



Appeal Decision

Site visit made on 19 September 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2023

Appeal Ref: APP/Z3825/W/22/3304953

**East House, Annexe, Henfield Common South, Henfield, West Sussex
BN5 9RS**

- 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 M Gunn against the decision of Horsham District Council.
 - The application Ref DC/22/0446, dated 1 March 2022, was refused by notice dated 25 May 2022.
 - The development proposed is Construction of side and front extensions and alteration of roof including the insertion of dormer windows to the annex at East House and use as an independent dwelling (removal of condition 2 of application HF/97/85).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development refers to removal of condition 2 of a previous planning permission. However, the application was submitted under Section 78 of the Town and Country Planning Act (TCPA) for full planning permission for the use of the building as an independent dwelling, as well as physical alterations (as opposed to an application under Section 73 of the TCPA). The appeal has therefore been considered on this basis.
3. Reference has been made in the Council officer's report to the proposal failing to adhere to the Pulborough Neighbourhood Plan. However, the Henfield Neighbourhood Plan is instead the relevant plan for the area, which has been correctly referred to on the Council's decision notice.

Main Issues

4. The main issues are: a) whether the site represents a suitable location for the proposed development, with regard to access to local services and facilities; and b) the effects of the proposal on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar Site.

Reasons

Location

5. The appeal relates to an existing annexe outbuilding within the grounds of East House. At the time of my site visit it appeared that the annexe was not occupied but was being used for storage purposes. The appeal site lies to the south of Brighton Road (A281) and is set amongst a small number of dwellings that form ribbon development along the southern side of the road.

6. The site is located alongside existing residential properties, albeit is approximately 450m from the nearest designated settlement boundary of Henfield, whilst Henfield's village centre is located approximately 650m from the site.
7. Collectively, Policies 1 to 4 of the Horsham District Planning Framework (excluding South Downs National Park) (adopted 2015) (the HDPF) seek to focus new development in the District's main towns and villages. HDPF Policy 2 identifies that this is to maintain the District's unique rural character, whilst also ensuring sustainable growth and that new development takes place where it will have the greatest access to facilities and services.
8. Policy 3 of the HDPF sets out the settlement hierarchy for the District and establishes that, amongst other matters, development will be permitted within towns and villages which have defined built-up areas. Henfield is identified as a larger village under HDPF Policy 3 with a good range of facilities and services and capable of acting as a hub for daily needs. It remains however, the appeal site is located a considerable distance from the built-up area boundary of Henfield and also the services and facilities within the village.
9. Given the above, the appeal site is located in the countryside for planning purposes. Policy 4 of the HDPF provide some limited exceptions whereby development outside of built-up area boundaries will be supported. However, the proposal does not satisfy all relevant criteria of this Policy, for example, it is not allocated in the Local Plan or Neighbourhood Plan nor adjoins the existing settlement edge.
10. Similarly, as the proposed dwelling is not essential in its countryside location, there is also conflict with Policy HDPF 26, which further seeks to limit development in the countryside.
11. Notwithstanding the above, there are a few facilities nearer to the site including farm shops and a nursery, while access to Henfield is predominantly along a straight, largely flat, route following the A281. Nevertheless, the site context generally remains unsuitable to encourage walking or cycling as a means of transport. The majority of Brighton Road in the vicinity of the site is not served by pavements. Although there are grass verges, these were sometimes limited, whilst being overgrown in parts. Additionally, there is an absence of streetlighting along Brighton Road, which is a relatively busy A-Classified Road. Together, I consider, that these factors would be a hinderance that would deter most occupants of the proposed dwelling from routinely walking or cycling to local facilities or services, especially during adverse weather or periods of darkness.
12. There are two bus stops within approximately 100m of the site, which provide fairly regular services to Henfield, Horsham, Pulborough and Brighton. However, there is not a continuous footway to the bus stops, while neither is served by a shelter or streetlighting, again reducing the attractiveness of use.
13. I therefore consider that future residents of the proposal would be largely reliant on the use of private car given the rural context of the site. Nonetheless, the Framework recognises at Paragraph 105 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and, noting the proximity of public transport options to the site and some local services I have taken this into account.

14. In addition, Paragraph 79 of the Framework promotes sustainable development in rural areas, setting out that housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development would be capable of supporting the vitality of those services and facilities nearby and within Henfield.
15. I am also mindful that the current established use of the property is as an annexe. Whilst it may currently be unoccupied, it remains that it is capable of being occupied. Furthermore, occupiers of the annex would be capable of generating independent vehicular trips from the property, regardless of whether they share some facilities with the main dwelling at East House. Consequently, the harm that would arise from any future occupiers being reliant on the use of private vehicles is also somewhat tempered by the existing context of the site.
16. Overall, with regards to this first main issue, the proposed development would conflict with HDPF Policies 1, 2, 3, 4 and 26 for the reasons I have set out. It would also conflict with Policy 1 of The Henfield Neighbourhood Plan (Made 2021) (the Neighbourhood Plan), which seeks to avoid development proposals outside of the built-up area boundary of Henfield unless it conforms with relevant policies of the HDPF, the South Downs Local Plan or national policies.
17. However, given the particular characteristics and circumstances of the appeal site, there are material considerations that weigh considerably in favour of the appeal scheme in regard to this main issue.

European and Ramsar Sites

18. The appeal site is located within the Sussex North Water Supply Zone (SNWSZ) and a Zone of Influence of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site.
19. The SAC, SPA and Ramsar site are designated for their nature value as 'European Sites', as defined in the Conservation of Habitats and Species Regulations 2017 (the Regulations). I have not been provided with sufficient information as to clarify which species of flora and/or fauna the European Sites support. Nevertheless, Regulation 63 prevents the competent authority from granting permission unless the proposal would not affect the integrity of the European site. I am the competent authority for the purpose of this appeal.
20. Natural England (NE) has previously raised concerns¹ about groundwater abstraction within the SNWSZ having a detrimental impact upon the European Sites. NE has advised that should further development be consented in the region, with a requirement for additional abstraction, such development is likely to have an adverse effect on the European Sites.
21. The proposal would allow for the occupation of the existing annexe independent of the main dwellinghouse, likely resulting in greater independent activities. Additionally, the appeal scheme would also involve extending and reconfiguring the existing annex, increasing it to a three-bedroom property and thereby increasing its potential occupation. Consequently, the proposed development

¹ National England's Position Statement for Applications within the Sussex North Water Supply Zone, September 2021 – Interim Approach; and Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone: February 2022

- could give rise to increased water use and abstraction, thereby contributing to adverse effects on the designated European Sites.
22. One such way to mitigate for this would be for development to achieve water neutrality. Fundamentally, this involves ensuring that the development does not increase the use of water supply in the area.
23. A 'Water Neutrality Report' (WNR) has been provided by the appellant that examines the potential changes in water usage at the site resulting from the proposed development. The WNR claims that there would be a net reduction in water demand at the site compared to the existing baseline position and, therefore, the proposal would not only be water neutral but provide betterment. This is predicated upon the use of mitigation measures to reduce existing water consumption in both the appeal building and East House.
24. However, I have fundamental concerns regarding the validity of the finding of the WNR. Firstly, the calculated existing water consumption for both the appeal property and East House have been based upon average per capita consumption figures (e.g. linked to occupancy rates) as opposed to precise baseline data (e.g. past meter readings). In this regard, I appreciate that whilst the existing appeal building may not currently be occupied it has a lawful use as an annexe and so may be reoccupied on this basis in the future. Although given that there is likely to be some degree of shared arrangements between the annexe and main house, I am not entirely satisfied that average consumption figures should be applied for the appeal building. As such, I would expect a more detailed account of past water usage for the building (when it may have been occupied), or suitable robust justification for the use of average occupancy/consumption figures.
25. Accordingly, I am not convinced that the average water consumption figures that have been specified are an accurate representation of the baseline condition of the site.
26. In addition, whilst I note the various measures outlined within the WNR that can be used to reduce or reuse water consumption, it is unclear from the evidence before me as to whether the appeal building or East House already benefit from any of these measures. Indeed, the WNR acknowledges that it is not known how water efficient the existing dwelling of East House is. Based on the submitted evidence, I am therefore not entirely satisfied that the reduction in water usage that has been identified by the appellant would be achievable.
27. Moreover, the existing residential property of East House is also located outside of the appeal site. As such, there is no appropriate mechanisms before me to secure the mitigation measures proposed to reduce the water consumption of the existing main dwellinghouse.
28. Consequently, it has not been demonstrated that the appeal scheme would achieve water neutrality and I must conclude that the proposed development would adversely affect the integrity of the protected European Sites.
29. I must also consider whether there are any imperative reasons of overriding public interest for the development to proceed. The provision of a single dwelling, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to such overriding public interest.

Consequently, having regard to the Habitat Regulations, permission must not be granted.

30. Overall, the proposed development would result in unjustified harm to the integrity of the European Designated Sites contrary to HDPF Policy 31. The Policy identifies that development should be refused if it is likely to have an adverse impact on biodiversity sites, unless appropriate mitigation measures can be secured. Likewise, the development would not accord with the aims of the Framework in respect of protecting and enhancing biodiversity and conservation of the natural environment.

Other Matters

31. The appeal site is not isolated in the context of Paragraph 80 of the National Planning Policy Framework (the Framework). The circumstances whereby the Framework provides support for the development of isolated homes in the countryside are therefore not applicable in this instance.
32. The Council has adopted a 'Facilitating Appropriate Development' (FAD) document (October 2022) as an interim position given issues it is facing with its housing land supply and due to delays in progress on its revised Local Plan. The FAD is a material consideration and I note paragraph 5.7 outlines scenarios whereby the Council is likely to consider residential development outside of defined built-up areas favourably. The proposed development, however, does not comply with all relevant identified criteria.
33. Compliance with other policies of the Council's development plan is to be expected and therefore are neutral matters that do not weigh in favour of the appeal scheme.
34. Several application and appeal decisions have been brought to my attention by both main parties to support their respective viewpoints. Limited information has been submitted with regards to those decisions, while the precise site context and nature of the proposals appear to differ from the scheme before me. In any event, each application must be determined on its own merits.

Planning Balance and Conclusion

35. The Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. The appellant's suggestion that only a three-year supply can be demonstrated has also not been disputed by the Council. As such, paragraph 11d of the Framework is engaged.
36. A single, self-build, dwelling at this brownfield site could make efficient use of the existing building/land. It also draws support from Paragraph 69 of the Framework, which recognises the important contribution that small and medium sites can make to meeting an area's housing requirement. Additionally, there are socio-economic benefits associated with the delivery and future occupation of the dwelling. Nevertheless, given that the proposal involves the conversion of an existing annexe into a single dwelling, such benefits would be highly limited.
37. The proposal is also capable of incorporating sustainable construction measures. Again, though given the scale of the development and that HDPF

Policy 37 seeks to promote sustainable construction, including through maximising energy efficiency, this is a benefit to which I give limited weight.

38. The provision of a dwelling in this location would be contrary to the spatial strategy for residential development established in the development plan. However, given the above, policies relating to the provision of housing are out-of-date and their meticulous application may hinder the ability to address the Council's housing shortfall. In addition, the proposal would involve the adaption and re-use of an existing annexe building. Accordingly, I consider the proposal would not harm the rural character of the area, whilst the existing use is already capable of generating private vehicular trips associated with its occupier(s). Accordingly, I give limited weight to the proposal's conflict with relevant policies of the development plan relating to the location of housing.
39. Nonetheless, in accordance with Footnote 7, the application of policies in the Framework that protect areas or assets of particular importance (e.g. European Protected Sites) provide a clear reason for refusing the proposed development. As such, the proposal does not benefit from the presumption in favour of sustainable development.
40. For the reasons outlined above, having regard to the development plan as a whole, and all other relevant material considerations, the appeal is dismissed.

Lewis Condé

INSPECTOR