Planning Inspectorate

Appeal Decision

Site visit made on 29 January 2025

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/Z3825/W/24/3347313
Maple Farm, Marches Road, Warnham, West Sussex RH12 3SL

- 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 Ms Nicci Millar against the decision of Horsham District Council.
- The application Ref is DC/24/0433.
- The development proposed is erection of a barn for light industrial and storage use.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Ms Nicci Millar against Horsham District Council. This application is the subject of a separate decision.

Preliminary Matters

3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been materially amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers.

Background and Main Issue

4. The main issue in this appeal is the effect of the proposal on the integrity of the Arun Valley Special Protection Area (SPA) and Special Area of Conservation (SAC) with particular reference to water neutrality.

Reasons

5. The Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site are vulnerable to pressures arising from groundwater abstraction. Due to the location of the appeal site within the Sussex North Water Supply Zone, adverse effects on the integrity of the SAC and SPA could arise from increased water abstraction as this cannot be ruled out as contributing to the decline of wildlife within the SPA and SAC. Consequently, any development with the potential to increase the demand for water, both alone and in combination with other approved and proposed development, would have a likely significant effect on the integrity of the SPA and SAC.

6. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require me as the competent authority to undertake an Appropriate Assessment of the implications of the proposed development for the SPA and SAC in view of their conservation objectives. Permission can only be granted where it has been ascertained that the proposal would not adversely affect the integrity of the sites.

7. The conservation objectives of the SPA include ensuring the integrity of each site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the supporting processes on which the habitats of the qualifying features rely. Its qualifying features are Bewick's swan (Non-breeding) and its waterbird assemblage. The SAC is designated for little whorlpool ram's-horn snail. Its conservation objectives include ensuring that the integrity of the site is maintained or restored as appropriate and ensuring that the site contributes to achieving the favourable conservation status of its qualifying features and species.

8. Permission has been granted for the siting of a container for use as an office[1] and for a temporary permission for the siting of a marquee[2] on the site for storage use. These were both subject to a condition which prevented the installation of a mains water supply without consent. In the case of the office use, this was in response to the specific circumstances of that proposed use, while the marquee was for a limited time only. The appellant has set out that the anticipated tenant for the proposed development would be on the site for a limited time only and so there would be no need for a water supply. It has been suggested that this could be secured by imposing the condition previously used.

9. However, in imposing any condition, I must have regard to the tests set out in paragraph 57 of the Framework. These include that any conditions imposed must be reasonable. This proposal differs from the previous applications in that it is for a permanent building. It would involve light industrial use which I note is to provide the appellant with flexibility in the future should the proposed tenant vacate. It would not be reasonable to prevent a permanent building with a light industrial use from having a water supply. I therefore would not be able to impose such a condition.

10. I also note that in correspondence with the Council, reference was made to another appeal[3] where a condition was imposed which allowed for the purchase of offsetting credits or a contribution paid. However, I have been provided with no information that would allow me to consider this further.

11. The appellant has submitted a Water Neutrality Statement dated July 2024 which did not form part of the original application to the Council and the application was determined before it could be submitted. The statement seeks to demonstrate that a combination of rainwater harvesting and water offsetting at Maple Farm House could ensure the proposed development was water neutral. However, even if I were to find that the proposed calculations were robust, there is no mechanism before me to secure this mitigation. The Water Neutrality Statement states that Maple Farm House is owned by the appellant. However, the submitted plans do not show any other land as being within the appellant's control. This matter could

[1] DC/22/0086
[2] DC/23/1528
[3] APP/Z3825/W/23/3321658

therefore not be secured by a condition. Nor is there a planning obligation before me which could otherwise secure the mitigation.

12. I therefore cannot conclude that the proposed development would not have an adverse effect on the integrity of the SAC and SPA. There is no evidence before me to allow me to demonstrate that there are not alternative solutions to deliver the proposal that would have a lesser effect on the features of the sites in question, that there are imperative reasons of overriding public interest to permit what is proposed or that there would be compensatory measures that would offset the harm. Consequently, the proposed development would be contrary to Horsham District Planning Framework (2015) Policy 31, the Habitats Regulations and, insofar as it relates to habitats sites, Section 15 of the Framework which taken together require all impacts on habitats sites to be mitigated for.

Other Matters

13. There would be economic benefits that would arise from the proposal from the delivery of an employment unit and the benefits of farm diversification. I attach limited weight to these benefits given the small scale of the proposal.

14. The Council has raised no objection with respect to the proposed development other than with respect to water neutrality. I have no reason to reach a different conclusion. The proposed barn would be a type of structure to be expected in a rural area. Sufficient parking could be provided. There would not be adverse effects arising from noise. There would not be harm to highway safety or the operation of the surrounding highway network. However these factors amount to a lack of harm and so would be neutral in my assessment. Matters raised by the Fire and Rescue Service would be addressed through the building regulations.

Conclusion

15. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be made otherwise. For the reasons given, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR