Planning Inspectorate

Appeal Decision

Site visit made on 20 October 2025

by C Coles MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2025

Appeal Ref: APP/Z3825/W/25/3363210
Mount View, Stane Street, North Heath, West Sussex RH20 1DN

- 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) (the Act) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Sam Ripley against the decision of Horsham District Council.
- The application Ref is DC/24/1022.
- The application sought planning permission for erection of 1 bungalow without complying with a condition attached to planning permission PL/107/03 dated 26 November 2003.
- The condition in dispute is No 14 which states that: The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below: Location and Block Plan 14/02-01A 20.10.2003; Proposed Floor Plan, Garage Elevations and Dwelling Section 14/02-11A 20.10.2003; Proposed Elevations 14/02-12A 20.10.2003.
- The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. An application for an award of costs was made by the appellant against the District Council. This application is the subject of a separate decision.

3. A revised version of the National Planning Policy Framework was published for consultation during the course of the appeal. Having regard to its content and the nature of the disputed matters, I am satisfied that no prejudice would arise to either party by proceeding to issue this decision without seeking comments.

Main Issue

4. The main issue is whether there is an extant planning permission.

Reasons

5. Planning permission was granted in 2003 for a bungalow under reference PL/107/03 (the planning permission). The Local Planning Authority (LPA) asserts that this has now expired having never been lawfully commenced. Commencement was required to have occurred by 2008. Section 73 of the Act is not applicable to permissions that have expired. The LPA nonetheless validated the application subject of this appeal. In 2024 it also approved the Non-Material Amendment ref DC/23/1108 (the NMA) that added the plans condition the application sought to vary. This was despite the fact that, if the LPA is correct, the planning permission would have been similarly expired in 2024. It ultimately lies

beyond the scope of this appeal to consider the validity or merits of the NMA. Therefore, notwithstanding the NMA, for the purposes of this appeal I have proceeded to consider whether the evidence before me indicates that the planning permission remains extant.

6. The planning permission was approved with pre-commencement conditions imposed. The LPA cite conditions 2, 4, 7, 8, 11 and 12 as pre-commencement conditions. There is some discrepancy between which conditions the LPA consider to be conditions precedent, which are conditions that go to the heart of the permission. However, the LPA cite conditions 7 and 8 in all correspondence as conditions precedent and condition 2 in an email dated 13 January 2025 – Appendix 4 of the appellants Statement of Case and condition 11 in the LPA Statement of Case as conditions precedent.

7. Conditions 2, 4, 7, 8, 11 and 12 are worded such that development should not be carried out unless further details are submitted to the LPA. However, only conditions 7, 8 and 11 are conditions precedent. Works which contravene a conditions precedent cannot be taken as lawfully commencing development.

8. Condition 7 requires the submission of details of the finished floor levels of the development to control the development in relation to interests of amenity. Condition 8 requires the submission of a drainage strategy detailing the proposed means of foul and surface water drainage to be submitted and approved to ensure the development is satisfactorily drained. Condition 11 repeats the requirement in condition 8 for foul and surface water drainage details to be submitted and for the layout and specification of and construction programme for the roads, footpaths and casual parking areas to be submitted and approved by the LPA. The reason for the condition is to secure satisfactory standards of access and drainage for the proposed development. These conditions are fundamental to the permission approved and go to the heart of the permission as they relate to development that affects the overall height and below ground works and site layout that needs to be agreed before work starts on site. The carrying out of development before details are submitted and approved represents a breach of condition and unlawful development.

9. Condition 2 relates to the submission of a schedule of materials and finishes and samples of such materials and finishes for the external walls and roofs. These should be submitted to and approved by the LPA before development is carried out. Whilst this condition requires the submission of details prior to development being carried out, preparatory works could be started on site without undermining the condition and therefore this condition is not considered a conditions precedent.

10. As neither the LPA or the appellant has any record that details to discharge the conditions were submitted and approved in writing by the LPA, I cannot conclude that they were discharged. Therefore, based on the evidence before me the planning permission expired and is no longer extant.

11. The appellant disputes the pre-commencement conditions needed to be written as pre-commencement conditions. Whilst it is noted the appellant was not the owner of the site in 2003, if the original owner was unhappy with any element of the pre-commencement conditions, this could have been dealt with by way of a Section 73 application to have the condition altered or removed or an appeal against the

condition if the condition was considered unreasonable or unnecessary. Neither of these took place.

12. There is evidence on site that piles have been installed which were inspected and signed off by Building Control in 2008 within the five-year expiry date of the permission. Despite this, the engineering operation which was carried out to lay the piling would not represent commencement of the development because the works were prohibited by the above conditions.

13. It is noted the LPA originally advised the appellant to submit the NMA advising that if Building Control were satisfied that works took place and have been evidenced within the appropriate time frame, then the Planning Department would be unlikely to take a different view. This seems to have been the basis upon which the NMA was approved. However, this does not alter my findings above.

14. In conclusion, I have not been provided with sufficient evidence to demonstrate that planning permission PL/10703 remains extant. For the purposes of this appeal, I therefore conclude that it has expired. As a planning permission which is no longer extant cannot be the subject of variation under Section 73, it is unnecessary for me to consider the appeal proposal, including other reasons for refusal any further. It remains open for the appellant to apply for a Lawful Development Certificate.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

C Coles

INSPECTOR