The Planning Inspectorate

Appeal Decision

Site visit made on 28 March 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2023

Appeal Ref: APP/Z3825/W/22/3292627
Annexe at 1 Oakwood Cottages, Hooklands Lane, Shipley RH13 8PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr C Marshall against the decision of Horsham District Council.
- The application Ref DC/21/0912, dated 19 April 2021, was refused by notice dated 23 December 2021.
- The development proposed is described as 'the re-use of annexe as a dwelling'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: the effects of the proposal on the integrity of European and Ramsar sites, and; whether the site is suitably located for a new house, with regard to the Council's spatial strategy for development.

Reasons

European and Ramsar Sites

3. The appeal site lies within the Sussex North Water Supply Zone which draws its water supply from ground water abstraction at Hardham. Natural England advise that it cannot be concluded that existing abstraction is not having an adverse effect on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites. These are protected European and Ramsar sites, subject to the Habitats Regulations[1]. The proposal is not directly connected with, or necessary to, the management of any of these protected sites.

4. While the proposal would not entail a change to the facilities contained within the building, it would allow the occupation of the annexe by people independent of 1 Oakwood Cottages and with independent activities. This could give rise to increased water use and abstraction. There could be variations in the amount of water usage, for example depending on the level of occupancy. However, a precautionary approach must nonetheless be applied and generalised assertions surrounding the existing level of water usage adds to my concerns. My attention has been drawn to the Council's online advice regarding the treatment of detached annexes which suggests they should be treated similarly to new dwellings. However, this advice relates to proposals for new

[1] The Conservation of Habitats and Species Regulations 2017

annexes and does not satisfy me that increased water abstraction would not occur as a result of the appeal scheme.

5. As a consequence, there is a pathway for effect on the designated features of the European and Ramsar sites. On the basis of the information before me, it is unclear whether the effect would be significant. Therefore, adopting the necessary precautionary approach, it must be assumed that such an effect would be.

6. Mitigation could be achieved to some degree through the use of more water efficient fixtures and fittings, and a condition has been suggested to this effect. However, there are not full details of what is proposed as mitigation nor how compliance with the condition could be achieved in this case. I am not satisfied that it would meet the test of precision and it cannot be concluded that the mitigation would be effective. Given the importance of these matters in the context of the Habitats Regulations, it would not be appropriate to reserve these details for future consideration.

7. In conclusion, the proposal would have a likely significant effect on European and Ramsar protected sites and appropriate mitigation has not been demonstrated. I am therefore unable to rule out the possibility that the proposal, either alone or in combination with other development, would have an adverse effect on the integrity of the protected sites. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted.

8. The proposal would conflict with Policy 31 of the Horsham District Planning Framework 2015 (the HDPF), and the National Planning Policy Framework (the Framework) insofar as they relate to impacts of development on protected habitat sites. The proposal would conflict with the objectives of the Habitats Regulations as above, and the NERC Act[2] relating to the purpose of conserving biodiversity.

Suitability of the Site

9. Policies contained in the HDPF together seek to guide development to the main towns and villages in the District, in line with a settlement hierarchy. Policy 2 of the HDPF states that this is to maintain the district's unique rural character, while ensuring that the needs of the community are met through sustainable growth and suitable access to services and local employment. The Shipley Parish Neighbourhood Plan 2019- 2031 (the SPNP) shares the objective to ensure that all new development is of a high quality design and located within the existing villages and hamlets.

10. The appeal relates to part of an existing outbuilding within the grounds of 1 Oakwood Cottages. The appeal site is not located within, or adjacent to, any settlement boundary. As such, Policy 26 is applicable, which relates to the countryside. This states that, outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected. It states that any proposal must be essential to its countryside location and meet one of the criteria set out. The proposed new dwelling is not essential to a

[2] Natural Environment and Rural Communities (NERC) Act 2006

countryside location, and the proposal would conflict with Policy 26 of the HDPF as well as the spatial strategy for development in the District.

11. The site is in a distinctly rural location where access is possible only via unlit country roads without footpaths and which are subject to the national speed limit. Given these attributes, in combination with the significant distance to the nearest settlements, future occupiers of the development would be heavily reliant on the use of private cars and there would be no reasonable alternative.

12. Despite this, both the Framework and the HDPF make provision for the use of existing buildings in such locations. Policy 10 of the HDPF relates to economic development. It does not preclude the conversion of rural buildings, but seeks consideration of business and commercial uses before residential uses. The appellant has put forward reasons why business and commercial uses would not be appropriate here, due to the proximity to the main house. I do not have reason to conclude otherwise, and find the proposal to broadly comply with the provisions of Policy 10 insofar as it relates to rural conversions. The proposal would also comply with Policy 2 through constituting the use of previously developed land.

13. The main parties refer to the site as being isolated and, as the proposal entails the subdivision of an existing residential building, the proposal complies with paragraph 80 of the Framework relating to isolated homes in the countryside. The Framework also acknowledges, at paragraph 105, that opportunities to maximise sustainable transport solutions will vary between rural and urban areas, and this should be taken into account in decision making.

14. Accordingly, while there is some conflict with the Council's spatial strategy in policies 3 and 4 and the objectives of the SPNP, the proposal would comply with the more recent provisions of paragraph 80 of the Framework, and the provisions of policies 2 and 10 of the HDPF also weigh in favour of the proposal. For this reason, I consider the provisions of policies 3 and 4 should not prevail in this instance. In conclusion on this main issue, I find the proposal to be suitably located and do not find harm arising from its location.

Other Matters

15. As the Council cannot demonstrate a 5 year land supply for housing, paragraph 11d) of the Framework is relevant to the appeal. The application of policies in the Framework, insofar as they relate to habitat sites, provide a clear reason for refusing the development proposed. The proposal does not therefore benefit from the presumption in favour of sustainable development. The proposal would nonetheless make a contribution towards the District's housing stock and the new dwelling could be delivered quickly. However, given the scale of the proposal this would not outweigh the harm identified.

Conclusion

16. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR