Planning Inspectorate

Appeal Decision

Site visit made on 12 December 2024

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2025

Appeal Ref: APP/Z3825/W/24/3350602
Unit 1, Horsham Trading Estate, Foundry Lane, Horsham, West Sussex RH13 5PX

- 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 S Elkins-Green of Freight Forwarding Solutions against the decision of Horsham District Council.
- The application Ref is DC/24/0327.
- The development proposed is Change of use from Vehicle Servicing and MOT centre (Use Class B2) to Storage and Distribution (Use Class B8) together with associated parking (retrospective).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeals were lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2024). This does not materially change the planning context in respect of the main issue for either appeal.

3. It is noted from the submissions that the proposal before me is retrospective in nature.

Main Issue

4. The main issue is the effect of the development on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites.

Reasons

5. The appeal site falls within the Sussex North Water Supply Zone. Natural England has raised concerns over the effect of existing abstraction within the Sussex North Water Supply Zone on the integrity of the Arun Valley SAC/SPA/Ramsar sites. These European Sites are legally protected for their wintering birds, wetland habitats, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants.

6. Natural England (NE) is undertaking work to establish the condition of the SSSIs that make up the European sites. However, based on water levels, the present indication is that the sites' condition is unfavourable. Some areas have been shown to be linked hydrologically to a layer of rocks from which water is currently being abstracted, and in other locations the hydrological link cannot be ruled out.

7. Consequently, it is impossible to eliminate the possibility that the existing public water supply abstraction within the Supply Zone is having an adverse effect on biodiversity. Any further development which requires an increase in water abstraction would be likely to have an adverse impact on the European sites. This includes modest developments such as that proposed, due to their in-combination effects with other plans and projects.

8. NE is working in partnership with relevant authorities to develop a strategic long-term approach, but in the interim its advice is that schemes may only proceed where it can be demonstrated that they would be water neutral – in other words the proposed development should not result in a net increase in water consumption from the public supply.

9. No water neutrality statement is before me; however, the appellant contends that the employment generation for the current storage use is less intensive than the former general industrial use. In this regard, submitted water readings for the current and former uses on site have been provided, together with BREEAM calculations.

10. The submitted water readings enable a comparison between the average daily water usage for both the previous and current operators. This information indicates that the average water usage under the previous operator was lower than the current water usage. I note that the water readings for the existing operator included the period during the pandemic, when it is possible that this would have affected staffing and water usage levels. However, even taking the figures from 2019, this would still indicate a lower water consumption rate than with the present occupier.

11. The BREEAM calculations submitted, are based upon assumed staffing levels from the previous operator without any substantive evidence to support the figures. NE has advised that, based on the information provided, it is apparent that the change of use has resulted in a higher water consumption rate than the previous development. As such, NE conclude that mitigation will be required. I give great weight to the views of NE, and given my findings above, the evidence before me does not convince me otherwise. There is no mitigation before me, as such, the evidence does not demonstrate, beyond reasonable scientific doubt, that the proposal would achieve water neutrality.

12. In light of the above, I cannot rule out the possibility that the proposal would adversely affect the integrity of the Arun Valley SAC/SPA/Ramsar sites from increased water abstraction, either alone or in combination with other projects. The proposal would therefore conflict with Policy 31 of the Horsham District Planning Framework (2015), which, insofar as relevant, states that development which is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity will be refused unless it can be demonstrated that appropriate mitigation and compensation measures are provided. In addition, the provisions of the Conservation of Habitats and Species Regulations 2017 have not been met.

Other Matters

13. I note the concerns of the appellant regarding the handling of the respective planning applications by the Council. However, these are matters between the main parties and have no bearing on my consideration of these appeals.

Conclusion

14. The change of use would generate long term employment benefits including from continued staff employment. However, the potential harm to the integrity of the Arun Valley SAC/SPA/Ramsar sites from increased water abstraction is a matter of considerable importance and the substantial weight I attach to it clearly outweighs the benefits.

15. The development would conflict with the development plan and there are no material considerations which indicate that the appeal should be decided other than in accordance with it.

16. Therefore, for the reasons set out above, the appeal is dismissed.

R Lawrence

INSPECTOR