



Appeal Decision

Site visit made on 4 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2024

Appeal Ref: APP/D3830/W/23/3325574

Floran Farm, Hophurst Hill, Crawley Down, West Sussex RH10 4LP

- 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 P Batten against the decision of Mid Sussex District Council.
 - The application Ref DM/22/3676, dated 1 December 2022, was refused by notice dated 21 April 2023.
 - The development proposed is the continued use of land as residential garden land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development within the application form is for the change of use of land to residential curtilage for an existing dwellinghouse. However, curtilage is not a use of land and therefore the description has been amended accordingly. The application form also stated that the use of the land has already commenced, and I noted that the land has been enclosed and domestic paraphernalia, including children's play equipment, is present on the site. The development is therefore retrospective, and I have amended the description in the banner heading to reflect this.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would appear to be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, having regard to development plan policy on development in the countryside.

Reasons

5. The appeal site comprises a dwelling known as Floran Farm and includes its substantial garden and associated buildings. To the side of the dwelling is a large, approximately triangular parcel of land. The land is part of an extensive field extending beyond the site and the existing garden, which is enclosed with

existing planting, post and rail and close boarded fences. The wider field is visually contained by established hedgerows, particularly to one side where the boundary is formed by a high conifer hedge within which is a fence.

6. The development is for the continued use of land as a garden associated with the dwelling at Floran Farm. The site is located within the countryside as set out in the Policies Map of the Mid Sussex District Local Plan 2014 – 2031 (2018) (the LP) where Policy DP12 seeks to restrict development to specific circumstances. The use of the land as a garden is not necessary for the purposes of agriculture and no evidence has been provided to demonstrate that the scheme is supported by a specific policy reference elsewhere in the LP, a Development Plan Document or relevant Neighbourhood Plan. The development would therefore conflict with the Policy DP12.
7. The land is largely separate from the dwelling and its existing garden, located beyond several buildings and structures. The site covers a large area and domestic paraphernalia is already present on the land, including children's play equipment and garden furniture. Although the land is discreet within the wider landscape, it has a distinctively different domestic appearance to the rest of the wider field. As a result, the development harms the intrinsic character and beauty of the countryside. Moreover, any additional proliferation of domestic paraphernalia would further erode the inherent qualities and rural characteristics of the area.
8. I conclude that the scheme harms the character and appearance of the area. The development therefore conflicts with Policy DP12 of the LP, Policy EG2 of the East Grinstead Neighbourhood Plan (2016) and the Framework, which collectively seek to recognise and protect the intrinsic character and beauty of the countryside and avoid development which erodes the perception of openness.

Other Matters

9. The appellant states that the development would facilitate the retention of a mobile home that assists in providing support to a medically vulnerable grandchild due to health concerns arising from the Covid-19 pandemic. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age is a relevant protected characteristic to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. These rights are engaged in reaching my decision and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
10. I have carefully noted the appellant's evidence in this regard, and I appreciate the contribution that the mobile home would make to the appellant's personal circumstances. Nevertheless, based on the evidence before me I am not satisfied that an alternative scheme could not achieve the required accommodation without having a harmful impact upon the character and appearance of the countryside. I note that a Certificate of Lawfulness exists for the siting of a mobile home in the existing garden. The appellant states that there are access issues in respect of the siting in the existing garden, but no further explanation has been advanced as to what these issues are.

11. Dismissal of the appeal is therefore necessary and proportionate and would not unacceptably violate family rights under Articles 1 and 8. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified but the protection of public interest cannot be achieved by means that are less interfering of the human rights of property occupants.
12. The appeal site is the subject of an Enforcement Notice (EN) relating to the material change of use land at Floran Farm. The development that is the subject of this appeal differs from that of the EN as it is for the domestic use of the land. If I had been minded to allow this appeal, the EN would remain active insofar as it relates to the relevant matters. Whether the EN has been complied with would be a matter for the Council to consider outside of this appeal.
13. Concerns have been raised in third party representations in respect of additional matters, including the ownership and other activities occurring within the wider site. Whilst I acknowledge these issues, consideration of such matters falls outside of the scope of this section 78 appeal.

Conclusion

14. The scheme does not accord with the development plan as a whole. There are no material considerations of sufficient weight, which would indicate that a decision should be made otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR