translocation area would be enhanced as a habitat, and this would improve its carrying capacity. Moreover, slow worms were found in this part of the site already, which suggest it is not too shaded. On balance, the latter point is probably

reasonable but the issue regarding the carrying capacity of the translocation areas has not been resolved to my satisfaction. This is because it is still unclear what methodology guided the size of the translocation area proposed. Thus, and when following a precautionary approach, it has not been demonstrated that the appeal scheme would protect slow worms.

55. As explained earlier, the appellant confirmed at the hearing that an existing pond on site would be dredged as part of the sustainable drainage system. This pond is not shown on any of the drawings other than the drainage plan, although it is referred to in the Preliminary Ecological Appraisal (PEA) under Target Note 6. It is therefore apparent that the author of the PEA was aware of the pond and had inspected it. Accordingly, their conclusion that great crested newts are very unlikely to be present on site due to the poor water quality and sparsity of vegetation in the pond, are informed and robust. As a result, a great crested newt survey would be unnecessary.
56. In conclusion, the evidence before me fails to demonstrate the proposal would protect bats, dormice and slow worms in the short term. Thus, the proposal would be at odds with the first purpose of the national park, which includes the conservation and enhancement of wildlife. It would also be contrary to Policies SD2 and SD9 of the LP, which seek to secure development that conserves and enhances biodiversity by protecting features of interest (such as the central hedgerow/tree line in the site) and rare, notable and priority species.

Other Considerations

57. The appeal scheme would enable the existing business to diversify its stock and incorporate a café in modern premises. The appellant suggests this will allow his business to grow, but the submitted business plan does not forecast the extent of this. The café is likely to be the area where most of the business growth would occur, although it is unclear if this would be significant. The appeal site is unlikely to be a notably better location than the appellant's existing Ferring site, which seems to be of a similar size and also located on a main road, but closer to large urban centres. Overall, there may be a moderate gain to the business.
58. The ability for the business to moderately grow would help the rural economy in a relatively modest way, including the provision of a small number of extra jobs. This would support the duty to seek to foster the social and economic wellbeing of the local communities in the NP. In this respect, the CNP seeks to encourage local business through Policy BT3. Although this is subject to other policy considerations being complied with, which the appeal scheme would not.
59. The café could be a useful local facility that aids the vitality of the rural communities in the parish, especially as it would be on a circular walking route from Clapham. However, there is already a café and village shop in Clapham, which is a valued local facility protected through Policy BT4 of the CNP. In this context, a new café may not be a notable benefit.
60. As only a single home is proposed, the contribution from future residents to the local community and its vibrancy would be very modest. Installing a surface water drainage system may also provide some modest benefits. The proposal would also reuse existing buildings by relocating them from the Ferring site, although I understand that they are still operational where they currently are. The appellant suggests the existing site is underutilized land, but that is a

narrow view that does not account for the eco system services already discussed. The appellant confirmed at the hearing that they no longer considered the appeal site to be previously developed land.

61. The scheme may result in at least a 10% biodiversity net gain through habitat creation, and this would contribute to Network Enhancement Zone 2. However, for the reasons already set out there could be harm to some notable species. The net gain in overall habitat would be of moderate weight in favour of the proposal. Allowing the appeal scheme may free up the existing Ferring site for residential development but I am not aware of any extant permission and the site is not allocated for development. Moreover, I am not convinced that harm to the NP should be justified by meeting housing needs outside it. The totality of benefits is a matter of middling weight in favour of the scheme.
62. Alternatively, the appeal scheme would result in moderate harm to the landscape and the proposed dwelling would be at odds with the spatial strategy for housing. The scheme would also be in a location at risk of flooding without adequate justification and it has not been demonstrated that the scheme would protect notable species. This is all at odds with local and national policy. In respect of the latter, the Framework states that great weight should be giving to conserving and enhancing the landscape and scenic beauty of national parks. Consequently, the harm that would occur collectively carries weight of a very high order. Thus, the benefits of the scheme would be some way off outweighing the adverse impacts I have identified. This does not indicate the proposal should be permitted.

Other Matters

63. The appellant has suggested that a split decision could be explored, whereby the proposed dwelling is dismissed, and the garden nursery permitted. If the dwelling were removed from the proposal, then the extent of harm would reduce, as there would be no conflict with the spatial strategy for new housing and the setting of the public right of way would not be affected to the same extent. However, the garden nursery would still be at odds with the development plan with respect to the landscape, flood risk and biodiversity impacts. As a result, a split decision is not appropriate.
64. Various concerns have been raised by interested parties including highway safety, which I have noted. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed on the main issues.

Conclusion

65. The proposed development would be contrary to the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has been dismissed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

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Susan Leeson
Ewen Clark
Mark Akmenklins
Alex Budd
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Appellant
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BP Civils
Bright Plan
Reading Agricultural Consultants

FOR THE LOCAL PLANNING AUTHORITY

Ruth Childs
Richard Elder
Stela New

South Downs National Park Authority
South Downs National Park Authority
South Downs National Park Authority

INTERESTED PARTIES

Claire Moss
Melanie Lloyd
Michelle Stevens
Donna Simpson
Sally Morris
Sarah Linfield
Terry Gale

DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

1. Dormouse Survey Report Revision 00 15/09/23
2. Bat Survey Report Revision 00 19/09/23
3. The authority's appeal statement addendum on the above
4. Final comments from the appellant on the above
5. Mr Young's submissions on a split decision
6. Arun decision notice FC/103/02/