Planning Inspectorate

# Appeal Decision

Hearing held on 25 March 2026

Site visit made on 26 March 2026]

**by Ian Dyer BSc (Eng) FCIHT**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 May 2026**

**Appeal Ref: 6002643**
**Land to the east of Rowhook Road, Rowhook, Horsham RH12 3PZ**

- 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 Mrs Tonia Jackson-Robson against the decision of Horsham District Council.
- The application Ref is DC/24/0848.
- The development proposed is change of use of land from agricultural to day nursery and forest pre-school (Use Class E(f)). Retention of existing field shelters. Construction of education/nursery building, polytunnels and woodwork shelter. Alterations to existing access and extensive hard and soft landscaping.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At the Hearing, following submissions from the parties, it was suggested that the description of the development should be altered from “Change of use of land from agricultural to mixed agricultural, day nursery and forest school (Use Class E(f)). Retention of existing field shelters. Construction of education/nursery building, polytunnels and woodwork shelter” to “Change of use of land from agricultural to day nursery and forest pre-school (Use Class E(f)).” Retention of existing field shelters. Construction of education/nursery building, polytunnels and woodwork shelter. Alterations to existing access and extensive hard and soft landscaping” as this provides a clearer description of what is sought within the proposal. I agree with the parties’ suggestion and have used that description in my banner heading.

3. The application form identified the location of the proposal as “Land to the east of Rowhook Road, Rowhook, Horsham RH12 3PZ”. However, the decision notice identified the site as “Land to the west of Whites Copse, Horsham Road, Rowhook, West Sussex.” I have used the address provided on the application form as this provides greater clarity of the location of the site. The parties agreed that this is so at the Hearing.

4. The appellant submitted amended plans and several technical reports to accompany their appeal. I do not consider that the amended plans substantially altered the proposal before me when compared to that which the Council considered. I also find that, an appropriate consultation having taken place, no injustice would occur to any party by my accepting the amended drawings and additional reports.

5. A signed Statement of Common Ground was submitted to accompany the appeal, and I have taken that document into account in my decision.

6. Prior to the Hearing it was identified that the plans listed on the Decision Notice were not those upon which the decision was made, as some had been superseded. The parties, within their Statement of Common Ground (SoCG) took the opportunity to verify the drawings on which the Council had made their decision. However, within that document, there was a typing error, and it was confirmed that the Drawing identified within the SoCG as Drawing Number 0209-LIC-XX-00-DR-L-002 P07 should be Drawing Number A0209-LIC-XX-00-DR-L-001 P06. I have made my decision on this basis.

7. Prior to the opening of the Hearing, the appellant submitted a draft planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) in the form of a Unilateral Undertaking (UU). I will return to this matter in my decision.

8. At the Hearing Ms Thomas KC submitted a document identified as "What is a Forest School?" written by Mr Jackson-Robson, this being an extract from the appellant's website. The parties had no objection to the submission of the document. I have accepted the document as it has relevance to the matters considered in this appeal.

9. The proposal lies near to Little Millfields, which is a Grade II Listed Building (the LB). I have, therefore, had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).

## Main Issues

10. Following the submission of technical reports accompanying the appeal it is a matter of common ground between the Council and the appellant that those matters cited by the Council within the third and fourth reasons for refusal in the decision notice dated 18 June 2025 are acceptable. However, interested parties have raised various concerns about the proposal, and so I have also considered these to ascertain whether they justify the refusal of planning permission.

11. The main issues in this appeal are therefore: -

- Whether, or not, the site is a suitable location for the proposal, having particular regard to planning policies and transport access;
- The effect of the proposal on Whites Copse, which is an ancient woodland;

## Reasons

*Location*

12. There is no dispute between the Council and the appellant that the proposal site (the site) lies outside of any defined built-up area identified within Policy 3 of the Horsham District Planning Framework (2015) (the HDPF). It is, therefore, in the countryside for planning purposes.

13. Policy 2 of the HDPF seeks to focus development around settlements with access to services and facilities in accordance with a settlement hierarchy set out in Policy 3. In so doing the Council seeks to provide sustainable growth whilst protecting the

unique rural character of the countryside, where development is more strictly controlled.

14. Policy 10 of the HDPF supports sustainable rural economic development within the District in order to generate local employment opportunities and economic, social and environmental benefits for local communities. However, it does so with the caveat that development should maintain the quality and character of the area and that any development should be appropriate to its countryside setting and in the case of enterprises other than those which would support farming, contribute to the wider rural economy and/or promote recreation in, and the enjoyment of, the countryside. The policy encourages the conversion of existing buildings for re-use or where new buildings are proposed, requires that the development should result in substantial environmental improvement and reduce the impact on the countryside.

15. Policy 26 of the HDPF seeks to protect the countryside against inappropriate development, requiring that development there is essential to its countryside location and meets one or more of four defined criteria. These require that development is sustainable and either quiet informal recreational use, minerals and waste development or meets the needs of agriculture or forestry.

16. Policy 40 of the HDPF, amongst other things, seeks to support proposals which promotes the development of an integrated transport network with a re-balancing away from reliance on the use of the car as a means of access to jobs, homes, services and facilities. As such it supports development which is located in areas where a choice of transport modes is available and the location is well integrated with the wider network of pedestrian routes, minimising travel distances and ensuring safe access for all modes.

17. Policy 43 of the HDPF supports the provision of new or improved community facilities and services, particularly those which meet the needs of local communities as indicated within relevant studies. Policy 43 also identifies that, in addition to facilities or services located in accordance with the spatial strategy, sites located outside of built-up areas will be supported where this is the only practicable option and where a suitable site well-related to an existing settlement exists.

18. During the Hearing the appellant identified the range of activities that the forest pre-school enjoys from its current location, including interaction with animals, visiting woodlands and other outings and that these activities can take up a significant part of the day, depending on weather and the seasons. The Appellant also identified the essential needs of a forest pre-school, centring on access to an outdoor area, although this would not necessarily need to be woodland, and nature, whilst providing a place of safety for the children.

19. The site would significantly reduce the need to leave it for almost all of the pre-school's activities, reducing preparation and travel time. However, whilst the site would facilitate the vast majority of activities, it would not facilitate all, and some excursions would still take place from the site.

20. The appellants have submitted evidence to demonstrate that they have been seeking a suitable site for their business to expand into for some time. However, this evidence is incomplete, demonstrating only occasional activity and there is

limited evidence to show that active efforts have been made consistently throughout the period, such as engaging a professional agent.

21. Currently the business operates from within a built-up area and relies on travelling to nearby locations, including the appeal site, to enjoy outdoor activities. From the information before me it is apparent that a countryside location, whilst advantageous, is not essential. It is apparent that a successful forest pre-school could be operated from any site with access to a natural, open area. Whilst the closer to the open area, the more efficient the use of land and transport would be for the proposed use, this particular site has not been demonstrated to be unique for such provision.

22. The site lies outside of the main groupings of development of Rowhook and Clemsford in an area of only sporadic development. It will be seen below that the proposal would be almost totally reliant on the private motor car for its day-to-day travel needs. Even were any children from these local settlements to attend the site, the intervening roads would discourage walking and cycling and so the facility would not contribute to reducing the travel needs of the community by private car. The site is, for these reasons, poorly related to the nearest communities that it could serve.

23. Whilst there are agricultural elements to the proposal, the function of the site will be primarily early years care and education, and the agricultural element would, whilst a necessary part of the development, be an ancillary, but nonetheless necessary, part for it to function as a forest pre-school.

24. The proposal is, thus, not an essential form of rural development and fails to satisfy the criteria set out in Policy 26, nor does it satisfy the requirements of Policy 43.

25. At the Hearing I heard that, whilst for field trips a minibus is used, currently, trips to the business in its current location for both staff and clients are made almost entirely by private motor car and that this is not anticipated to change. I further heard that the catchment for the business is spread across the District and southern regions of Surrey. Some of these trips are currently made by bus and other modes. As the business is currently located within a built-up area that is served by public transport, there are opportunities, at present, to use more sustainable modes.

26. Rowhook Road, which changes its name in the vicinity of the site to Horsham Road is a single carriageway, unlit and subject to a 40 MPH speed limit. It lacks footways. Given the alignment of the road, lack of lighting or pedestrian facilities and speed of vehicles on it, it is an environment that would discourage walking or cycling, particularly when accompanied by small children.

27. There are bus stops to the north and south. However, I have little information regarding the frequency of services, but, in any case, accessing these stops would entail pedestrians to use Rowhook Road to make part of the journey.

28. Whilst there are public footpaths in the area, and these form a network linking the settlements, their unpaved, unlit nature would limit their use, particularly during inclement weather and during the hours of darkness. Further, the final leg of any route would, again, entail negotiating Rowhook Road.

29. It is, therefore, likely that the business would be almost totally dependent on the private motor car to meet the needs of clients and staff. Further, given the business' current location, there may be some transference of mode accessing the site if people are no longer able to walk to the site, as at present.

30. The National Planning Policy Framework (the Framework), at Paragraph 110, identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Paragraph 88 supports the diversification of agricultural and other rural land-based businesses, whilst paragraph 89 identifies that sites to meet local business and community needs may need to be found adjacent to or beyond existing settlements. However, the Framework then goes on to encourage the use of previously developed land and sites that are well-related to existing settlements where suitable sites exist. That is not the case here. In this case the reliance of the proposal on the use of the private car would be almost total.

31. Bringing these matters together, I find that the site is not a suitable location for the proposal, having particular regard to planning policies and transport access. It would, therefore be contrary to Policies 10, 26, 40 and 46 of the HDPF, whose aims I have identified above.

*Ancient woodland*

32. There is no dispute between the parties that Whites Copse is an ancient woodland. The proposal would install a drainage route through the ancient woodland, with an outfall into an existing stream. The route would pass through the root protection zones of a number of trees within the ancient woodland, in some instances passing close to, or under, trees. The outfall, with its headwall, and one chamber would lie within the ancient woodland, whilst a second chamber would lie within a 15-metre protection zone buffering the ancient woodland. The location of the headwall has been established in order to allow suitable falls for the drainage run.

33. The pipe for the drainage would be 150mm in diameter, and the chambers 900mm. It is intended to lay the pipe 600 mm below the surface of the ground. When thrust-boring the pipe, material would be displaced to either side to accommodate it. Pits would be dug to facilitate driving the pipe. These operations would disturb the soil within the ancient woodland itself and within its protection area.

34. During the hearing I established that the pipe would be percussion driven from the excavations that would later accommodate the chambers, and that, at the outset, the direction of the pipe would be set. I further heard that, should the pipe hit a major below-ground obstacle, it would be withdrawn and driven on an amended route.

35. Whilst the majority of the fine root structure of the trees and the associated mycelial network within the ancient woodland would be likely to lie above the intended depth of the pipe, it cannot be ruled out that these networks, or, given the proximity to the trees in places, larger roots, would not be encountered. Should large roots be encountered the withdrawal of the pipe and re-routing would result in additional disturbance, beyond that set out.

36. Notwithstanding that methods, such as hand digging and careful replacement of soil excavated for the pits, have been proposed, seeking to minimise the effect of installing the drainage run, these cannot prevent disturbance to the soils within the ancient woodland entirely. Further, during my site visit I observed a thick growth of plants along the route of the drainage run. During the works this area would experience trampling as a result of the comings and goings of workers.

37. In addition, the pipe run would require maintenance in the future. Whilst initially this may be achieved by the insertion of linings through the inspection chambers, I cannot rule out the need for future excavation along the line of the run. This would also entail further access for a workforce.

38. Thus, there would be some disturbance to soils and damage to surface growth. I cannot eliminate the possibility that this would affect the root and mycelial network within the ancient woodland, nor can I be sure that any damage would be recoverable or be certain of timeframes for recovery.

39. The outfall would discharge within the ancient woodland. It has not been demonstrated that in doing so the hydrological system of the ancient woodland would be unaffected, with changes in soil moisture levels, groundwater recharge and seasonal wetting patterns. There is therefore risk of deterioration of the ancient woodland and the ecosystem that has built up within it.

40. I recognise that, as a proportion of the overall area of the woodland, or, indeed, the volume of the ecosystem that it forms, the disturbance would be small. However, the ancient woodland is an irreplaceable habitat and the loss or deterioration of any part of it, no matter how small a proportion, acts to undermine its value as a whole.

41. Whilst the area affected has, in the past, been replanted, replanted ancient woodland is afforded the same protection as any designated ancient woodland, because it is the ancient ecosystem, built up over time, that is protected, notwithstanding that some of the affected trees may be in poor condition or lack maturity. Further, I am mindful of the advice provided in the Planning Practice Guidance[1] (the PPG) that: "Where a proposal involves the loss or deterioration of ancient woodland or ancient or veteran trees you should not take account of the existing condition of the ancient woodland or ancient or veteran tree when you assess the merits of the development proposal. Its existing condition is not a reason to give permission for development. A woodland or tree in poor condition can be improved with good management."

42. I am further aware that disturbance can result from any ongoing management of the ancient woodland. However ongoing management operations have the intent of the preservation or improvement of the condition of the ancient woodland. The proposal before me would not make any such contribution.

43. I recognise that the method proposed is a common means of running pipes and other services through root protection areas. However, such practice is normally associated with the installation of services within built-up areas and there are no examples before me of the method being used within an ancient woodland.

[1] Ancient woodland, ancient trees and veteran trees: advice for making planning decisions

44. The National Planning Policy Framework (the Framework) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Whilst a compensation strategy has been agreed with the Council, and this could be secured through a suitably worded planning condition and/or a planning obligation, both requirements must be satisfied.

45. Wholly exceptional reasons, by their very nature, are extremely rare. The Framework provides examples of such reasons, such as infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat. Whilst the Framework places great weight on the need to create, expand or alter early years education infrastructure, the proposal would not provide a public benefit comparable to the provision of nationally important infrastructure. Thus, no wholly exceptional reason has been demonstrated in this instance. Compensation cannot overcome this fundamental requirement as, in the words of the PPG, "Planting new trees and creating new native woodland is not a direct replacement for lost or damaged trees or woodland."

46. I therefore find that the proposal would have a harmful effect on Whites Copse, which is an ancient woodland. This would be contrary to the aims of Policy 31 of the HDPF. This is because the policy seeks to protect habitats, in proportion to hierarchical importance, including ancient woodlands and other irreplaceable habitats, and refuse development where it is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, unless it can be demonstrated that the reason for the development clearly outweighs the need to protect the value of the site, and that appropriate mitigation and compensation measures are provided.

47. For similar reasons, the proposal would be contrary to the aims of Paragraph 193 of the National Planning Policy Framework, which seeks to protect biodiversity.

**Other Considerations and Planning Balance**

48. The proposal would undermine the Council's spatial strategy, as set out in the HDPF and, because of its design, would be harmful to White's Copse, an ancient woodland and an irreplaceable habitat. There would be conflict with Policies 10, 26, 31, 40 and 46 of the HDPF. It would therefore not accord with the development plan as a whole.

49. However, the Government, at Paragraph 100 of the National Planning Policy Framework (the Framework) places considerable importance on the provision of sufficient choice of early years places and the need to give great weight to the need to create, expand or alter early years educational infrastructure.

50. The capacity of the proposal would be much greater than the demonstrable need for early years education within the nearest settlements. However, within the wider area there is a demonstrable need. Further, the proposal would provide the choice for parents that the Government seeks. Thus, the provision of early years places and choice for parents of education and care is a benefit supporting the proposal that provides weighs greatly in favour of the proposal.

51. The proposal would provide economic benefits through increased employment, creating up to six new full-time roles and a further four part-time roles. However, at the Hearing Ie heard that the staff needed for the proposal would be drawn from the wider area, rather than the immediate rural hinterland. Nonetheless, the increased employment would be an economic benefit and there would be benefits locally through increased economic activity which would support the rural economy. Further, the proposal would provide support for families, allowing parents to work while their children are cared for and educated. These are public benefits that, given the scale of the proposal, carry moderate weight in support of it.

52. Whilst it is apparent that, even in its current location, the facility is heavily dependent on the private car to meet its day-to-day needs for transport, the proposal would be almost entirely dependent upon the private car and there would be negligible opportunity to alter that in future. This would harm the environment and that harm would be on-going with very limited opportunity to ameliorate that situation over time. This is a matter that weighs significantly against the proposal.

53. The proposal would harm an ancient woodland and is not so exceptional that, of itself, it justifies such harm. The Framework, at Paragraph 193, states that development resulting in the loss or deterioration of such irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. In the absence of wholly exceptional reasons for the proposal to proceed this matter carries very great weight in favour of dismissing the proposal.

54. The policies in the Framework seek to provide choice and opportunity for early years learning and support a prosperous rural economy. However, they also seek to protect irreplaceable habitats from harm and support the transference to a low-carbon economy.

55. These latter objectives would not be delivered by the proposal, and the limited benefits do not justify the resultant harm that would occur, were the proposal to proceed.

56. The appellant has provided a draft unilateral undertaking which would secure the provision of biodiversity net gain in association with the implementation of the proposal. The proposed increases in biodiversity net gain set out by the appellant would significantly exceed the minimum requirements of the Council or Government. This notwithstanding, even were I to consider that the biodiversity net gain could be secured, either directly through a planning obligation or through the imposition of a planning condition to require such an obligation, the benefits in support of the proposal would be, at best, significant and would not tip the balance in favour of the proposal.

57. As I have identified above, the site lies close to an LB. Whilst not cited within the Council's Decision Letter as a reason justifying refusal of the proposal, Section 66(1) of the Act imposes a duty on me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. However, as I am dismissing the appeal for other reasons, the effect of the proposal on the LB cannot alter my decision and so I have not considered this matter further.

58. The site lies close to the Arun Valley SAC, SPA and Ramsar Protected Site. The Habitats Regulations require the Competent Authority to consider whether or not the development could adversely affect the integrity of a protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.

59. Had I been minded to allow the appeal, it would have been necessary for me to undertake an Appropriate Assessment (AA). The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the Protected Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal and, whilst the issue of the effect of the development on Protected Sites remains unresolved, the outcome could only be, at best, neutral in my considerations.

60. Other concerns are raised by local residents including highway safety and the effect of the proposal on the character and appearance of the site and the surrounding area and drainage. However, these do not add to the objections identified largely for the reasons given in the Council's report.

61. For the above reasons the benefits in support of the proposal do not outweigh the harm that would result, were the proposal to proceed.

**Conclusion**

62. 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. The appeal is, therefore, dismissed.

*Ian Dyer*

INSPECTOR

APPEARANCES

FOR THE APPELLANT: -

Mr Nathan McLaughlin MRTPI

Managing Director — McLaughlin Planning

Mr Guy Newman MCIEEM

Director — Greenspace Ecological Solutions

Mr Neil Taylor MArborA National Diploma (Arboriculture)

Arboricultural Consultant — Greenspace Ecological Solutions

Mrs Tonia Jackson-Robson Level III Childcare Practitioner

Appellant

FOR THE COUNCIL: -

Ms Alice Robinson CMRTPI

Planning Officer — Horsham District Council

Andrew Bush MArborA, Foundation Degree (Level 5) Arboriculture, LANTRA Professional Tree Inspection Qualification, BTec (Level 3) Town Planning and Technical Support

Arboricultural Officer — Horsham District Council

Ms Linsey King MCIEEM

Ecology Officer — Horsham District Council

INTERESTED PERSONS: -

Megan Thomas KC

Instructed by Rowhook and Clemsford Amenity Society and Mr Stephen and Mrs Leah Hearne

Tim Davies MRTPI

Planner representing Rowhook and Clemsford Amenity Society

Michael Roberts MArborA, Foundation Degree in Arboriculture (Level 5), Diploma (Level 4) Arboriculture, LANTRA Professional Tree Inspection Qualification

Senior Arboricultural Consultant representing Rowhook and Clemsford Amenity Society

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|---|---|
| Brian Jackson-Robson | Local resident |
| Amanda Belcher | Local resident |
| Charles Whitmarsh | Local resident |