Planning Inspectorate

Appeal Decision

Site visit made on 21 January 2025

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/Z3825/W/24/3345086
Abbott's Shed, Hole Street, Wiston, West Sussex BN44 3DH

- 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 Johnny Goring against the decision of Horsham District Council.
- The application Ref is DC/24/0157.
- The development proposed is laying of additional hardstanding and the change of use of land for open storage purposes, stationing of a caravan for mess accommodation, and the stationing of associated storage containers.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the site in the banner heading above has been taken from the appeal form and decision notice as this more clearly identifies the site than that given on the application form.

3. The description of development in the banner heading above has been taken from the appeal form and decision notice as it more accurately describes the development than that given on the application form. I have however removed reference to the development being retrospective as this is not an act of development.

4. On the 12 December 2024 during the course of the appeal, a revised National Planning Policy Framework (the Framework) was published. Whilst paragraph numbers have altered, any policies that are material to this appeal have not fundamentally changed. I am satisfied that this has not prejudiced any party, and I have had regard to the latest version in reaching my decision.

5. At the time of my site visit the development had been carried out and appeared to accord with the submitted plans. For the avoidance of doubt, I have determined the appeal based on those plans.

Main Issues

6. The main issues are the effect of the development on:

    - the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site (Arun Valley Protected Sites), with particular regard to increased water abstraction.

    - protected species and habitats on the site.

Reasons

Integrity of designated sites

7. The appeal site is located within the Sussex North Water Supply Zone (WSZ). As stated by Natural England in its Position Statement for Applications within the Sussex North Water Supply Zone (September 2021) (PS), developments within the WSZ must not add to the impacts on the Arun Valley Protected Sites. The PS further states that Plans and Projects need to demonstrate certainty that they will not contribute further to existing adverse effect.

8. The River Arun and its floodplain contain habitats and species of international importance, recognised within the designations of the Arun Valley Protected Sites under the Conservation of Habitats and Species Regulations 2017, as amended. The protected sites support a series of grazing marshland. The relevant qualifying features of the Avon Valley Protected Sites formally comprise assemblages of waterfowl, including Shoveler, Teal, Wigeon, Berwick Swan, Little Whirlpool Remshorn snail, seven wetland invertebrate species as well as a diverse range of rich flora, including British duckweed, water-cress, British water milfoils, British water dropworts and British pondweeds.

9. The conservation objectives for the Arun Valley Protected Sites are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the protected sites, which in turn contribute to achieving the favourable conservation status of their qualifying features.

10. The evidence before me indicates the reduction in water levels and flow within the wetland habitats and water abstraction within the WSZ is adversely affecting the integrity of the Arun Valley Protected Sites. As a result, further developments within the WSZ must not add to existing impacts. The PS states that one way of achieving this is to demonstrate water neutrality.

11. The provision of the new development would put a demand on water usage. Any additional water usage would inevitably increase water abstraction within the WSZ. As such, impacts on the Arun Valley Protected Sites' integrity cannot be screened out. Under Regulation 63 of the Habitats Regulations, I am therefore required to undertake an Appropriate Assessment of the implications of the proposed development, including consideration of any conditions or restrictions to which it is proposed a permission should be given and to the manner in which it is proposed the development should be carried out.

12. In relation to this, the two Water Neutrality Reports from cgs civils[1] state that the development is relocating from another nearby site and as a result is water neutral by default. The reports confirm water usage of the previous site of 11.50 litres per day (l/day) with the appellant's evidence also confirming that there would only be a single employee.

13. Nonetheless, the second report from cgs civils goes on to detail a total water demand from the development of 12.20 l/day. This would be reduced to 9.4 l/day through the use of aerators to taps and reduced by a further 4.9 l/day through the use of rainwater harvesting technologies. This results in a water demand from the development of 4.5 l/day. In light of the reduction in usage, the report states that there is no remaining water demand to off-set and the development can be considered water neutral.

14. However, I do not have full details before me in relation to the circumstances and planning history of the site that the development has relocated from. While I acknowledge that the appellant advises that the tenant moved from a nearby farm within the WSZ, in the absence of further details, I cannot conclude that water usage from that site has totally ceased or could not recommence following the relocation to the appeal site. Given this and

[1] P- dated 27.02.2024 and P1 dated 23.05.24

given the water demand from the proposal of 4.5 l/day, I cannot conclude with certainty that overall, the development would result in being water neutral or conclude that likely significant effects to the integrity of the Arun Valley Protection Area would not be avoided. It is noteworthy that Natural England came to a similar conclusion in this regard.

15. In light of the above, and in the absence of sufficient information, I must conclude that the development would have an adverse effect on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site, with particular regard to increased water abstraction. As such, it is contrary to Policy 31 of the Horsham District Planning Framework November 2015 (HDPF). Amongst other things, this seeks to give particular consideration to the hierarchy of sites and habitats in the district, and in particular, special protection areas and special areas of conservation.

Protected species and habitats

16. Given the size of the development and submission of the planning application before April 2024, the proposal is not subject to statutory Biodiversity Net Gain requirements. There is no specific target for Biodiversity Net Gain within HDPF Policy 31.

17. Nonetheless, the development introduces hardsurfacing to part of the site that was previously part of the adjoining field. I have had regard to the comments from the Council concerned that the application documents provide little ecological information to demonstrate that the development does not impact on biodiversity and habitat and that the site may have been used as habitat and a connector route for species given its close proximity to woodland, fields, hedgerows and ponds.

18. In this regard, I note that the Planning Practice Guidance[2] states that an 'ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate.' Furthermore, it goes on to state that 'local planning authorities should require ecological surveys only where clearly justified.'

19. Given that the proposed development is located a considerable distance from ponds, does not result in the loss of any woodland, hedgerows or ponds, is relatively small in scale retaining connector routes around the site in close proximity, and given the provision of additional boundary hedge planting, I cannot conclude that the proposal would have a significant impact on biodiversity or conclude that an ecological survey is clearly justified.

20. It follows from the above that I conclude that the development would not harm protected species and habitats on the site. As such, it complies with HDPF Policy 31 that seeks to maintain or enhance the existing network of green infrastructure and states that the Council will support new development which retains and/or enhances significant features of nature conservation.

21. For the same reasons, the proposal complies with the provisions of the Framework that seeks to conserve and enhance the natural environment.

Other Considerations

22. I have had regard to the support in the HDPF and the Framework to the economic benefits from development and to the effective use of land. I have also had regard to the support in principle to the development in this location and lack of harm to highway safety, noise, contamination and flood risk. Nonetheless, given the small scale of the proposal, the benefits are limited.

23. In the absence of information clearly indicating that the previous prior notification application[3] would add the same or greater level of water usage/abstraction, and whether a

[2] Paragraph: 018 Reference ID:8-018-20240214
[3] DC/22/1192

related written notification of approval under Regulation 77 of The Conservation of Habitats and Species Regulations 2017 (as amended) has been obtained as required by Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), I give it limited weight in my consideration.

Conclusion

24. Although I have found no harm to protected species and habitats on the site, I have found significant harm to the Arun Valley Protected Sites. In my view, this is the prevailing consideration, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.

25. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR