



Appeal Decision

Site visit made on 30 January 2024

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 9th February 2024

Appeal Ref: APP/Z3825/W/23/3319812

Holmbush Manor Farm, Hayes Lane, Slinfold West Sussex, RH13 0SL

- 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 Labib Fanous against the decision of Horsham District Council.
 - The application Ref DC/22/2107, dated 1 July 2022, was refused by notice dated 19 January 2023.
 - The development proposed as described on the planning application form is change of use from agricultural packing station to two dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council more accurately describes the works as removal of existing agricultural building, change of use to residential and erection of 2 no dwellings. I have determined the appeal on this basis.
3. The main Parties have had the opportunity of commenting on the implications of the latest revised National Planning Policy Framework (the Framework) published in December 2023.

Main Issues

4. The main issues are:
 - whether the site is an appropriate location for two new build dwellings taking into account spatial strategy planning policy; and
 - whether it has been demonstrated that the proposed development would have no adverse effect on protected species and habitats and would contribute to measurable Biodiversity Net Gain.

Reasons

Spatial strategy

5. Policy 2 of the Horsham District Planning Framework (the HDPF) focuses development in and around the key settlement of Horsham. Elsewhere growth can take place within defined towns and villages in accordance with the settlement hierarchy set out in Policy 3. The appeal site is some 350 metres from the defined built-up area of Slinfold and is in the countryside for planning policy purposes.

6. Windfall sites help to meet housing needs but it is expected that the majority of these should be within settlement boundaries. The site is not allocated in the HDPF or the Slinfold Neighbourhood Plan 2018 (the NP) and whilst it is not isolated as it is near other dwellings, it does not adjoin a settlement edge and the site is not contained within an existing defensible boundary. In these respects, the proposal does not meet the limiting criteria of Policy 4. Nor is the proposal one for which a countryside location is essential as defined in Policy 26 of the HDPF.
7. Some of the nearby farm buildings have the benefit of prior approval for conversion to residential use. Even if the conversions took place, this small cluster of dwellings, would still amount to scattered or sporadic development in the countryside. The proposal would not be in, or form, a settlement.
8. Slinfold is a 'medium village' with a moderate level of services and facilities. The appeal site is some 1.5km from most of the services and facilities in the village centre. The public right of way from the site to Hayes Lane is surfaced but it is unlit, narrow, sinuous in places and is shared with vehicles, albeit likely to be low numbers and speeds. Hayes Lane is a main route for traffic into the village. This narrow country lane has no pavements and no street lighting until the built up area, and grass verges are limited in width. Walking or cycling is unlikely to be attractive especially during the winter months or inclement weather. Future residents of the proposed new dwellings would primarily rely on the private vehicle for day-to-day services and facilities.
9. The appeal building has substantially collapsed, has been vandalised, and is incapable of use or conversion. It was previously a packing station and farm office serving a free range chicken farm¹. The proposed building would be on the former packing shed footprint so, being on previously developed land, it would gain some support from Policy 2(8) of the HDPF. However, the proposed garden area on the land behind, which is completely overgrown with brambles, would appear to be former agricultural land which is excluded from the definition of previously developed land.
10. Overall, I conclude the proposal would not be a suitable location for two new build dwellings in terms of the spatial strategy. There would therefore be conflict with those parts of Policies 1, 2, 3, 4 and 26 of the HDPF, and those principles of the Framework that seek to direct development to the most sustainable locations and to protect the countryside. However, there is some policy support for the re-development of the building footprint under Policy 2(8) of the HDPF and the Framework in terms of the re-use of previously developed land.

Protected species, habitats and biodiversity

11. The Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site (the Arun Valley Sites) are low-lying wetland areas that offer a variety of ecological conditions for over wintering birds, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants. The appeal site is in the zone of influence of the Arun Valley sites and is in the Sussex North Water Supply Zone (SNWSZ).

¹ On the balance of probabilities, a colleague Inspector concluded for appeal Ref APP/Z3825/W/18/3215399 application Ref DC/18/1260 that the building was in use for storage and distribution on the relevant date or when last in use

12. Natural England (NE) have advised that developments within the SNWSZ , alone or in combination with other developments, must not add to the impact of water abstraction on the Arun Valley Sites². One way of doing this would be to establish water neutrality such that use of water before the development is the same or lower after the development is in place. As competent authority under the Habitat Regulations³ I must assess the impact on the Arun Valley sites.
13. The appellant has provided an estimate of existing water useage but this appears to be based on all the animals that may have been present on the wider farm. No evidence of actual water consumption has been provided. In any case the appeal building is not in use and has been vacant for more than three years. For the purposes of establishing water neutrality the consumption is therefore taken as being zero. No mitigation or offsetting measures have been proposed to set against the calculated future consumption so water neutrality has not been demonstrated.
14. On the basis of the available evidence, I cannot confidently conclude that the proposal would not, alone or in combination with other plans and projects, contribute to adverse effects on the integrity of the Arun Valley Sites by way of water abstraction. As such Regulation 63 prevents me, as the competent authority for this appeal, from granting permission. Moreover, NE has advised that planning permission should not be granted.
15. The appeal site is within the countryside, near to woodland, and a pond, part of the site is overgrown and nearby buildings have the potential for roosting bats. No information has been submitted to demonstrate that the proposed development would have no adverse impact on protected species and their habitats, or to establish how the development would contribute to measurable Biodiversity Net Gain.
16. I conclude that it has not been demonstrated that the proposed development would have no adverse effect on protected species and habitats or how it would contribute to measurable Biodiversity Net Gain. There would be conflict with the Habitats Regulations, Policy 31 of the HDPF, Policy 4 of the NP and those principles of the Framework that seek to preserve protected species and habitats and to enhance biodiversity.

Other Matters

17. Holmbush Manor Farm has been vacant for over ten years; many buildings on the wider farm are dilapidated and I saw none in use. I have had regard to the extensive planning history for the wider farm but have reached my own Decision on the planning merits of the appeal proposal before me. The appellant contends that the Council has granted many planning permissions for the conversion of other farm buildings but I have been given no details of these so I cannot assess their relevance for this appeal.
18. There are public rights of way through the wider farm and close to the appeal site. The existing building has collapsed and the appellant states that this is the result of criminal damage. I saw graffiti and signs of fire damage. The appellant says that the Police advise that the only way to mitigate criminal damage is to

² Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach (Position Statement 2021) as amended

³ Conservation of Species and Habitats Regulations 2017 (as amended)

replace the existing building with a dwelling but I have seen no evidence to support this position. Whilst the proposal may help revitalise the site, I am not satisfied the issue of criminal damage is a good enough reason to allow the development in light of spatial strategy planning policy. Nor do I consider that allowing the appeal proposal would make a significant difference to whether or not the nearby permitted development schemes would be implemented given the condition of the wider farm.

19. I have seen no evidence in relation to the viability or otherwise of agricultural enterprises such as chicken farms. Accordingly, I cannot give much weight to this matter.
20. It has been suggested that buildings at Holmbush Manor Farm are, or will be, subject to compulsory purchase by others. However, this is a private matter between the respective parties and not in the remit of this appeal.
21. The appellant has expressed concern about the way the Parish Council has responded to planning applications but that does not go to the heart of the planning matters in relation to the appeal proposal.

Planning Balance and Conclusion

22. The Council advises that it cannot currently demonstrate a 5 year supply of deliverable housing sites and its suggested 4.3 year supply is not disputed by the appellant. In these circumstances paragraph 11d) of the Framework is engaged. Therefore, the presumption in favour of granting permission applies unless the effect on assets of particular importance provides a clear reason for refusal. Footnote 7 explains this includes impacts on designated sites such as protected habitats.
23. Two dwellings on this small windfall site would make efficient use of previously developed land and would contribute towards the much needed supply of houses. They could be built relatively quickly, creating employment during construction. The appearance of the site would be improved. These outcomes would be aligned with the sustainable development objectives of the Framework. These matters carry substantial weight but are tempered by the small scale of the proposal.
24. The site is not an appropriate location for new build dwellings. Future occupiers would rely on the private vehicle for most day to day needs. While transport opportunities vary between urban and rural areas, the dwellings would not be in a location that is, or could, be made sustainable by limiting the need to travel or that offer a genuine choice of travel modes. Allowing the appeal would undermine the Council's spatial strategy and the Framework objectives in these respects. Given the housing land supply position, reduced, moderate weight applies to the conflict with the spatial strategy set out in the HDPF and the NP.
25. However, the site specific effects on protected species and habitats has not been addressed. More particularly I have found that I cannot conclude that the development would not be harmful to the integrity of the Arun Valley Sites and Regulation 63 prevents me as the competent authority from granting permission unless the proposal would not affect their integrity. Due to the impact on these protected habitats the presumption in favour of granting permission in the Framework does not apply. These harms together attract very great weight and outweigh the benefits identified.

26. In failing to comply with the Policies of the HDPF and the NP as identified above the proposal cannot be said to comply with the development plan taken as a whole. I have found insufficient material considerations, including the Framework, to justify a decision other than in accordance with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR