



Appeal Decision

Site visit made on 9 April 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

Appeal Ref: APP/Z3825/W/23/3330325

Wellers, Marringdean Road, Billingshurst RH14 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Nicholas Humphreys against the decision of Horsham District Council.
 - The application Ref is DC/22/2165.
 - The development proposed is the change of use of an existing out building to form an annex for ancillary use to the main dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Paragraph numbers within the most recently published version of the National Planning Policy Framework (Framework) are cited within this decision letter.
3. The development subject of this appeal is for the formation of a residential annex, rather than a separate dwelling. The appeal is determined accordingly.

Main Issue

4. The main issues are the effect of the development on;
 - biodiversity; and
 - whether the building would form part of the same planning unit as the dwelling at Wellers Farm, with particular regard to the physical and functional connections between their uses, and if so, whether its use as an annex would be ancillary to the residential use of the dwelling.

Reasons

Biodiversity

5. In addition to the proposed change of use, the implementation of the appeal scheme would require internal and external alterations to be made to the building. To facilitate the construction of the proposed external terrace and steps, as well as the installation of the large grey-water harvesting tank, at least partial clearance of an area of plant growth to the rear of the building would also be required.
6. Amongst other things, policy 31 of the Horsham District Planning Framework dated November 2015¹ (the HDPF) states that where development is

¹ Horsham District Council – Horsham District Planning Framework (excluding South Downs National Park) November 2015

anticipated to have an adverse impact on features for biodiversity, it should be refused unless the reason for the development outweighs the need to protect the value of the site, and, appropriate mitigation and compensation measures are provided. It also requires development to contribute to the enhancement of existing biodiversity.

7. Paragraphs 98 and 99 of Circular 06/2005, indicate that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Otherwise, all relevant material considerations may not have been addressed in making the decision.
8. Paragraph 186 of the Framework, states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
9. Bats are identified as protected species under The Conservation of Habitats and Species Regulations 2017 as amended. Natural England has produced Standing Advice for bats. This advice indicates that conversion proposals could affect a bat roost in a building or barn, and, that surveys should be undertaken where roosts are likely. The building subject of this appeal is near hedgerows and mature trees. There are also trees and plants close to the rear of the building. The building has a large and open roof space, 1 of its longer sides is formed by an old brick wall, and the opposing wall is partially open-sided. Even if the majority of the building is clad with a single skin of metal, given its location and form, as well as the nature and extent of the proposed development, a bat roost survey is necessary to establish the likely presence or otherwise of bats or bat roosts.
10. In the absence of such a survey, the presence, or otherwise, of bats and/or bat roosts within the building, can not be confirmed. As such, the likely effects of the development on bats or bat roosts cannot be established. Nor can conclusions be reached on whether any harm can be avoided, adequately mitigated, or compensated for. Given the lack of certainty regarding the effect of the development on a protected species, the precautionary principle must be applied, and significant harm to biodiversity can not be ruled out.
11. In terms of the need for bat survey work to be undertaken, the appeal scheme, which is for the conversion of an existing building, is not directly comparable with schemes for new buildings elsewhere on Wellers Farm, or a nearby allocation or proposed allocation for 15 traveller pitches.
12. For these reasons, and in the absence of sufficient evidence to the contrary, I conclude that the proposed development would cause harm to biodiversity. Consequently, it would conflict with policy 31 of the HDPF. It would also conflict with paragraphs 180 and 186 of the Framework which, amongst other things, require development to protect and enhance sites of biodiversity value.

Formation of an annex

13. The appeal site is located outside of a built up area, as identified within the development plan. In such locations, HDPF policy 28, provides support for ancillary accommodation where it can be provided appropriately within the curtilage of the existing dwelling. Unless a new building is proposed, this policy

does not require the size of the ancillary accommodation to have regard to the dwelling it would serve, or that it should be grouped with the house. However, in locations outside of built up areas, it confirms that the use of ancillary accommodation as a separate dwelling will not be supported.

14. I have no reason to doubt that the existing dwelling at Wellers Farm (the dwelling); the brick-built stable building close to it (the stables); and, the building subject of this appeal (the building), are all occupied by the appellants. However, even if I could accept that the building currently forms part of the same planning unit as the dwelling and the stables, this would not necessarily remain the case if the building were converted to form residential accommodation.
15. A residential annex may contain the facilities required for day-to-day living. However, to remain within the same planning unit as the dwelling, a functional and physical connection between the residential use of the building and the residential use of the dwelling would need to be established and maintained.
16. There could potentially be a functional connection between the occupation of the building and the dwelling if the annex was occupied by non-paying visiting family and friends; as a home office; and/or for multi-generational living purposes. However, such a connection cannot be guaranteed. Furthermore, were the building to be occupied by a housekeeper and groundsperson and any associated dependents, on the evidence before me, it is not clear that a normal functional connection would occur.
17. While accepting that the appellant has no intention of selling the proposed annex separately from the dwelling, the annex would be formed within a building that is at some distance, and separated from, the dwelling, by the stables and an associated stable yard, as well as areas of hardstanding and a fairly large expanse of grass. It would also be on the opposite side of the access track/driveway. Although the existing access off Marringdean Road would serve both the dwelling and the proposed accommodation, a separate car parking space would be provided adjacent to the building and an external terrace area would be formed on the far side of the building from the dwelling. A separate water supply and a separate foul water package treatment plant would also be installed to serve the building.
18. Therefore, irrespective of the size of the building and the amount of accommodation that would be provided within it, its use would not necessarily share a functional connection with the existing dwelling, nor would it have a meaningful physical integration with it. As such, as a matter of fact and degree, and on the evidence before me, the building would not be within the same planning unit as the dwelling. That being the case, I am not persuaded that a condition restricting the use of the building to purposes that are ancillary to the residential use of the dwelling would meet all of the tests for conditions set out within paragraph 56 of the Framework.
19. Furthermore, the different planning units and the degree of separation between the building and the dwelling, lead me to conclude that the accommodation would not be provided within the curtilage of the dwelling.
20. For the reasons given, the building would not form part of the same planning unit as the dwelling at Wellers Farm, with particular regard to the physical and functional connections between their uses. As such, its use would not be

ancillary to that of the dwelling. Consequently, the development would conflict with policy 28 of the HDPF. It would also conflict with policies 1, 3, 4, and 26 of the HDPF, which together seek to; promote sustainable development; focus development within or adjacent to settlements; and protect the countryside by restricting development that, amongst other things, is not essential to its countryside location.

Other matters

21. The appeal site is within the Sussex North water supply zone, and the zone of influence of the Arun Valley Special Area of Conservation, Special Protection Area, and Ramsar site. However, there is no need to consider the implications of the proposed development on the designated site because the scheme is unacceptable for other reasons.
22. Even if advice was provided by an Officer of the Council to submit a planning application, such advice would not bind the Council to approve the subsequent application.
23. The main parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. However, the proposed development is for an annex rather than a separate dwellinghouse. It would not, therefore, contribute to the supply of new housing in the District. Furthermore, the development plan policies that are most important to the determination of this appeal broadly accord with the Framework. As such the provisions of paragraph 11 d) of the Framework do not apply in this case.
24. While, in recent years, consent may have been given for the conversion of nearby agricultural buildings to dwellings, that is not what has been proposed in this case. These other schemes are not therefore directly comparable with that which is the subject of this appeal.
25. Limited weight is given to the private benefits that would result from the provision of residential accommodation within the building.
26. Even if the building is suitable for conversion, and, the development would not; cause harm to highway safety or the character and appearance of the area; result in harmful noise generation; or, lead to increased flood risk or contamination, these are neutral considerations.

Conclusion

27. The proposed development conflicts with the development plan when taken as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR