



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: 28 June 2024

Appeal Ref: APP/Z3825/W/23/3333097

Cadrona, Hampers Lane, Storrington, West Sussex RH20 3EX

- 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 J Chadwick of HGN Homes Ltd against the decision of Horsham District Council.
 - The application Ref is DC/22/2195.
 - The development proposed is Construction of detached dwelling and detached car barn with home office above. Vehicle access from Hampers Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the zone of influence of the Arun Valley Special Protection Area, Special Area of Conservation (SAC), and, Ramsar sites (the Arun Valley habitat sites), and, the Mens SAC. These are European-designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 – as amended (the Habitat Regulations). Although not forming part of the Council's reason for refusal, it is incumbent upon me as the Competent Authority, to consider whether the proposed development would be likely to have a significant effect on the integrity of these European-designated sites (habitat sites). It is necessary to consider this matter as a main issue.

Main Issues

3. The main issues are;
 - whether the appeal site is a suitable location for the proposed development, with particular regard to the local development strategy and accessibility of services and facilities; and the effect of the development on;
 - the character and appearance of the area, with particular regard to green infrastructure; and
 - European sites designated under the Habitat Regulations.

Reasons

Local development strategy

4. The appeal site is located outside of the built-up area boundary as identified within the Storrington, Sullington, and Washington Neighbourhood Plan 2018-2031 dated September 2019 (the NP). As such, for planning policy purposes, it is within the countryside.

5. Policy 1 of the Horsham District Planning Framework dated 2015¹ (the HDPF) provides a presumption in favour of sustainable development. Policies 2, 3, 4, and 26 of the HDPF then provide part of the development strategy for the district. Together these policies seek to maintain the district's unique rural character at the same time as supporting sustainable development. They generally encourage growth within those settlements which have suitable access to services and local employment. Policy HDPF 3 identifies Storrington & Sullington (the settlement) as one of the small towns and larger villages that have a good range of services and facilities, strong community networks, and local employment provision, together with reasonable rail and/or bus services.
6. Policy 4 of the HDPF allows for some growth of settlements. However, amongst other things, it requires the land to be allocated in the Local Plan or Neighbourhood Plan and to adjoin an existing settlement edge. HDPF policy 26 is a countryside protection policy, one of the requirements of which is that any proposal must be essential to its countryside location.
7. Policy 1 of the NP indicates that development outside of the built-up area boundaries must conform to Development Plan policies regarding the management of development in the countryside. That is unless the land is specifically allocated by the policy, or where the development would result in the re-use of previously developed land outside of the National Park.
8. The essential need for the proposed development in a countryside location has not been demonstrated in this case. Furthermore, although the appeal site is close to a sizable cluster of dwellings at John Island Way, at its closest, it is several hundred metres from the NP-defined built-up area boundary of the settlement. As such, and on the basis that none of the exception criteria within policy 1 of the NP would be met, the proposed development would not accord with the spatial strategy contained within the Development Plan.
9. However, the settlement contains a reasonable number and range of shops, services, and facilities. Despite its commercial centre being well over 1km from the appeal site, it is feasible to walk and/or cycle between the site and the services and facilities that are available within the settlement.
10. The most direct route to the commercial centre of the settlement is via the A283. Although a snapshot in time, during my mid-morning and mid-week site visit, I found this road to be relatively heavily trafficked. I accept this may not always be the case. Nevertheless, given the narrowness and proximity of parts of the footway to the road and the distance between the site and the commercial centre of the settlement, future occupiers of the dwelling would be unlikely to commonly choose to walk or cycle to access the services and facilities that are available within it. Notwithstanding this, there are bus stops close to the appeal site, and I am advised that there is a regular bus service providing access to the settlement and beyond from these stops. Future occupiers would not therefore be entirely reliant on the use of private cars to access local services and facilities that are ordinarily required for everyday living.
11. Although future occupiers of the dwelling would have reasonable access to services and facilities by means other than by private car, for the reasons

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

previously given, the appeal site would not be a suitable location for the proposed development with particular regard to the local development strategy. In this respect, it would conflict with those parts of policies 2, 3, 4, and 26 of the HDPF and policy 1 of the NP which seek to direct new housing development to locations within and adjacent to settlements and to prevent non-essential development in countryside locations.

Character and appearance

12. The appeal site comprises a somewhat overgrown and unkempt part of the large gardens at Cadrona. In common with other nearby land, it contains a significant number of trees, as well as roadside hedgerows.
13. An arboricultural survey, impact assessment and method statement (arboricultural report), and an associated tree protection planting plan have been provided. The tree identified as T017 within these documents is a substantial roadside tree that rises well above the adjacent hedgerow and makes a significant and positive contribution to the quality of the area. Although the tree at T010 is less prominent from locations outside of the appeal site than T017, this tree, together with other trees within the site, also makes a positive contribution to the quality and distinctiveness of the area.
14. I have no reason to doubt that the decay fungus noted around some of the Douglas firs in the aforementioned group of trees, is likely to reduce the lifespan of the other Douglas firs within the group. Nevertheless, the evidence indicates that a couple of these Douglas firs still have a 20+ year estimated remaining contribution.
15. The house and the adjacent patio would be close to the tree at T017 as well as the other trees within the group of trees which include T010 and T006. Furthermore, there would be a significant amount of glazing to the sides of the house that face these trees.
16. Parts of the sizable garden would remain unshaded at any given time of day. Nevertheless, the ongoing presence of mature trees close to the house and patio would be likely to cause future occupiers of the dwelling concerns in respect of overshadowing and loss of daylight - both on the patio and within the house. The proximity of trees to the dwelling would also be likely to cause concerns in respect of leaf litter nuisance, and fear of branch fall. Nevertheless and notwithstanding that the removal of ivy and the pruning or pollarding of trees would potentially reduce some of these concerns, likely future pressure to remove or substantially prune the trees closest to the dwelling would remain. The removal and/or substantial reduction of these trees would result in the loss and/or reduction of important landscape features that make a positive contribution to the character and appearance of the area.
17. The retention of trees and hedgerows within the site would undoubtedly afford future occupiers areas of shade within the garden, and help to enhance the setting of the dwelling. Nonetheless, such benefits would not require the retention of the trees closest to the house.
18. notwithstanding the proposed tree planting, the removal and/or substantial pruning of onsite trees, would reduce the amount and quality of the green infrastructure on the site, in at least the short and medium term.

19. Onsite trees and hedgerows would help to screen the A283 and Hampers Lane roads from the house. As such, those trees and hedgerows within the site that would be further from the dwelling are less likely to be subject to future removal pressure. However, this is a neutral consideration.
20. I am mindful that the on-site trees are not afforded protection by tree preservation order/s or as a result of being within a Conservation Area. However, from the evidence, I am unconvinced that the healthy trees on the site would be felled if planning permission were not forthcoming.
21. The house would encroach within a very small part of the root protection zone (RPZ) of the tree at T017, and the driveway would cross the RPZ's of several other trees. Nevertheless, measures for the protection of these trees have been set out within the Arboricultural report and associated tree protection and planting plan. Given this, and subject to a porous no-dig driveway being installed - which could be controlled by condition, I am satisfied that retained trees would be appropriately safeguarded during any site clearance, excavation, and construction works.
22. Notwithstanding these latter considerations, the development would be likely to cause some harm to the character and appearance of the area, with particular regard to green infrastructure. Consequently, the development would conflict with policies 31 and 33 of the HDPF. Amongst other things, these policies support the retention of existing important landscape and natural features such as trees and hedges. They also seek to ensure that development maintains or enhances the existing network of green infrastructure; and relates sympathetically to the local landscape.

Habitat sites

23. Natural England has confirmed that the site is outside of a 12km zone of influence of the Ebernoe Common SAC. However, the evidence indicates that the site is within the zones of influence of both the Arun Valley habitat sites and the Mens SAC.
24. Beech forests with *ilex* & *taxus* in the shrub layer, and barbastelle bats, are the qualifying features of the Mens SAC. However, Natural England advises that the site is outside of the 6.5km 'key conservation area' of this SAC. For this reason, and on the basis that there would be no loss of potential foraging habitat or severance to flight lines for barbastelle bats, I am satisfied that, both alone and in combination with other developments, the appeal scheme would not have a likely significant effect on the conservation status of the Mens SAC or its qualifying features.
25. The qualifying features of the Arun Valley habitat sites include; Berwick's swan (non-breeding); little whirlpool ram's horn snail; the assemblage of non-breeding overwintering waterfowl; a variety of threatened wetland invertebrates and nationally rare and nationally scarce plant species; and the habitats that support them.
26. Land within the Sussex North Water Supply Zone - which includes the appeal site, is hydrologically linked to the Arun Valley habitat sites. Moreover, the evidence indicates that development leading to increased water abstraction within the Sussex North Water Supply Zone creates a pathway to adverse effects on the integrity of these habitat sites. As such, and given that I must

adopt a precautionary approach in respect of European protected sites, it is credible that the delivery of a dwelling on the appeal site would have likely a significant effect on the internationally important features of the habitat sites. Such an effect could result either from the development alone or in combination with other developments and sites.

27. In these circumstances the Habitat Regulations require that an Appropriate Assessment is carried out. I have sought further evidence on this matter, and Natural England has been consulted as part of this appeal.
28. The general conservation objectives of the Arun Valley habitat sites are to ensure that the integrity of the sites be maintained or restored as appropriate; and that they contribute to achieving the favorable conservation status of qualifying features and/or the aims of the Wild Bird Directive. More specific objectives include; the restoration of the population of Berwick's swan and the maintenance of their preferred food plants and habitats; the maintenance of water quantity and salinity; and, the restoration of water quality.
29. Unless measures could be implemented to ensure water neutrality, the future occupation of the proposed development would undoubtedly generate increased demand for water abstraction and usage within the Sussex North Water Supply Zone. Consequently, without appropriate mitigation, adverse effects on the integrity of the Arun Valley habitat site cannot be ruled out as a result of the implementation of the proposed development.
30. The submitted Water Neutrality Report (the statement) identifies measures to reduce water demand, including the fitting of water-efficient devices. Subject to these measures being implemented, and sufficient rainwater harvesting and storage capacity being provided, then it has been demonstrated that the development could be water-neutral. However, it does not necessarily follow that it would be.
31. Within the statement, it is indicated that a mains water connection should be made for use in an emergency. However, what and when would constitute an emergency hasn't been clearly articulated. In the absence of this detail, and the identification of measures to prevent mains water from being used in non-emergency situations, future occupiers would have little incentive to prevent their water usage from exceeding that which has been captured and stored on-site via rainwater harvesting. This is because they would know that they would have a mains water supply to fall back on. They may also choose to use mains water for drinking and cooking purposes, over stored and treated rainwater. I cannot therefore be certain, on the evidence before me, that a main water supply would not be frequently or routinely used.
32. Irrespective of the fitting of water-efficient devices and the provision of rainwater storage facilities, I cannot therefore conclude that the development would not lead to an increased demand for water abstraction within the Sussex North Water Supply Zone. Nor, for the same reasons, can I establish that any such increase in water abstraction would necessarily be limited.
33. In both the Cowfold Lodge Cottage² and Marlpost Meadows³ appeals, conditions were imposed requiring the provision of details in respect of rainwater harvesting and/or water reduction and re-use measures. However, I have not

² Appeal ref: 3325926

³ Appeal ref: 3303603

found that limited water abstraction would occur as a result of the appeal scheme, and it is not clear that an 'emergency' main connection was proposed in the Marlpost Meadows case. It has not therefore been demonstrated that these other schemes are readily comparable with that subject of this appeal.

34. Natural England is satisfied that subject to the delivery, management, and maintenance of the measures within the statement to achieve water neutrality, then the adverse effects could be appropriately mitigated. However, based on my previous findings, and even if one of the suggested conditions that have been put before me in respect of this matter were to be imposed, I am unable to conclude with a very high level of certainty, that the development would be water-neutral. Therefore, I am not satisfied beyond all reasonable scientific doubt, that suitable mitigation would be put in place to achieve water neutrality and to avoid adverse effects on the Arun Valley habitat sites.
35. As such, the Habitat Regulations require me to consider whether there are any alternative solutions that would have a lesser effect on the features of the habitat sites. However, no such solutions have been put before me.
36. I must also assess whether there are any imperative reasons of overriding public interest relating to human health, public safety or benefits of primary importance to the environment, which would result from the delivery of the development. Considering the merits of the case, the provision of a single dwelling, would not constitute such imperative reasons which would justify the development. As such, and having regard to the Habitat Regulations, permissions must not be granted.
37. For the reasons given above, there is insufficient evidence to provide the certainty needed to rule out adverse effects on the integrity of European-designated sites. Consequently, I cannot establish that the development would comply with policies 24 and 25 of the HDPF. Amongst other things, these policies seek to; protect the district's environment; maintain and improve the environmental quality of watercourses and groundwater; and prevent harm that would be caused by inappropriate development to protected habitats. The development would also conflict with the Habitat Regulations.

Other matters

38. The main parties agree that the Council cannot demonstrate a five-year supply of housing land. Moreover, the Horsham District Council – Authority Monitoring Report 2022/23 shows that as of 1st April 2023, the Council could demonstrate a 2.9 housing land supply. On this basis, and whether the Framework requires the provision of either a 4 or a 5-year housing land supply, I have no reason to doubt that there is a significant shortfall in housing land supply within the district.
39. Paragraph 11 d) of the Framework is therefore relevant. This sets out that permission should be granted unless certain circumstances apply. One such circumstance, at 11. d) i. is where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework confirms that the policies referred to within 11. d) i. include habitat sites, which would include the Arun Valley habitat sites. Given that I have not been able to rule out adverse effects on the integrity of these habitat sites as a result of the

implementation of the appeal scheme, the presumption given by paragraph 11. d) is not triggered in this case.

40. In exercising or performing any functions, so as to affect land in a National Park, I have a duty to have regard to the purposes of the National Park. These are; conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas; and, promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public. Planning Practice Guidance⁴ states that this duty extends to consideration of the setting of a National Park. Further to this, paragraph 182 of the Framework also states that great weight should be given to conserving and enhancing the landscape and scenic beauty and the wildlife and cultural heritage in National Parks.
41. The A283 road separates the appeal site from the South Downs National Park (the National Park). The house would also be set well back from the established and thick hedgerow on the A283 road facing site boundary, and many of the trees within the site would be retained. As such, the development would be well-screened from the National Park. For these reasons, and given the absence of roof-lights within either the proposed dwelling or the garage building, the development would not have a harmful effect on the dark skies available within the National Park. Nor, for the same reasons, would it conflict with the purposes of the National Park.
42. The application form indicates that the proposed development would take the form of self-build and custom-build. However, no mechanism has been put before me to ensure its delivery as such. Therefore, even if the Council cannot demonstrate that enough permissions have been granted to meet the demand as identified on their self-build register, this consideration would not weigh in favour of the scheme.
43. Outline planning permission was granted on appeal for residential development of up to 78 houses on neighbouring land in 2012⁵. In that case, the Inspector attributed great weight to the delivery of so many houses. Moreover, the effect of the development on the Arun Valley habitat sites was not referred to within the decision letter. As such, that permission does not lead me to reach an alternative view regarding the acceptability of the scheme subject of this appeal.

Conclusion

44. For the reasons given above, and having regard to the development plan as a whole and any other relevant material considerations, I conclude that this appeal should be dismissed.

V Simpson

INSPECTOR

⁴ Paragraph: 039 Reference ID: 8-039-20190721 – revised 21 07 2019

⁵ Application ref: DC/10/1457