Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2025

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2025

Appeal Ref: APP/Z3825/W/24/3357209
Jandola, New Hall Lane, Small Dole, West Sussex BN5 9YH

- 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 Mr and Mrs Spencer-Smith against the decision of Horsham District Council.
- The application Ref is DC/24/1225.
- The development proposed is the erection of 1no detached dwelling, a new access, a detached 2-bay garage and associated works.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - whether the proposal would be in a suitable location for housing, having regard to the development strategy for the area and to the effect of the proposal on the character and appearance of the area; and

   - the effect of the proposal on protected species and biodiversity.

Reasons

Suitability of location

3. The appeal site comprises part of the residential garden space of Jandola. While part of the host property is located within the built-up area of Small Dole, the proposed dwelling itself would fall outside the defined settlement boundary. As such, despite adjoining the existing built-up area boundary of Small Dole, the site is within the countryside for the purposes of planning policy.

4. Policy 2 of the Horsham District Planning Framework 2015 (HDPF) sets out the broad spatial strategy for the district and seeks to focus development in and around the key settlement of Horsham and allow for growth in the rest of the district in accordance with the identified settlement hierarchy, which is set out in HDPF Policy 3.

5. HDPF Policy 26 sets out that, outside built-up area boundaries, any proposal must be essential to its countryside location, and in addition meet the criteria listed. There is no compelling evidence before me which indicates that the scheme would meet any of the exceptions listed. Therefore, the proposal would not be supported under HDPF Policy 26.

6. HDPF Policy 4 sets out that, outside built-up area boundaries, the expansion of settlements will be supported where the criteria listed are met. One such criteria, at point 5, requires that development is contained within an existing defensible boundary and the landscape and townscape character features are maintained and enhanced. This criterion is echoed in the Facilitating Appropriate Development Document 2022 (FAD), which albeit guidance, seeks to respond to the acknowledged shortfall in housing land supply and to assist in the assessment of proposals outside of built-up area boundaries.

7. The appeal site is bound to the west and to the south by what appear to be long established boundaries which include mature hedgerow/planting. While the boundary treatment along the site's eastern boundary is limited, there is a hedge further to the east that forms the common boundary with Pentland. However, while a hedge is present along sections of the site's northern boundary, there are significant gaps and therefore this boundary with the land to the rear is insubstantial. While it is proposed to strengthen this boundary with additional planting, any such planting would likely take a considerable amount of time to fully establish. Accordingly, the development would not be within an existing defensible boundary.

Character and appearance

8. New Hall Lane is a long and narrow lane which predominantly comprises detached dwellings of mixed designs set within plots of varying sizes. Although there are some dwellings and outbuildings located to the rear of the frontage dwellings, the prevailing character is one of a linear ribbon of development extending off Henfield Road. Many properties along the road have hedgerows, trees or other vegetation on their front boundaries, which provides the road with a verdant and pleasant character.

9. The appeal site is a substantial parcel of land which accommodates a detached dwelling, detached garage and a few small outbuildings within the spacious rear garden. It is located towards the western side of New Hall Lane and it abuts open fields.

10. The proposal seeks to replace the existing outbuildings within the site. However, these are modest single storey ancillary structures, which appear subservient in scale to their host dwelling. In contrast, the proposal would introduce a substantial two storey dwelling that would be located to the rear of Jandola and would be perceived from the lane through the new entrance that would be created.

11. The siting of the proposed dwelling, significantly set back from the lane, would appear markedly at odds with the prevailing pattern of development in the area, where the dwellings are normally positioned closer to the lane. The back-land development that has been undertaken nearby predominantly comprises detached outbuildings which are not primarily residential and appear to be linked to properties adjacent to the highway. As such, the proposed dwelling would appear incongruous within the prevailing context.

12. While the proposal would be located within the garden space of Jandola, given the proximity between the site with the surrounding open fields, the dwelling would have a stronger visual relationship with the countryside than with the built-up area. As such, albeit localised, there would be harm arising to the landscape.

13. For the above reasons, the proposal would therefore fail to maintain the landscape and townscape character features of the locality.

14. The plot size, scale and footprint of the proposed dwelling would not be dissimilar to others in the road, and the house would be provided with appropriate gaps to its boundaries. Further, the proposed materials would be appropriate. However, this would not address the harm arising from the siting of the proposed dwelling as I have identified above.

15. The proposal would not be in a suitable location for housing, having regard to the development strategy for the area and to the effect of the proposal on the character and appearance of the area. It would be contrary to Policies 1, 2, 3, 4, 26, 25, 32 and 33 of the HDPF and Policy 1 of the Henfield Neighbourhood Plan 2021. Amongst other things, these policies seek to restrict development outside of settlement boundaries, support development of a high-quality design that relates sympathetically with the built surroundings and seek to protect the landscape and townscape character.

Protected species and biodiversity

16. The submitted Preliminary Ecological Assessment (PEA) advises that there are a few mature trees present within the redline boundary. The majority of these trees have negligible bat roost potential. However, the goat willow present within the site has been assessed as having potential roost features for individual bats. However, it is not clear from the PEA whether these trees would be retained following development.

17. Current advice[1] states that 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 considerations may not have been addressed in making the decision.

18. The appellant has confirmed that the Goat Willow tree and the trees identified as T2 within the PEA would be retained. However, this is not substantiated by robust evidence, and while it appears that the T2 trees have not been identified for bat roosting potential, they are sited close to an existing stable that would be removed and replaced with a swimming pool. Further, it appears that T1 would be close to the proposed dwelling. As such, I cannot be certain that these trees would remain following implementation of the proposal.

19. Consequently, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm to bats, as required by paragraph 193 of the National Planning Policy Framework (the Framework); or whether such measures could be provided and secured. Therefore, the proposal would potentially cause unacceptable harm to bats.

20. The Council's fourth reason for refusal refers to insufficient details being provided to establish how the development will contribute to mensurable biodiversity net gain. However, this is not expanded within the Officer report and the PEA provides recommendations for biodiversity enhancement and net gain. Such measures include bird and bat boxes, as well as tree and shrub planting of native species and these could be secured through condition, were I minded allowing the appeal.

[1] Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation and 9.2.4 BS 42020:2013 Biodiversity Code of Practice.

21. Therefore, in the absence of robust evidence to the contrary, the proposal would contribute to a biodiversity net gain. However, as I have set out above, the proposal does not adequately demonstrate the effect on bats. On this basis, it would be contrary to HDPF Policy 31, insofar as it seeks to protect features of biodiversity from direct or indirect adverse impacts.

Other Matters

22. I note the appellant refers me to two appeal decisions[2]. While I have not been provided with the full details of either of these, the development at Cowfold Lodge Cottage comprised a single storey log-cabin and the Inspector found that there would be no unacceptable harm to protected species, and its harm to the character and appearance of the area would be low, which are not my conclusions here. The scheme at Marlpost Meadows did not require an assessment of its effect on the character and appearance of the area.

23. Moreover, both appeals were allowed because the Inspectors found that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of an additional dwelling. The weight to be given to harm and to the benefits that are applicable in the planning balance is a matter of planning judgement based on the particular circumstances of each case. As such, I cannot conclude that these proposals would be comparable with the scheme before me.

24. It is not clear from the evidence whether the development at Land Adjacent to Oakfield[3] has been accepted, but in any event that proposal related to infill development, which is not the case with the appeal before me. I have not been provided with the full details and circumstances that led to the approval of the development at New Orchard[4]. As such, I cannot make any useful comparison between the proposal and this scheme.

25. The appellant asserts that the site is previously developed land, which is not disputed by the Council. However, while the Framework requires substantial weight to be given to the value of using suitable brownfield land for homes, this is for land within settlements which would not be the case with the scheme before me.

26. The appeal site falls within the Sussex North Water Supply Zone. The Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites are vulnerable to pressures arising from groundwater abstraction from this supply zone. The appellant has submitted an updated Water Neutrality Statement, which includes offsetting measures. However, Regulation 63(1) of the Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not necessary to consider this matter further.

Planning Balance

27. The Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites. The Annual Monitoring Report for 2023-2024 indicates a supply of 1.0 years, which is a significant shortfall. In such circumstances

[2] Appeal Ref: APP/Z3825/W/23/3325926 and Appeal Ref: APP/Z3825/W/22/3303603
[3] LPA Ref: DC/23/0235
[4] LPA Ref: DC/22/1339

paragraph 11 d) ii of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

28. In terms of benefits, the proposal would meet the Framework's objectives of boosting the supply of housing and would deliver a new dwelling close to public transport links and to the facilities located within Small Dole. Some economic benefits would be accrued during the period of construction and once the dwelling is occupied. The site is a small one so the development could be delivered quickly. Owing to the Council's housing land supply position, these benefits attract considerable weight in favour of the appeal scheme.

29. The proposal would be located outside the settlement boundary for Small Dole and would therefore be contrary to the spatial strategy and FAD guidance for the location of housing. Given the housing shortfall within the borough, I ascribe limited weight to the conflict with HDPF Policies 2, 3, 4 and 26.

30. The proposed development would result in harm to the character and appearance of the area for the reasons outlined above. In addition, it has not been satisfactorily demonstrated that the proposal would not harm protected species, namely bats. The Framework seeks to ensure that development is sympathetic to local character, including the surrounding built environment and landscape setting, and minimise impacts on biodiversity. Therefore, the conflict between the proposal and HDPF Policies 25, 32, 33 and 31 should be given significant weight in this appeal.

31. Thus, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR