



Horsham
District
Council

Statement of the Local Planning Authority

Prepared by Hannah Darley, Senior Planning officer

PLANNING INSPECTORATE REFERENCE	APP/Z3825/W/25/3371828
LOCAL PLANNING AUTHORITY REFERENCE	DC/25/0447

Town and Country Planning Act 1990

Planning appeal by Michael, Maria and Gossage Pilla and Gossage,
C/O Agent, Melton Lodge, Rusper Road, Newdigate, Surrey, RH5 5BX
Appeal to be determined by an Inspector appointed by the Secretary of State by way of
Written Representation

The appeal proposal

The application sought permission for the “Erection of 4no. new build dwellings and amended access details. (Alternative to permission granted under DC/22/1918 Prior Approval of Proposed Change of Use of Agricultural Building to form 5 dwellinghouses).”

Had the application been determined, the reason for refusal would have been as follows:

Reason 1:

“The proposed development would be sited within an unsustainable location in the countryside, outside of a defined built-up area boundary, and on a site not allocated for housing development within the Horsham District Planning Framework, or a made Neighbourhood Plan. Furthermore, the proposed development is not essential to its countryside location. Notwithstanding the absence of a five-year land housing supply, and the provisions of the National Planning Policy Framework (2024) at paragraph 11(d), it is not considered that there are any material considerations in this instance which would outweigh harm arising from conflict with Policies 1, 2, 3, 4 and 26 of the Horsham District Planning Framework (2015).”

Reason 2:

“Insufficient information has been provided to demonstrate that the proposed development would have no adverse impact on protected species and its habitat, and to establish how the development will contribute to measurable Biodiversity Net Gain, contrary to Policy 31 of the Horsham District Planning Framework (2015) and Paragraphs 193 and 194 of the NPPF.”

The case for the local planning authority

This statement together with the previously submitted questionnaire forms the Local Planning Authority’s statement of case.

The crux of the appeal relates to:

1. Whether the proposed development would be acceptable in light of the development plan.
2. Whether the development would result in potential harm to protected species.

New information has been submitted under the appeal that was not submitted as part of the planning application. This has been submitted in an attempt to overcome the reasons for refusal, presenting the need for a new assessment of the proposed development.

The Officer’s report outlined that the proposal was submitted as an alternative to DC/22/1918, which was advanced as a fallback option to the local planning authority. As outlined within the report, a pre-commencement condition attached to the decision notice of DC/22/1918 had not been discharged and it was considered that the proposal did not benefit from a viable fallback position. The proposal was subsequently assessed without a fallback position and was found contrary to the development plan policies 2,3,4 and 26 of the HDPF.

Had the pre-commencement condition been submitted and approved prior to the submission of DC/25/0447, the officer’s assessment would have concluded that the development benefited from a viable fallback position. In this instance the development would not have been resisted. Whilst the Local planning authority retains that the officer’s assessment was correct at the time of drafting the report, the first reason for refusal is no longer pursued.

The Biodiversity net gain metric submitted has indicated an onsite loss of biodiversity within red line boundary and the need to provide mitigation in the wider land in the applicants ownership (blue line boundary). Although no plan has been submitted to indicate where within the blue line boundary the replacement planting would be. if the Inspector found it appropriate, this could be secured by condition.

The application had omitted an up to date bat survey, which has now been submitted. It is evident from this survey that the likelihood of bats as a protected species is negligible within the building. Few recommendations for conditions are made to minimise risk to protected species. The survey has had regard to the building proposed for demolition itself, and not the tree within the application site, or immediately along its site boundary. No assessment has been made of the tree within the site which is indicated to be removed within the submitted plans. There is potential for there to be some bat roost potential within the tree. Habitat regulations under Circular 06/2005 are unambiguous in the need for the local authority to establish if there would be harm to the habitat of a protected species such that it is considered that further information would likely be needed to fully assess if the tree within the site represents potential bat roosts. Given that the survey information is new and this warrants a new assessment it would respectfully be deferred to the Inspector to determine if its duties under Circular 06/2005 have been complied with.

Conclusion

As per the Officer's report, the application was determined on a balancing exercise, where it was considered by the Council that the harm that would arise from granting consent would not have been outweighed by the benefits of the scheme. The balancing exercise itself is academic, as it is a matter of opinion for an involved party to attribute weight to any determining factor. The proposal is read in light of the context of the development plan as a whole.

The Planning Assessment considers all planning policies and material considerations, and comes to a conclusion by balancing all matters. The Council considers all applications in a professional and impartial manner, and while not all will agree with the decision, it does not follow that as an application has been refused that the supporting information was not reviewed or understood. The Council are therefore of the view that the planning application was appropriately considered and determined.

The Council is firmly of the view that it has not behaved unreasonably nor put the Appellant to additional or wasted expense in the appeal process. Furthermore, the Council considers it to have been correct in refusing planning permission for the proposed development. The Council remain of the view that approving the scheme would conflict with core local and national planning policy.

Should the Inspector be minded to allow the appeal, then the following conditions are suggested on a without prejudice basis:

1 **A List of the Approved Plans**

- 2 **Regulatory (Time) Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 3 **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

- 4 **Pre-Occupation Condition:** The dwelling hereby permitted shall not be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for proposal has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, completion of the as built Part G water calculator or equivalent and water harvesting system installation. The installed measures shall be retained as such thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2023), and to enable the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 5 **Pre-occupation Condition:** Prior to the first occupation of each dwelling, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabits per second through full fibre broadband connection shall be provided to the premises.

Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015).

- 6 **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until a plan showing the layout of the proposed development and the provision of car parking spaces for vehicles has been submitted to and approved in writing by the Local Planning Authority. The dwelling hereby permitted shall be occupied or use hereby permitted commenced until the parking spaces associated with

it have been provided in accordance with the approved details. The areas of land so provided shall thereafter be retained for the parking of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of all highways in accordance with Policy 40 of the Horsham District Planning Framework (2015)

- 7 **Pre-Occupation Condition:** No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and Policy 40 of the Horsham District Planning Framework (2015).

- 8 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and/or any Order revoking and/or re-enacting that Order, no development falling within Classes A, AA, B, C, E, or F of Part 1, Class A of Part 2, or Class AD of Part 20 of Schedule 2 of the order shall be erected, constructed or placed within the curtilage of the development hereby permitted without express planning consent from the Local Planning Authority first being obtained.

Reason: In the interest of visual amenity and due to control the development in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 9 **Regulatory Condition:** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Bat Survey as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham Development Framework.