Planning Inspectorate

Appeal Decision

Site visit made on 27 November 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/Z3825/W/24/3342546
Gennetts Farm House, Gay Street Lane, North Heath RH20 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr J Partridge against Horsham District Council.
- The application Ref is DC/23/1762.
- The development proposed is 5 new houses on a brownfield site.

Decision

1. The appeal is dismissed and planning permission for 5 new houses on a brownfield site is refused.

Preliminary Matters

2. I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. Whilst national policies relating to housing land supply are proposed to change as part of this consultation, these changes can only be given limited weight at this stage. Even if the proposed changes were to be accepted, it would not materially affect the outcome of my decision since I have identified conflict with the development plan in respect of other main issues. Therefore, in this instance it has not been necessary to consult the parties on these changes.

3. The Council has published a draft Local Plan under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. I am not aware of the exact stage the emerging Plan has reached in the examination process, the extent of unresolved objections or whether its policies will be considered as consistent with the Framework. Consequently, in accordance with Framework paragraph 48, I give it limited weight.

4. I understand there is an emerging Pulborough Neighbourhood Plan, which has yet to proceed to referendum. As it is not yet part of the development plan, I give it only limited weight.

Background and Main Issues

5. The appeal was made because of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission had it been able to do so. I have had regard to the Council's statement, and to consultation responses, in framing the main issues.

6. Some consultation responses raise concerns about protected species.

7. Consequently, the main issues are:

    - whether the proposal would be in a suitable location with respect to the settlement strategy;
    - the effect of the proposal on the character and appearance of the surrounding area;
    - whether the proposed development would preserve the setting of the Grade II listed building known as Gennetts Farmhouse;
    - the effect of the proposal on highway safety, with particular reference to access and parking;
    - the effect of the proposal on the integrity of protected European sites, with particular reference to water neutrality; and
    - the effect of the proposal on protected species and the measures necessary to avoid, mitigate or compensate for any negative effects.

Reasons

Settlement strategy

8. Policy 2 of the Horsham District Planning Framework 2015 (HDPF) seeks to retain the existing settlement pattern in the District and manage development around the edges of existing settlements to prevent them merging and protect the rural landscape and character. HDPF Policy 3 lists the hierarchy of settlements that have defined built-up areas. Supporting text paragraph 4.7 explains that land outside these built-up area boundaries is in the countryside, where development will be more strictly controlled.

9. HDPF Policy 4 supports the expansion of settlements outside built-up area boundaries only where all of five criteria are met. HDPF Policy 26 states development outside built-up area boundaries must be essential to the countryside location and meet one of four criteria.

10. The appeal site is not within any of the settlements listed in HDPF Policy 3, so is in the countryside for planning policy purposes. The site is not allocated in the Local Plan or a Neighbourhood Plan, which is a requirement of the first criterion under HDPF Policy 4. Consequently, even if I were to accept that North Heath is an unclassified settlement and the appeal site adjoins it, the requirements for settlement expansion in Policy 4 are not met.

11. There is no suggestion the proposal satisfies any of the first three criteria under HDPF Policy 26. The fourth criterion is to enable the sustainable development of rural areas. As noted in the appellant's Design and Access Statement (DAS), the nearest bus service runs on the A29, which is not within reasonable walking distance of the site. There are few services and facilities in or around North Heath and the narrow and unlit country lanes, with few footways, inhibit safe walking or cycling for most, particularly after dark. Therefore, the occupants of the proposed dwellings would be likely to rely heavily on private car use and there would be only a limited contribution to the local rural economy as a result. Consequently, I find the proposal would not satisfy the fourth criterion under HDPF Policy 26. Nor would it further the Framework's objectives to promote sustainable transport or sustainable development in rural areas.

12. On the evidence before me, the content of the emerging Local Plan in relation to North Heath is broadly consistent with this approach. There is also no pertinent evidence the emerging Pulborough Neighbourhood Plan would take a materially different approach to the appeal site. In any event, as noted above, these documents have limited weight.

13. For the above reasons, I conclude the proposal would not be in a suitable location with respect to the settlement strategy. It is therefore contrary to HDPF Policies 2, 3, 4 and 26, and to the Framework for the reasons given.

Character and appearance

14. The appeal site comprises a collection of agricultural buildings within the yard of Gennetts Farmhouse. It is otherwise bounded by fields, hedgerows and a lane/public footpath. There is a strip of primarily detached houses beyond the junction on Gay Street Lane, which are mostly of traditional appearance and set within deep frontage plots. The wider surrounding area comprises open fields and meadows interspersed with hedgerows, woods and lanes. The use, layout, character and appearance of the appeal site have more in common with this rural setting than with the more formally developed ribbon of dwellings.

15. To accommodate five houses, the proposed development would be sited around a cul-de-sac, with limited set-back from the access road, detached garages and short rear gardens. This relatively dense layout, reminiscent of suburban neighbourhoods, would be highly incongruous in the rural setting of the appeal site and would have a harmful, urbanising effect. This would be exacerbated by the loss of mature hedgerows and trees facing the lanes on two sides of the site, one of which is a public footpath. New hedging next to the proposed boundary fence along the other borders would do little to mitigate this, soften the regularity of the proposed layout, or integrate the development into the countryside, even once it matures. The retention of vegetation on the wider site would also provide little compensation.

16. The eclectic mix of design details, different for each house and with little evidenced reference to local vernacular styles, would further aggravate the discordant impact of the scheme. I recognise there is variety in house design along Gay Street Lane, but this does not in itself justify the proposed design approach. The use of conditions to secure materials would not overcome the absence of a clear and substantiated design rationale relevant to the rural surroundings.

17. I therefore conclude the proposal would have a harmful effect on the character and appearance of the surrounding area. This is contrary to HDPF Policies 25, 26, 32 and 33, which together seek high quality design that complements locally distinctive characteristics and protects, conserves and enhances landscape character, and key features including hedgerows. It is also contrary to the Framework, which seeks development that is sympathetic to local character, including the surrounding landscape setting.

Setting of listed building

18. Gennetts Farmhouse dates from the 18th century. Although it has undergone subsequent alteration, its significance as a designated heritage asset is informed by the historic fabric of the building. It is also derived from its character as a rural vernacular dwelling. The Farmhouse has an historic

functional relationship with the adjacent yard and lanes and the surrounding agricultural land, irrespective of ownership. These form part of the Farmhouse's setting and contribute to appreciation of its significance. The appeal site is part of this setting.

19. The proposed introduction of five densely developed dwellings within the yard of the Farmhouse, and the resulting urbanising effect described above, would detract considerably from appreciation of the Farmhouse as a rural vernacular dwelling functionally linked to the surrounding countryside. Although the current outbuildings are somewhat dilapidated, any benefit from 'tidying' the yard would not outweigh the erosion of the Farmhouse's rural setting. There is little detailed explanation about how features of the Farmhouse walls would be incorporated into the proposed design, so I am not persuaded this would overcome the incongruous impact of the scheme.

20. I therefore conclude the proposed development would not preserve the setting of the listed building known as Gennetts Farmhouse, contrary to HDPF Policy 34. The resulting harm to the building's significance as a designated heritage asset would be less than substantial.

21. This is contrary to paragraph 206 of the Framework, which states any harm to the significance of a designated heritage asset from development within its setting requires clear and convincing justification. Under Framework paragraph 208, less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. I will return to this under planning balance.

Highway safety

22. Access to the development is proposed alongside the existing access track that serves Glebe Farm, which joins the public highway on Gay Street Lane. The Highway Authority (HA) made several comments and requests for further information in response to the original planning application.

23. In particular, the HA recommended the access be moved further south-east of the existing track and positioned at 90 degrees to the public highway, to give it a better-defined connection. It requested a plan showing suitable visibility splays commensurate with traffic speeds on the adjoining carriageway, supported by speed survey data. In relation to the proposed internal site layout, the HA requested tracking diagrams to demonstrate how refuse and fire appliance vehicles could turn and how visitor parking could be accommodated. Further, the HA raised concerns about the proposed parking spaces for Plot 1, which would be too close to the junction with Gay Street Lane to enable safe manoeuvring. It asked the appellant to consider swapping the location of the house with the parking at Plot 1.

24. The amendments and additional information requested by the HA are not before me. In the absence of this necessary technical evidence, for example to demonstrate suitable visibility splays and turning and manoeuvring spaces are achievable, there are several outstanding risks to highway safety arising from the development proposed. I do not consider these risks to be minor, as mitigation of some or all of them could require fundamental changes to the layout of the scheme as noted above. Consequently, I am not satisfied these matters could be adequately addressed via conditions, notwithstanding the HA's suggested list and the appellant's willingness to accept them.

25. There is no pertinent evidence the circumstances affecting highway safety at 52 Shepherds Way are directly comparable to those before me, so even if no formal assessment of movement was required to support an application for that site[1], this does not overcome or outweigh my concerns in this case.

26. For the above reasons, I conclude the proposal would have an unacceptable effect on highway safety, with particular reference to access and parking. This is contrary to HDPF Policies 40 and 41, which require safe and suitable access for all vehicles and adequate parking to meet the needs of users. It is also contrary to the Framework, which states development should be refused on highways grounds if there would be unacceptable impact on highway safety.

Integrity of protected European sites

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

28. 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.

29. Having regard to the appellant's Preliminary Ecological Appraisal (PEA), the SPA is protected for its wintering birds including Berwick swan and its assemblage of wintering waterfowl. The SAC is one of three main population centres for the *Anisus vorticulus* snail in the UK. Natural England (NE) has raised concerns about the potential adverse impact of ongoing water extraction in the SNWSZ on these protected species and their habitats, and therefore on the integrity of the SPA and SAC.

30. NE's standing advice is that new development within the SNWSZ that, like the appeal proposal, could increase water consumption, should achieve water neutrality. On the evidence before me, without mitigation, the appeal scheme would not be water neutral so would be likely to have a significant effect on the integrity of the protected sites, either alone or in combination with other plans or projects.

31. By way of mitigation, the appellant's Water Neutrality Statement (WNS) proposes firstly to reduce water consumption in the new dwellings to 89.04 litres per person per day (l/p/d), through installation of water efficient devices. Based on average occupancy levels agreed by the Council, the population of the new dwellings would be 13.91. Therefore, assuming the proposed water efficient devices and usage level were secured via condition, anticipated water demand from the development would be 1,238.55 litres per day (l/d).

32. Secondly, the WNS proposes fully to offset this level of water demand by installing a borehole to extract sufficient water from the ground. An accompanying Hydro-geological assessment (HGA) finds abstraction of up to 20 m^3 per day (or 20,000 l/d) from the proposed borehole would have no effect on water levels in the SNWSZ.

[1] Ref DC/20/1073

33. However, the HGA includes the caveat that it cannot guarantee groundwater will be present or that the quantity or quality of groundwater required will be available for abstraction. It adds that analysis of a water sample from a local borehole drawing from the same geological horizon could provide a good indication of the likely quality of water that may be drawn from a new borehole. The Council's Environmental Health Officer notes potential sources of contamination at the site. The Council therefore requires a representative sample of groundwater obtained from a borehole drilled and installed on the application site, with accompanying data, to be satisfied of water neutrality.

34. On the evidence before me, the sample and data required by the Council have not been provided. As such, there is a possibility the proposed borehole would not yield enough groundwater or of a sufficient quality to serve the development; in which case the development may resort to mains water drawn from the SNWSZ and water neutrality would not be achieved.

35. As competent authority, my responsibility is to ensure I am confident there is sufficient information to support my conclusion. The evidence before me is not comprehensive enough for me to be confident the development would be water neutral, and requiring additional information later via condition would not enable me to discharge my responsibility for this decision. The cost of providing the necessary data is of little consequence. Bearing in mind the precautionary principle, I therefore find that, notwithstanding the mitigation measures proposed, the effect of the development on the integrity of the SPA and SAC is likely to be significant in the absence of objective evidence to the contrary.

36. For the above reasons, I conclude the proposal would have a harmful effect on the integrity of protected European sites, with particular reference to water neutrality. This is contrary to HDPF Policy 31, which reflects the Habitats Regulations. It is also contrary to the Framework, which states planning permission should be refused if significant harm to biodiversity cannot be avoided or adequately mitigated.

Protected species

37. The appeal site is in a red Impact Risk Zone, indicating highly suitable habitat for Great Crested Newts (GCN) is present in the surrounding landscape. There is a pond within less than 20m of the site, good connectivity in the wider landscape, and the site itself includes scrub, ruderal vegetation, and ditches. The PEA recommends further surveys of ponds within 500m of the site, to determine the presence or absence of GCN in the vicinity of the site. The PEA also recommends a detailed reptile survey of the appeal site, given the habitat present.

38. GCN and their habitats are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), the Natural Environment and Rural Communities Act 2006 (as amended) (NERCA) and the Wildlife and Countryside Act 1981 (as amended). All native reptiles are listed as rare and most threatened species under Section 41 of the NERCA.

39. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are

carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."

40. The further surveys recommended in the PEA have not been provided. I understand the Council holds a GCN Licence granted by Natural England, which is administered by NatureSpace Partnership. Should the appellant not wish to undertake further surveys, they have the option of joining this licensing scheme. However, there is no pertinent evidence to demonstrate they have done this. In addition, the measures proposed in the DAS are not supported by sufficient evidence to satisfy me they would address the risk of harm to the protected species identified above.

41. Consequently, bearing in mind the precautionary principle, I cannot be sure on the evidence before me that protected species are not present. I am also not able to consider any measures necessary to avoid, mitigate or compensate for significant harm to biodiversity by way of harm to protected species. No exceptional circumstances have been demonstrated such that the required ecological survey could be left to coverage by a planning condition. Hence, the requirements of Circular 06/2005 have not been met.

42. For the above reasons, I conclude the proposed development does not adequately demonstrate the effect on protected species or the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to HDPF Policy 31, which requires appropriate mitigation and compensation for adverse impacts on biodiversity. It is also contrary to the Framework for the reason noted under the previous main issue.

Other Matters

43. Land that is or was last occupied by agricultural buildings is excluded from the Framework's definition of brownfield/previously developed land. Consequently, the Framework's support for using suitable brownfield land within settlements for homes does not weigh in favour of the development. Whether or not the existing buildings are redundant is of little consequence in this case.

44. There is little to substantiate the suggestion that carbon reduction would exceed statutory requirements, so this does not add positive weight. An absence of harm to the living conditions of neighbouring and future occupiers, as noted by the Council and with which I see no reason to disagree, is also a neutral factor.

45. Representations in support of the proposal, or an absence of objection, do not in themselves render the development acceptable.

Planning Balance

46. I have found the proposed development would result in less than substantial harm to the significance of Gennetts Farmhouse as a designated heritage asset. In accordance with paragraph 205 of the Framework, I attribute great weight to this harm. There would be a public benefit from the provision of five dwellings, which would help boost the supply of homes in accordance with the Framework. There would also be an economic benefit from construction and future occupiers' use of services and facilities. Nevertheless, given the relatively modest scale of the proposal and the distance from facilities noted

above, I give these public benefits only moderate weight. This does not outweigh the great weight of the harm to the significance of the listed building.

47. The Council accepts it cannot demonstrate a five-year housing land supply. However, policies in the Framework that protect heritage assets and habitats sites provide a clear reason for refusing development. Therefore, as set out in footnote 7 of the Framework, the presumption in favour of sustainable development at paragraph 11d) is not engaged. HDPF Policy 1 is consistent with this approach.

48. In addition to heritage harm, I have identified harms to the settlement strategy, character and appearance, highway safety, biodiversity and protected species. Together, I give these harms significant weight. The weight of the benefits noted above would not be sufficient to outweigh this.

Conclusion

49. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR