



Appeal Decision

Site visit made on 18 November 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal Ref: APP/Z3825/W/25/3371828

Land at Hillybarn Farm (land Parcel at 523169 138274), Hillybarn Road, The Mount, Ifield, Crawley, West Sussex RH11 0LF

- 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 Michael Pilla, Ms Maria Pilla and Mr Kevin Gossage against the decision of Horsham District Council.
 - The application Ref is DC/25/0447.
 - The development proposed is the erection of 4 x new build dwellings along with contamination survey details and proposed amended access details in the alternative to permission granted under DC/22/1918 Prior Approval of Proposed Change of Use of Agricultural Building to form 5 dwellinghouses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided an updated bat survey with the appeal. However, having regard to the Procedural Guide: Planning appeals – England, the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted.¹ Interested parties have not had the opportunity to comment upon this new information and this would result in procedural unfairness. As such, I am unable to take this new evidence into account here.

Main Issue

3. Following the submission of the appellant's statement, the Council set out that it no longer wished to pursue its objection to the first reason for refusal. This was based upon the prior approval for the conversion of the agricultural building on the site to five dwellings. Therefore, the main issue in this appeal is the effect of the proposed development on protected species and their habitat including Biodiversity Net Gain (BNG).

Reasons

4. The application was submitted with a bat survey. This survey was out-of-date at the time of the submission and therefore did not contain sufficient relevant information to make an informed decision. It therefore cannot be relied upon in terms of assessing the relevant ecological implications of the proposal.

¹ Paragraph 16.1 Procedural Guide: Planning appeals – England

5. Whilst I recognise that an updated report has been provided in the intervening period for the reasons set out above I am unable to take this into account. Therefore, the proposal conflicts with policy 31 of the Horsham District Planning Framework 2015 (HDPF) insofar as it would not contribute to the enhancement of biodiversity.
6. Turning to the issues relating to BNG. This is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (the Act) (inserted by the Environment Act 2021 (the Environment Act)). Under the statutory framework for BNG, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the BNG objective is met.
7. I note that the metric provided with the application indicated an on-site net loss of 69.38%. This, however, is to be offset by a post development net increase of 11.17%. However, the area that is nominated for BNG is located off-site. Whilst this falls within the blue edge of the site and is within the ownership of the appellant; guidance provided by the Department for Environment, Food & Rural Affairs states that 'off-site' means outside the red line boundary of a developer's site. This includes any habitat within the blue line boundary. A planning obligation would therefore be required to deliver this, and one has not been provided.
8. Accordingly, on the basis of the information before me, whilst I have no reason to conclude that the mandatory BNG could not be provided in theory, there is no mechanism before me for this to be secured. Therefore, even though the development indicates a resultant overall increase in BNG, in the absence of a delivery method, the proposal therefore cannot comply with policy 31 of the HDPF and the terms of the Act and Environment Act.

Other Matters

9. There is a possible fallback position available to the appellants as the existing building can be converted to dwellings under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
10. I have no reason to dispute the appellants evidence which indicates that if the appeal were to fail that the approved prior approval scheme would be implemented. This is notwithstanding that this expired on 1 December 2025 and I am not aware that any works have been commenced.
11. If the fallback position is capable of implementation, it would not generate a materially different level of trips by car than the development permitted. On this basis, I would find no demonstrable harm to sustainability in respect of accessibility of services and facilities.
12. If I had been minded to allow the appeal I would have gone back to the parties for further evidence on whether the fallback position was capable of implantation in order to conclude on this matter. However, as its existence would not lead me to come to a different overall conclusion in regard to the need for BNG this has not been necessary.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

N Bowden

INSPECTOR