



Appeal Decision

Site visit made on 10 September 2024

by C Rafferty LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16th December 2024

Appeal Ref: APP/Z3825/W/24/3337400

Stane Street Nurseries, Coughtrey Butchers, Stane Street, Codmore Hill, RH20 1BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Alec Coughtrey (Coughtrey Butchers) against the decision of Horsham District Council.
 - The application Ref DC/23/1588 was approved on 13 November 2023 and planning permission was granted subject to conditions.
 - The development permitted is replacement workshop building.
 - The condition in dispute is No. 9 which states that: The premises shall be used only as a motorcycle sales, motorcycle servicing and motorcycle workshop only and for no other purpose (including any other purpose in any class the schedule to the Town and Country Planning (Use Classes) Order 2020.
 - The reason given for the condition is: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order 2015 are not considered appropriate in this case under policy 9 of the Horsham District Planning Framework 2015
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a Water Neutrality Report during the course of the appeal. Both the Council and Natural England were provided with an opportunity to review and comment on this document. As such, no parties' interests have been prejudiced by my taking this document into account.

Main Issues

3. Planning permission DC/23/1588 was granted for a replacement workshop building at the site, subject to condition no. 9 as outlined above. The appellant seeks to revise this condition, such that it would also permit the use of the appeal building for the purposes of Use Class E(g)(iii) and Use Class B8.
4. The reason given for condition no. 9 refers to Policy 9 of the Horsham District Planning Framework 2015 (the HDPF), which relates to Employment Development, and seeks to ensure sufficient local employment opportunities to meet the needs of the District. As the proposal would increase the use classes permitted at the site, the Council has also raised concerns that it would adversely affect the living conditions of surrounding residents, and would adversely affect the integrity of the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar sites.

5. The main issues are therefore the effect that varying the condition would have on: the Arun Valley SPA, SAC, and Ramsar sites; the availability of employment floorspace; and the living conditions of occupiers of surrounding dwellings.

Reasons

European sites

6. The appeal site comprises a single storey building located at Stane Street Nurseries, currently in use for motorbike sales and repairs. The surrounding area is mixed in nature, with a range of commercial and residential uses along Stane Street. In particular, Stane Street Nurseries features a mix of small-scale commercial uses.
7. The site falls within the Sussex North Water Supply Zone, and Natural England has set out that groundwater abstraction in the zone cannot be ruled out as contributing to the declines in wildlife within the Arun Valley SPA, SAC, and Ramsar sites. As the competent authority for the purposes of this appeal, I cannot grant permission unless the proposal would not adversely affect the integrity of the European sites. Natural England recognises ensuring no net increase in water consumption as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.
8. The proposal would result in additional uses being permitted at the appeal site. It would retain the current footprint of the building, and have the same, single toilet and sink facility present. The appellant asserts that the modest scale of the building limits the potential number of employees that can be accommodated, and states that the number of employees would be restricted to two, which would match the current number. As such the appellant asserts that there would be no change in water consumption.
9. However, on the evidence before me, there is nothing substantive to provide certainty that future occupation would remain at two employees. As such, even noting the nature of the proposed uses, the scale of the appeal building, and the fact that there would be no increase in toilet or sink facilities, I cannot be certain that no net increase in water consumption would arise from the proposal. Accordingly, likely significant effects on the Arun Valley SPA, SAC, and Ramsar sites cannot be ruled out.
10. Natural England was consulted as part of the appeal. Originally this did not take account of the appellant's Water Neutrality Report. In addition to raising concerns regarding occupancy rates, Natural England advised further evidence, including calculations of projected increase in water consumption as a result of the proposed uses, and mitigation measures. Natural England further advised that any water neutrality statement and mitigation measures be supported by robust evidence.
11. The Water Neutrality Report was submitted by the appellant. This calculates a current average water consumption of 23 litres per day at the site which it states would be unchanged due to the number of employees remaining the same. The report further outlines that the appellant is willing to consider water reuse, referencing rainwater harvesting that could be accommodated on the roof of the appeal building to supply water to the toilet. Overall, the report

estimates an average water consumption of 14 litres per day which such measures in place, based on two employees.

12. However, it remains that there is no certainty that employees would be limited to two, such that the water consumption would be as outlined. In addition, Natural England were provided with an opportunity to comment on the Water Neutrality Report. Even noting the content of the report, Natural England confirmed that its position remained unaltered. In my role as the competent authority I attach great weight to the findings of Natural England.
13. I am unable to conclude that the proposal would achieve water neutrality. For the reasons given, it would have a likely significant effect on the Arun Valley SPA, SAC, and Ramsar sites. Even taking account of the mitigation proposed, I am unable to rule out the possibility that the proposal, either alone or in combination with other development, would not have an adverse effect on the integrity of the protected sites. No alternative solution or imperative reasons of overriding public interest have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted.
14. Accordingly, I find that varying condition 9 of planning permission DC/23/1588 as proposed would adversely affect the integrity of the Arun Valley SPA, SAC, and Ramsar sites. As such, it would fail to comply with the aims of Policy 31 of the HDPF in this regard.

Employment floorspace

15. The proposal seeks to alter the permitted uses at the appeal site as outlined above. Policy 9 of the HDPF states that redevelopment in the Key Employment Areas must not result in the overall loss of employment floorspace, and that redevelopment of employment sites and premises outside Key Employment Areas must demonstrate that the site/ premises is no longer needed and/ or viable for employment use.
16. However, due to the nature of the additional uses proposed, the proposal would not result in the loss of employment floorspace. The Employment Density Guide as submitted by the appellant clearly outlines Use Class B8 and Use Class B1(c), also related to light industrial uses, within its employment density matrix. There is nothing substantive to suggest that the proposed additional employment floorspace uses at the site would fail to represent an appropriate mix in the area, would not provide sufficient local employment opportunities, or would fail to meet community needs.
17. Accordingly, I find that varying condition 9 of planning permission DC/23/1588 as proposed would not result in significant adverse harm to the availability of employment floorspace. As such, it would comply with the aims of Policy 9 of the HDPF in this regard.

Living conditions

18. The appeal site is located in close proximity to a range of residential uses. However, while the proposal would allow for industrial processes at the site under Use Class E9(g)(iii), this would be limited to those which can be carried out in a residential area without detriment to its amenity. In addition, such use and the proposed storage or distribution centre use, would also be limited by the modest scale of the appeal building, and would be experienced alongside other small scale commercial uses present within the immediate vicinity.

19. Given the scale and current use of the appeal building, the nature of the additional uses proposed, and the other commercial uses within and close to the Stane Street Nurseries development, I have no reason to conclude that the proposal would result in significant adverse harm to the amenities of surrounding occupiers. While it would introduce additional permitted uses at the site, there is nothing substantive before me or observed on site to suggest that this would adversely impact the amenity of neighbouring properties.
20. Accordingly, I find that varying condition 9 of planning permission DC/23/1588 as proposed would not result in significant adverse harm to the living conditions of occupiers of surrounding dwellings. As such, it would comply with the aims of Policy 33 of the HDPF in this regard.

Other Matters

21. The appellant has provided the decision notice for another application at the site, which has permitted the variation of conditions of planning permission DC/23/1588. Among other changes, this has allowed for a retail use at the site. However, I have limited information before me on this application or the proposed retail use. In any event, this is distinguishable from the uses applied for as part of the proposal before me. Each application is decided on its own merits and I attach limited weight to this decision notice, which does not outweigh the harm identified above.

Conclusion

22. For the reasons given, the appeal is dismissed.

C Rafferty

INSPECTOR