Planning Inspectorate

Appeal Decision

Site visit made on 2 July 2025

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 JULY 2025

Appeal Ref: APP/Z3825/W/24/3357197
Berts Farm, Pickhurst Lane, Pulborough, West Sussex, RH20 1DA

- 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 Ms E Lee against the decision of Horsham District Council.
- The application Ref is DC/24/0724.
- The development proposed is demolition of existing outbuildings and siting of log cabin style three bedroom dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Preliminary Ecological Appraisal (PEA) was submitted with the appeal, which seeks to overcome the Council's concerns regarding protected species. The Council has had the opportunity to review and comment on the document as part of the appeal. Given the technical nature of the PEA, and the absence of any alterations to the proposed development, I am satisfied that no procedural unfairness would arise in me taking account of the PEA in my decision.

3. The appellant's evidence refers to numerous pieces of case law. I have not been provided with copies of the court summaries or transcripts and, therefore, I have not cited the judgements in this decision. However, I have had regard to the judgements insofar as they have been described in the evidence.

4. The Council submitted the draft Horsham District Local Plan 2023-2040 for examination in July 2024 and the hearings commenced in December 2024. However, the Council has confirmed that it has since received a letter from the examining Inspector, in which it is recommended that the plan is withdrawn. Because there is a high degree of uncertainty that the plan would proceed to adoption in its current form, it carries very limited weight.

Main Issues

5. The main issues are:

   - whether the site is a suitable location for the proposed development, having regard to the spatial strategy set out in the development plan and accessibility to services and facilities;

   - the effect of the proposal on the integrity of the Arun Valley Special Area of Conservation (SAC), the Arun Valley Special Protection Area (SPA), and the Arun Valley Ramsar Site; and;

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

Reasons

Suitable location

6. The appeal site lies on Pickhurst Lane, which is connected to the A29 road via Black Gate Lane. Because there are other residential properties nearby, the site does not have the character of being 'isolated' and therefore the proposal does not fall to be considered against the criteria for isolated homes listed in paragraph 84 of the National Planning Policy Framework (the Framework). However, it is common ground that the site lies outside of a settlement boundary, in the open countryside.

7. Taken together, Policies 2 and 3 of the Horsham District Planning Framework (excluding South Downs National Park) (November 2015) (DPF) seek to focus development in and around the key settlement of Horsham, with other growth delivered within towns and villages that have defined built-up areas. Outside of defined settlements, Policy 26 of the DPF takes a more restrictive approach to development, stating that proposals must be essential to their countryside location and must meet one of four other criteria, which could include that it would support the needs of agriculture or that it would enable the sustainable development of rural areas.

8. Having a permanent on-site presence on the site would undoubtedly assist with the monitoring and care of animals, and it could increase the output and security of the existing agricultural enterprise. However, the proposal is not advanced as a rural worker's dwelling and there is no substantive evidence before me to indicate there is an essential need for a dwelling to be sited in this open countryside location. Consequently, even if no harm would arise to the character of the countryside, there would be conflict with Policies 2, 3 and 26 of the DPF.

9. In its Facilitating Appropriate Development (October 2022) document (FAD), the Council acknowledges that sites are likely to come forward outside of built-up area boundaries given there is a shortfall in the housing land supply. The evidence does not lead me to conclude that the FAD is adopted development plan policy. Nonetheless, it indicates that the Council would consider applications positively in certain circumstances, which broadly reflect some of the criteria set out in Policy 4 of the DPF. A key requirement of Policy 4 and the FAD is that proposed sites adjoin an existing settlement edge. As this is not the case for the appeal site, the proposal cannot rely on support from Policy 4 of the DPF or the FAD.

10. The site is reasonably close to the settlements of Codmore Hill and Pulborough, which are identified in Policy 3 of the DPF as small towns or large villages with a good range of services, strong community networks, local employment provision, and reasonable rail and bus services. Indeed, these settlements would provide for many of the day-to-day needs of the future occupants of the dwelling, due to the presence of supermarkets, restaurants, a village hall, and a primary school.

11. However, from my observations, it would take around 25 minutes to walk, or 8 minutes to cycle, to the nearest supermarket, and a longer journey would be required to reach most other services and facilities. Some parts of the route are unlit with no dedicated footpath, and other parts would entail walking or cycling along the A29, which is a busy road with fast moving traffic. Consequently, it is

unlikely that future occupiers would travel regularly to Codmore Hill or Pulborough on foot or by bicycle, particularly during hours of darkness or in inclement weather.

12. The site has some connectivity by bus. The nearest bus stop to the site is at the junction between Black Gate Lane and the A29 road, which is around a 5-minute walk from the site. In order to access the bus services heading south towards Codmore Hill and Pulborough, pedestrians would need to cross the busy A29 road, and this could deter some residents from undertaking the journey. Nonetheless, the bus stops could be accessed with reasonable care, and the bus would provide a genuine alternative for residents to access services and facilities by sustainable modes. The train station in Pulborough would provide further onward connectivity by sustainable modes.

13. I recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas; and that the private vehicle movements arising from this single dwelling proposal would be unlikely to be significant in number. However, whilst there would be a degree of access to services and facilities by sustainable transport options, the scheme would not prioritise the needs of pedestrians and cyclists as the Framework requires.

14. Taking all of the above into account, I conclude that the site would not represent a suitable location for the proposed development, having regard to the spatial strategy set out in the development plan and accessibility to services and facilities. There would also be conflict with Policies 2, 3, and 26 of the DPF which seek to steer development towards existing settlements.

Arun Valley SAC, SPA and Ramsar Site

15. The appeal site lies within the Sussex North Water Supply Zone, which draws its water from groundwater abstraction which could cause adverse effects on the integrity of the Arun Valley SAC, SPA, and Ramsar Site (the European Sites). The European sites include important wetland habitats supporting rare plants, birds, and invertebrates. The Conservation of Habitats and Species Regulations 2017 require that, before deciding to give permission for a plan or project which is likely to have a significant effect on a European site, I must make an appropriate assessment of the implications of the plan or project on its conservation objectives.

16. Natural England's Position Statement for Applications within the Sussex North Water Supply Zone (September 2021 – Interim Approach) advises that development within the zone must not add to the impact on the European Sites. It states that one way of demonstrating no impacts would occur would be through water neutrality, which is where the use of water in the supply area before the development is the same or lower after the development is in place.

17. The Water Neutrality Report (the WNR) includes details of the proposed water efficiency measures that would limit water demand from the new dwelling, including through water efficient fittings, smart metering, and enabling the re-use of water through rainwater harvesting. These measures would reduce the water demand for the new dwelling significantly. However, in order to achieve water neutrality, the residual water demand would be offset by retrofitting water efficient appliances to another property owned by the appellant. I have been provided with an Existing Fittings Survey which demonstrates how this could be achieved.

18. Subject to the implementation of the measures proposed, the WNR concludes that the proposal would be water neutral. The Council has not raised any objection to the measures proposed in the WNR. Likewise, Natural England stated during the course of the planning application that it had no objection to the proposal subject to the delivery, management, and maintenance of the measures proposed. On this basis, I have no reason to conclude that the proposal would not achieve water neutrality if the measures proposed could be effectively secured.

19. The Council has suggested a condition could secure the on-site water efficiency and re-use measures, and I am satisfied that this would provide an effective mechanism through which those on-site measures could be secured and enforced.

20. However, there is very limited information before me with regard to the proposed offsetting property. Moreover, whilst I acknowledge that the appellant has sought to engage with the Council to prepare a legal agreement to secure the offsetting, there is no such obligation before me. Therefore, there would be no enforceable mechanism through which the Council could ensure the offsetting measures are implemented and maintained.

21. It has been suggested to me that the offsetting measures could be secured through a condition. However, in the absence of sufficient information to identify the offsetting property and its registered owner(s), I cannot be certain that the affected land would fall under the control of the appellant. Furthermore, the Planning Practice Guidance (PPG) advises that a condition requiring the applicant to enter into a planning obligation is unlikely to pass the test of enforceability[1]. In the absence of definitive information to persuade me otherwise, a condition to secure these measures would not be reasonable or enforceable.

22. Overall, in the absence of an effective mechanism through which the offsetting measures could be secured, the proposal would cause adverse effects to the integrity of the Arun Valley Habitats Sites. The proposal would, therefore, be in conflict with Policy 31 of the DPF, which requires particular consideration to be given to SPAs and SACs.

Protected species and habitats

23. The PEA submitted with the appeal concludes that, subject to suggested mitigation measures, the proposal is unlikely to cause harm to protected species or their habitats. Biodiversity enhancement measures are also proposed. The Council has had the opportunity to comment on the PEA as part of the appeal and has not raised any substantive concerns in respect of the conclusions of the PEA or its methodology and recommendations. Therefore, on the basis of the evidence before me, I have no reason to question its reliability.

24. The mitigation and enhancement measures proposed could be secured through a condition if the appeal were to be allowed. Consequently, the proposal could be delivered in a manner that would safeguard protected species and enhance their habitats. It follows that there would be no conflict with Policy 31 of the DPF in respect of this main issue, insofar as it expects development proposals to contribute to the enhancement of existing biodiversity.

[1] PPG Paragraph: 010 Reference ID: 21a-010-20190723

Other Matters

25. There would undoubtedly be some social, economic, and environmental benefits arising from the proposal. Benefits would arise from the delivery of housing, including self-build housing, in an area where there is a sizeable under-supply. Indeed, given the lack of certainty over the adoption of the emerging local plan, it is reasonably likely that windfall sites will necessarily come forward to meet the housing needs of the area and this is recognised in the FAD.

26. As a small-site, the development could be built-out reasonably quickly thus bolstering housing numbers expeditiously, and it would contribute towards the Government's objective to significantly boost the supply of homes. It would also support local policy objectives to achieve a mix of housing types to meet local needs. Although the proposal would make only a modest contribution to housing delivery, this benefit nonetheless carries significant positive weight given that there is a significant shortfall of housing in the area.

27. The construction of the dwelling would offer some modest economic benefits to the local construction industry. Future occupants would also be likely to increase spending in the area, thus supporting local services and facilities. This carries support from the Framework insofar as it states that rural housing should be located where it would enhance or maintain the vitality of rural communities. Further economic benefits would arise should the proposal support the continuation and growth of the existing agricultural enterprise at the site, including through improving the welfare and safety of farm animals. However, given the modest scale of the site and the proposal, these benefits carry limited weight.

28. The Framework supports proposals that make effective use of previously developed land (PDL), and I note that the site could have a reasonably complex history of land uses. However, the evidence says that many of the structures on the site are associated with an existing agricultural land use. The definition of PDL in the Framework excludes land that is or was last occupied by agricultural buildings. Therefore, in the absence of convincing evidence to the contrary, the proposal cannot rely on support from the Framework in respect of PDL.

29. Nonetheless, the proposal would make more efficient use of an under-utilised site. There would also be some benefit derived from the consolidation of the existing structures and the associated improvement in its outward appearance, including in views from the lane and nearby footpath. Indeed, this benefit has been noted in third-party representations made in support of the scheme. The proposal would deliver landscape and biodiversity enhancements, and the dwelling could be constructed to high environmental standards. Due to its small-scale, I ascribe limited positive weight to these benefits.

30. The appeal site is relatively self-contained, and the Council has not identified harm or policy conflict in respect of its effect on the character and appearance of the countryside or the adjacent National Park. The National Park Authority has stated it has no comments in respect of the proposal. Based on the evidence, I have no reason to conclude the proposal would not seek to further the statutory purposes of the National Park. This is a neutral matter that does not carry positive weight.

31. The Council has not identified harm in respect of the living conditions of nearby residents, climate change, or highway and parking issues. I have no reason to

conclude it would conflict with development plan policies in this regard. The absence of harm weighs neither for nor against the proposal.

Planning Balance and Conclusion

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise, and this is reflected in the wording of the Framework. It is also well-established that a proposal does not necessarily need to accord with every policy in the development plan to accord with the development plan when read as a whole; and that where policy conflicts arise, regard should be had to all relevant considerations, including local policies and needs, as guided by the Framework[2].

33. In this instance and having had regard to all of the evidence before me, I find the conflict with policies 2, 3, 26, and 31 of the DPF brings the proposal into conflict with the development plan when read as a whole. Planning permission should therefore be refused unless material considerations indicate otherwise.

34. In this case, and given the housing land supply position which is stated to be 2.9 years, paragraph 11 d) of the Framework is engaged.

35. However, the harm that would be caused to the Arun Valley European Sites provides a strong reason for refusing the development under the provisions of paragraph 11 d) i. of the Framework. Therefore, the presumption in favour of sustainable development does not apply. It follows that, unlike the appeal decisions to which I have been referred at Marlpost Meadows[3], Cowfold Lodge Cottage[4], and Wappingthorn Lodge[5], it is not necessary for me to undertake the 'tilted' balancing exercise set out in paragraph 11 d) ii.

36. The proposal conflicts with the development plan, and the other considerations in this case do not lead me to a decision otherwise than in accordance with the development plan. Consequently, for the reasons given above, I conclude that the appeal should be dismissed.

E Catcheside

INSPECTOR

[2] PPG Paragraph 012, Reference ID 21b-012-20140306
[3] Appeal decision reference: APP/Z3825/W/22/3303603, dated 21 August 2023
[4] Appeal decision reference: APP/Z3825/W/23/3325926, dated 08 March 2024
[5] Appeal decision reference: APP/Z3825/W/24/3341171, dated 10 December 2024