



Appeal Decisions

Site visit made on 27 November 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal A Ref: APP/Z3825/W/24/3337327

Priory Fields, Monastery Lane, Storrington, West Sussex RH20 4LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Orpwood of The Norbertine Order against the decision of Horsham District Council.
 - The application Ref is DC/23/1097.
 - The development proposed is build eight low cost homes for local people.
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Appeal B Ref: APP/Z3825/W/24/3337382

Priory Fields, Monastery Lane, Storrington, West Sussex RH20 4LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Orpwood of The Norbertine Order against the decision of Horsham District Council.
 - The application Ref is 23/1720.
 - The development proposed is build 6 low cost houses for local people.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. I have taken the descriptions of development from the application forms.
4. The appeals were made in outline form with all matters reserved for future consideration. As such, I have treated any plans depicting a layout as indicative in nature.
5. As the main issues are common to both appeals, I have dealt with them together and issued a single decision.

Main Issues

6. The main issues common to both appeals are:
 - whether the location of development accords with the development plan;
 - the effects of the proposal on the character and appearance of the area;
 - the effects of the proposal on the biodiversity interests of the site; and surrounding area; and
 - the effects of the proposal on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley Protected Sites).

Reasons

Location of development

7. The appeal site lies to the edge of Storrington, adjoining, but outside of the *Built-up Area Boundary (BUAB)* as defined in the *Horsham District Planning Framework* (2015) (HDPF) and *Storrington, Sullington and Washington Neighbourhood Plan* (2019) (SSWNP). Storrington and the conjoined settlement of Sullington fall into the 'smaller town/larger village' category under Policy 3 of the HDPF which are considered to have a good range of services and facilities, strong community networks and local employment provision.
8. Policy 4 of the HDPF indicates that expansion of settlements outside of BUABs, will be permitted where the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge, where the level of expansion is appropriate to the scale and function of the settlement type. In addition, the development must be demonstrated to meet the identified local housing needs or assist the retention and enhancement of community facilities and avoid prejudice to comprehensive long term development. The final criterion is that the development should be within an existing defensible boundary and maintain the landscape and townscape character features.
9. Although the site does not have any particular policy designation under the HDPF, it is not allocated for residential development under the same or under the SSWNP. It does not appear to be previously developed land. It adjoins a settlement edge and would only accommodate a development of a scale appropriate to the settlement, and would, in the main, be contained within an existing defensible boundary comprising the existing tree belt and boundary with the adjacent cemetery. However, other than for limited details on the suggested housing mix, there is scant evidence with either appeal about the way in which the proposals would meet identified local housing needs other than by emphasising that such housing would meet the acknowledged undersupply of housing in the district; a point to which I return below. Whilst it has also been suggested that any dwellings built on the site would be provided as low cost homes for local people, there is no planning obligation to restrict the development as such.
10. The Council published a document entitled, *Facilitate Appropriate Development (FAD)*, in 2022, which adapts the way in which Policy 4 is to be applied. The FAD essentially removes the need for a site to be allocated within the HDPF or NP to be considered acceptable in principle provided that it adjoins a BUAB. However, the FAD maintains the need for demonstration of how the proposal will meet local needs or how it will assist with the retention of local services and facilities which does not appear to be the case here.
11. Policy 26 of the HDPF sets out that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. To meet the Policy requirements, proposals must be essential to their countryside location and needed to support the needs of agriculture or forestry, enable the extraction of minerals or the disposal of waste, provide for quiet informal recreational use, or enable the sustainable development of rural areas. However, the proposal does not meet any of the specific criteria under Policy 26 so as to be considered appropriate development in the countryside.

12. In view of the above, particularly in the absence of evidence to demonstrate that either development would meet local housing needs, the proposals are contrary to, in particular, Policies 3, 4 and 26 of the HDPF and Policy 1 of the SSWNP and would fail to adhere to guidance in the FAD.

Character and appearance

13. The appeal site is elevated relative to dwellings on Kithurst Lane and sits behind an established treed boundary. The wider site perimeter is also well enclosed with trees and is enclosed by either existing dwellings, the cemetery or Matt's Meadow (an area of public open space). Parts of the site and the wider surroundings include areas of trees which have been recently planted, and more established growing areas. However, the 'red line site area' appears to stop short of the wider boundaries so the intentions for the peripheral areas are unclear. The site area excludes the land to the south which faces towards the South Downs National Park.
14. The Council's suggestion that trees would need to be removed from the Kithurst Lane frontage to facilitate the provision of a safe access does not appear to be confirmed by the evidence. The appellant does, however, describe the future dwellings as 'cottage-style' with low ridge heights. Despite the outline nature of the scheme, given the current undeveloped and pleasant green quality of the site, a scheme of either up to 6 or 8 dwellings and associated development would cause inevitable landscape character and visual harm. However, subject to the retention of existing landscape features, the extent of such landscape and visual harm would be localised and unlikely to materially harm the setting or significance of the Storrington Conservation Area or visual amenities of the South Downs National Park.
15. In view of the above, and despite the ability to minimise some harms through design as part of future reserved matters applications, the proposals would cause localised harm to the character and appearance of the area, contrary to Policies 25 and 33 of the HDPF. These Policies collectively seek to protect, conserve and enhance landscape and townscape character, taking account of setting, townscape features, views and green corridors. Whilst the Council has also referred to HDPF Policy 32 and SSWNP Policy 14 in the reasons for refusal, it relates more to the quality of new development which it is not possible to definitively assess given the outline nature of the schemes.

Biodiversity

16. A Preliminary Ecological Appraisal (PEA) was submitted which is dated April 2022, albeit that the surveyed area does not entirely corroborate with the appeal site red line areas. The PEA indicates that a proposal on that site would result in the loss of semi-improved neutral grassland and disturbance, with associated impacts on a range of protected and notable species, including the potential risk of killing and injury; loss of foraging, sheltering and/or hibernation habitat; and indirect impacts such as lighting rendering habitat unsuitable. It also recommended further surveys with regards to great crested newts. There is acknowledgement that the PEA was undertaken outside of the optimal season for identifying plant species and that its lifespan was in the order of 12 months, necessitating potential survey work in the event that such a period elapsed before the subsequent development.

17. The appeal site is also located within the wider foraging area of the Mens Special Area of Conservation (Mens SAC), for which the qualifying feature is Barbastelle bats; a protected species. Thus, the site has a potential to support foraging bats and have potential implications on the integrity of the Mens SAC.
18. The PEA is based on a different site area and is over 30 months old at the time of writing. It does not form a reliable basis for understanding the biodiversity implications of the proposals on the appeal site, if any. Given previous findings on a site area which shares similar characteristics to the appeal site, it is likely that there are features of potential habitat or foraging value and the potential implications should be known at the time of the decision.
19. The appellant has acknowledged the outdatedness of the PEA and indicates that such could be updated in the event that either appeal were allowed. However, it is not possible to defer the consideration of this matter, with potential protected species implications, until after the determination of an outline application.
20. For the above reasons, in the absence of evidence to the contrary, the proposals would harm the biodiversity interests of the site and surrounding area, contrary to, in particular, Policy 31 of the HDPF. This Policy seeks to resist development that is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, unless it can be demonstrated that the development clearly outweighs the need to protect the value of the site.

Arun Valley Protected Sites

21. Water supply to the district of Horsham is largely provided by Southern Water from its Sussex North Water Resource Zone (WRZ) which is an area of serious water stress. The appeal site would also be supplied with water from the WRZ.
22. The River Arun and its floodplain contain habitats and species of international importance, recognised within the designations of the Arun Valley Protected Sites under the Conservation of Habitats and Species Regulations 2017, as amended, (Habitats Regulations). They support a series of wetland meadows, alluvial grazing marsh and former raised peat bog, dissected by a network of ditches. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich and diverse flora and fauna. The relevant qualifying features of the Protected Sites formally comprise: wildfowl and waterbird assemblages, including Bewick's swan, shoveler, teal and wigeon; wetland invertebrates, as well as a range of rare flora, including duckweed, water-cress, milfoils, dropworts and pondweeds.
23. The conservation objectives for the Arun Valley Protected Sites are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the Protected Sites, which in turn contribute to achieving the favourable conservation status of their qualifying features.
24. Water abstraction within the WRZ is adversely affecting the integrity of the Arun Valley Protected Sites through the reduction in water levels and flow within their wetland habitats. Accordingly, further developments within the

WRZ must not add to existing impacts. One way of achieving this is to demonstrate water neutrality.

25. A scheme of up to either 6 or 8 dwellings will inevitably increase water abstraction within the WRZ. As such, impacts on the Protected Sites' integrity cannot be screened out. Under Regulation 63 of the Habitats Regulations, I am therefore required to undertake an Appropriate Assessment (AA) of the implications of the proposed development, including consideration of any conditions or restrictions, such as legal obligations, to which it is proposed a permission should be given and to the manner in which it is proposed the development should be carried out.
26. In this case, the proposals have not been supported by any calculations as to what range of additional water usage would be generated by either scheme. It is suggested that the schemes could avoid being connected to the mains water supply, but the feasibility of such an approach has not been sufficiently detailed. Furthermore, no other specific conditions or restrictions have been offered, save for the appellant's contingent suggestion that neutrality could be calculated in the event that either appeal were allowed. However, this alternative generalised approach does not enable me to quantify the scale of potential effects on the Arun Valley Protected Sites or what means of mitigation may be capable of being properly secured. Absent of sufficient information, I can only assume that the schemes would cause harm to the Arun Valley Protected Sites, contrary to Policy 31 of the HDPF. Amongst other things, Policy 31 of the HDPF seeks to give particular consideration to the hierarchy of sites and habitats in the district, and in particular, special protection areas and special areas of conservation.

Other Matters

27. I note the appellant's offer to provide highways and archaeological reports that may indicate that development of the site is suitable, subject to conditions where necessary. However, these aspects are not determinative.
28. My attention has been drawn to a range of previous applications, discussions pertaining to the site and previous appeals on the site and wider land within the same ownership. However, none are so recent or similar in scale or nature such that they have dictated my findings in respect of these appeals.
29. The appellant's assertions about the Council's poor handling of the appeal applications are not a relevant consideration in relation to the appeals. I have reached my decisions on the basis of the respective merits of both appeals.
30. I note the reference in the description of development for the dwellings to be low cost and for local people. No planning obligation has been submitted to set the level of discount from open market sale values or rents or detail the eligibility criteria for future occupiers. As such, I can only treat the proposals on the basis that they would comprise unrestricted market housing.
31. The Council has acknowledged that it has an undersupply of deliverable housing land relative to the five year requirement set out in the National Planning Policy Framework (the Framework). The indications in the evidence are that this shortfall is around an undersupply of a year's worth; a shortage in the order of around 900 dwellings. This is a significant shortfall. Consequently, the Council acknowledge that the presumption in favour of

sustainable development set out in paragraph 11 d) of the Framework is engaged.

Planning balances and conclusions

32. In the case of Appeal A, the location of development would not accord with the development plan, it would cause a localised degree of harm to the character and appearance of the area, result in harm to the biodiversity interests of the site and surrounding area and would also cause harm to the integrity of the Arun Valley Protected Sites. These collective harms bring the scheme into conflict with the development plan when taken as a whole.
33. The presumption in favour of sustainable development has been engaged through the significant shortfall in housing land supply and reduced weight is attached to Policies 3 and 4 of the HDPF and Policy 1 of the SSWNP as a result. The public benefits of the appeal scheme include the delivery of up to eight dwellings on a windfall site, suitably located for services and facilities, and with associated economic benefits of both short and long term duration.
34. Despite these acknowledged public benefits, footnote 7 of the Framework provides protection to areas or assets of particular importance that can provide a clear reason for refusing a scheme. Habitats sites, such as the Arun Valley Protected Sites, are afforded protection by way of paragraph 11 d) and footnote 7.
35. Given my findings in relation to the Arun Valley Protected Sites, the presumption in favour of sustainable development is disengaged. As such, my overall conclusion is that there are no considerations of such weight that indicate that a decision should be made on Appeal A other than in accordance with the development plan.
36. In respect of Appeal B, the presumption in favour of sustainable development is disengaged for the same reasons and the totality of benefits and other considerations do not outweigh the conflict with the development plan when taken as a whole.
37. In view of the above, both Appeals A and B are dismissed.

H Nicholls

INSPECTOR