Planning Inspectorate

Appeal Decision

Site visit made on 6 May 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Appeal Ref: APP/Z3825/W/24/3351359
Unit 3 Capons Hill Farm, Station Road, Cowfold RH13 8DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Dean Weston against the decision of Horsham District Council.
- The application Ref is DC/24/0093.
- The application sought planning permission for the change of use of existing vacant building to a club for teaching of various martial arts without complying with a condition attached to planning permission Ref DC/19/1283, dated 22 November 2019.
- The condition in dispute is No 6 which states that: At no time shall the number of participants exceed more than 10 individuals and 1 instructor.
- The reason given for the condition is: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted under application reference DC/19/1283 for the change of use of existing vacant building to a club for teaching of various martial arts. This included, at condition 6, a restriction that limits the number of participants to 10 individuals plus one instructor. Application reference DC/24/0093, submitted under Section 73 of the Town and Country Planning Act 1990, sought to vary condition 6 to increase the number of participants to 24 individuals plus 2 instructors, making a total of 26 users.

3. The main issue is the effect of varying the disputed condition on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites, with regard to water neutrality.

Reasons

4. The proposal seeks to vary condition 6 to increase the number of participants using the mixed martial arts academy. The proposal would increase the limit from 10 individuals and 1 instructor to 24 individuals plus 2 instructors. The proposed increase in participant numbers would lead to an increase in water use at the site.

5. The appeal site draws its water from groundwater abstraction in the Sussex North Water Supply Zone (WSZ), which affects the Arun Valley SPA, SAC and Ramsar sites. The SPA, SAC and Ramsar sites are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats

Regulations). Under the Habitats Regulations, an Appropriate Assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.

6. The Arun Valley SPA, SAC and Ramsar sites consist of low-lying grazing marsh, largely on alluvial soils with an area of peat derived from a relict raised bog. The conservation objectives for the Arun Valley SAC & SPA are to ensure that the integrity of the site is maintained or restored as appropriate; and ensure that the site contributes to achieving the aims of the Wild Birds Directive.

7. The qualifying features of the Arun Valley SAC & SPA include its assemblage of waterfowl, in particular shoveler, teal, wigeon, and Bewick's swan, and its populations of little whirlpool ramshorn snail. The features of the Arun Valley Ramsar include seven threatened wetland invertebrate species, four nationally rare, and four nationally scarce plant species, with diverse and rich flora including species of duckweed, watercress, milfoils, dropworts, and pondweeds.

8. Natural England's 'Position Statement for Applications within the North Sussex WSZ Interim Approach September 2021' (PS) indicates that it cannot be concluded that existing abstraction within Sussex North WSZ is not having an impact on the Arun Valley SPA, SAC and Ramsar sites and advises development within this zone must not add to this impact.

9. The proposed increase in participant numbers would lead to an increase in water usage at the site. This would include the use of drinking water, showers, toilets and washing facilities. Without mitigation, this would lead to an increase in demand for water and would result in likely significant adverse effects on the Arun Valley SPA, SAC and Ramsar sites either alone or in combination with other developments. To avoid impacts upon the Arun Valley SPA, SAC and Ramsar sites, the PS advises that development within the Sussex North WSZ must demonstrate water neutrality and requires that the use of water in the supply area before the development is the same or lower after the development is in place.

10. The appellant's Water Neutrality Statement[1] (WNS) identifies the existing fixtures and fittings, which contribute towards the existing water consumption. The site is served by a mains connection shared with other units at Capons Farm. Due to the lack of an individual water meter serving Unit 3 only, the calculations for the existing water consumption are derived from the BREEAM 2018 Wat 01, as well as through figures derived from the capacity of the cess pit. While the Council has stated that the figures within the WNS seem to be contradictory, no further commentary has been provided and the approach taken within the WNS has not been disputed.

11. Without mitigation, the WNS identifies that water consumption would increase significantly due to the rise in the number of participants. Consequently, the WNS proposes measures that aim to reduce the additional demand associated with the proposal and achieve water neutrality. The measures include the removal of the mains connection to the water fountain, which would instead be served by bottled water, the replacement of fixtures and fittings to achieve Performance Level 5 of the BREEAM Standards and the decommissioning of the showers within the changing areas. It is suggested that the measures proposed in the WNS could be

[1] Dated 18 March 2024, prepared by H2Ogeo.

secured through a planning condition, and that the proposal would therefore not increase water abstraction and achieve water neutrality.

12. However, in imposing any condition, I must have regard to the tests set out in Paragraph 57 of the National Planning Policy Framework (the Framework). These include that any conditions imposed must be reasonable and enforceable. While the mains connection to the drinking fountain would be replaced by bottled drinking water, it would not be reasonable or enforceable for bottled water to be the only source of drinking water for the lifetime of the development. In addition, there is no practical way of ensuring that drinking water is not taken from the remaining sink in the kitchen/utility area.

13. Moreover, notwithstanding the current limited usage of the showers, it would not be reasonable for users of a sports and recreation facility, such as this, to not have access to shower facilities. The lack of shower facilities is particularly pertinent given the proposed increase in both the number of participants and instructors. Consequently, I would not be able to impose such a condition.

14. The appellant has proposed the submission and implementation of a Water Neutrality Management Plan (WNMP) based on the monitoring of the septic tank. Nevertheless, I have not been presented with details of what this would entail, and I cannot be certain that a WNMP would achieve water neutrality.

15. The martial arts academy serves members of the community of differing ages and abilities, providing classes for pre-schoolers, children, teenagers, women, veterans, and emergency workers. Its classes support physical fitness and mental health, as evidenced by written support from academy members, and further promotes wellbeing through its affiliation with a mental health charity. Through raising the maximum number of participants, the proposal would improve the local community's access to the martial arts academy's classes.

16. There is no substantive evidence before me that demonstrates that there are no alternative solutions to deliver the proposal that would have a lesser effect on the features of the sites in question. In addition, there are no imperative reasons of overriding public interest to permit what is proposed or that there would be compensatory measures that would offset the harm. Consequently, I cannot be certain that proposal could achieve water neutrality.

17. I therefore cannot conclude that the proposed development would not have an adverse effect on the integrity of the SAC and SPA. The development therefore conflicts with Policy 31 of the Horsham District Planning Framework 2015, the Habitats Regulations and, insofar as it relates to habitats sites, the Framework, which collectively require all impacts on habitats sites to be mitigated for.

Other Matter

18. The appellant has raised other issues, including the Council's handling of the application and comments made by other parties. Nonetheless, this is not relevant to my consideration of the case before me, which I have considered based on its own merits.

Conclusion

19. The proposal conflicts with the development plan when considered as a whole. Material considerations do not indicate that the appeal should be determined

otherwise than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR