Horsham District Council

Ms Safia Kausar
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Our ref: DC/23/2038
Your ref: APP/Z3825/W/24/3352243
Email: Kate.turner@horsham.gov.uk
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Date: 20th November 2024

Dear Ms Kausar

APP/Z3825/W/24/3352243 Lot 1, Delspride, Kent Street, Cowfold RH13 8BB
Following the submission of the appeal against the refusal of DC/23/2038 (Temporary siting of mobile home for a period of 3 years (retrospective).), the Local Planning Authority would like to make further comments on the agent's Statement of Case. For reference there were three reasons for refusal:

Refusal Reason 1
The stationing of the mobile home would not be essential to its countryside location, and would not support the needs of agriculture or forestry; enable extraction of minerals or the disposal of waste; or enable the sustainable development of the rural area. The stationing of the mobile home therefore represents unsustainable development contrary to policies 2,3,4, 20 and 26 of the Horsham District Planning Framework (2015).

Refusal Reason 2
Given the location of the mobile home, there is the potential for the future occupiers of the dwelling to be adversely impacted by the agricultural activities undertaken on the wider site by reason of noise and general disturbance associated with these activities. As such it is considered that the proposal fails to provide an acceptable level of amenity for future occupiers contrary to policies 32 and 33 of the Horsham District Planning Framework (2015).

Refusal Reason 3
Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2021), thus the Local Planning Authority is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

Comments

The LPA considers the Delegated Report sufficient to cover to all relevant matters and refers the Inspector to this in the first instance. As always, applications are dealt with on a case by case basis and our planning judgement is that this proposal is not justified or acceptable. There are a few additional points to mention below.

Since this application has been refused DC/23/1625 has been allowed at appeal.
DC/23/1020 Erection of two stable blocks and hardstanding' has been approved.

The appellants statement mentions that there has been delay, indecision and confusion over the application at Delspride. I agree that the application site and surroundings is complicated, with the

site being divided into separate lots and people moving onto the site to live before any planning permission to do so has been granted. The LPA has a duty to assess planning applications and Prior Approvals that are submitted to them. If the desire was for a masterplan or site allocation for the wider site, then the site should have been put forward within the Local Plan process and this could have been considered through the SHLAA and site allocations process.

DC/23/1625 was allowed at appeal for 'Prior Notification for Change of Use of Agricultural Building to a single dwellinghouse'. It appears that the appellants justification for the mobile home on site is to bridge the gap between now and when/ if the chicken shed is converted to residential. However the LPA consider that the Prior Approval being allowed at appeal is not enough to justify living on site until the conversion is occupiable for the following reasons:

Development granted under the General Permitted Development Order (GPDO) must still demonstrate water neutrality. S.3 of the GPDO states that planning permission is granted by the GPDO only where the provisions of the Order and s.75-78 of the Habitat Regulations have been complied with. S.75-78 of the Habitats Regulations sets out a strict process to be followed for development otherwise granted by the GPDO where that development would result in an impact on a habitats site. If development granted by the GPDO will generate water consumption, it will not be lawful permitted development unless and until the process contained within s.75-78 of the Habitat Regulations has concluded no adverse impact on the Arun Valley sites will occur.

In these situations, our current approach is to grant applications for Prior Approval and Prior Notification as normal based on the relevant GPDO criteria, however our decision notices will refer to the need to separately comply with the Habitat Regulations in order to be lawful. This was also stated in the planning Inspectors Decision Notice. Any such development will therefore not benefit from permitted development until an application to the Council under s.77 of the Habitats Regulations has been made and has been determined positively.

The Inspector also acknowledges that Article 3(1) of the GPDO and Regulations 75 to 78 of the Habitats Regulations mean that development that is permitted by the GPDO and would affect a European site cannot be lawfully begun until the developer has received written notification from the local planning authority to the effect that the development would have no adverse effect on the integrity of the European site. The LPA has not received this information under Regulation 77 and has not issued this notification.

The pre-commencement condition attached to DC/23/1625 concerning contamination has not been discharged and no discharge application has been received.

It is therefore our opinion that if a temporary permission were to be granted for a mobile home on the site, it should only be when the development scheme has been demonstrated as genuinely deliverable within the timeframe. It is unclear what mechanism could be used to tie the temporary mobile home to the prior approval in the absence of a legal agreement.

There is provision for stationing a caravan on land under the Caravan Sites and Control of Development Act 1960 as Permitted Development on building and engineering sites where…

Subject to the provisions of paragraph 13 of this Schedule, a site license shall not be required for the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations.

However, at this stage there is nobody currently employed in carrying out the building works on the site. Therefore, the mobile home cannot be considered as falling within the relevant class of "Permitted Development" at this stage. However, this may be a more appropriate route in the future, but at present there does not appear to be any change in the justification to station a mobile home on site, as set out in reason 1 of the refusal.

It should also be noted that an Enforcement Notice has been issued at the site 12.09.2023 that states:

Without planning permission, change of use of the Land from agriculture to a mixed use of agriculture and the stationing of a mobile home (in the approximate position shown hatched orange on the attached plan) for the purposes of human habitation together with the associated operational development comprising the installation of a septic tank (in the approximate position shown hatched brown on the attached plan) and the storage of motor vehicles, a touring caravan and building materials unrelated to the agricultural use of the Land

The LPA stand by the refusal reasons and do not consider that either reason 1 or reason 3 have been addressed. However if the Inspector was minded to allow the appeal, recommended conditions are listed below.

Yours sincerely,

Kate Turner
Senior Planning Officer

List of Suggested Conditions

{\b Regulatory (Time) Condition}: The mobile home hereby permitted shall be removed from the site on or before 3 years from the date of this permission, or on occupation of the conversion with prior approval under DC/23/2038 (whichever is first) and the land shall be restored to its previous condition or in accordance with an approved permission.

Reason: The proposed development is not considered satisfactory as a permanent measure in accordance with Policy 33 of the Horsham District Planning Framework (2015).