



The Planning Inspectorate

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Head of Development Control
Horsham District Council
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West Sussex
RH12 1RL

Your Ref: DC/21/0748
Our Ref: APP/Z3825/W/21/3288070

14 February 2023

Dear Head of Development Control,

Town and Country Planning Act 1990
Appeal by Dunmoore Group
Site Address: Land to the south of Hilland Farm, Stane Street, Billingshurst,
West Sussex, RH14 9HN

I enclose a copy of our Inspector's decision on the above appeal(s).

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Neale Oliver

Neale Oliver

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Appeal Decision

Hearing held on 29 and 30 November 2022

Site visit made on 30 November 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/Z3825/W/21/3288070

Land to the south of Hilland Farm, Stane Street, Billingshurst RH14 9HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Dunmoore Group against the decision of Horsham District Council.
 - The application Ref DC/21/0748, dated 18 May 2021, was refused by notice dated 24 September 2021.
 - The development proposed is the development of up to 9,825 sq m of Class E (Industrial Processes), B2 and B8 floorspace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have changed the description of development to remove the references to the outline nature of the proposal, which could instead be controlled by condition. This was agreed by the main parties at the hearing.
3. The appeal is for outline planning permission with all matters reserved except for access. It has been agreed that the following drawings are the formal drawing set for the appeal: D-101-TP2-LP-01, 01B, and 02B. In addition, an illustrative masterplan and building heights plan have been submitted. I have taken account of these as appropriate throughout my Decision, whilst acknowledging their indicative status.
4. The appellant is also the owner of the Billingshurst Trade and Business Park (BTBP). This lies to the north of the appeal site. Phases 1 and 2 of the BTBP have already received planning permission and are partly occupied, partly under-construction, and partly awaiting construction. The appeal proposal would, in effect, be Phase 3 of the BTBP and would be accessed through Phases 1 and 2. I have taken account of this as appropriate throughout my Decision.
5. The Council has postponed publication of the latest version of its emerging Local Plan. The timetable for adoption of the Local Plan is therefore uncertain and it is highly likely that when it is released it will have been modified, perhaps significantly, from the previously released version in 2020. The emerging Local Plan therefore has very limited weight.
6. A signed Unilateral Undertaking, dated 16 November 2022 (the UU), has been submitted. This secures a payment towards the monitoring of the proposed

Travel Plan. The Travel Plan is required towards mitigation of the effect of the proposal on the transport network and to reduce carbon emissions. I am satisfied that the provision of the UU would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken it into account.

7. The Sussex North Water Supply Zone (SNWSZ) lies in the District. This is a zone linked to the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar. The SNWSZ relies on groundwater abstraction which cannot, with certainty, take place without adverse effect on the integrity of these sites. This has been confirmed by Natural England and is accepted by the main parties. In practice, this means that most proposals within the SNWSZ must be 'water neutral' and supply all their own water requirements, otherwise they would have likely significant effects on the integrity of the sites. I consider this as appropriate throughout my Decision.
8. Submissions were received during and after the hearing, as set out in Annex B. I am satisfied that the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the additional documents.

Main Issues

9. The main issues are:
 - the effect of the proposal on the character and appearance of the area, with regard to landscape character;
 - whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance; and,
 - whether or not there is a need for the type of employment floorspace proposed by the appeal scheme.

Reasons

Character and appearance

10. The appeal site is a field. It is pleasant but unremarkable. There are two lines of oak trees to the northern boundary and a small clump of further oak trees to the south east corner. Two of these trees are 'category A', the others are 'category B'. Substantial electricity pylons run through the appeal site along the south-west boundary. There is also a mobile phone mast to the western boundary, sitting in a small clump of existing trees.
11. The appeal site is a relatively small field of irregular shape and forms part of a wider pattern of relatively small, irregularly shaped fields in the area, leading south and east away from the appeal site and Billingshurst. This is interspersed, at regular intervals, with wooded areas and substantial tree-lined hedgerows, which foreshorten and limit views from the site over the countryside. Beyond Billingshurst the hills of the South Downs National Park (SDNP) are visible, albeit at a significant distance.

12. The appeal site is heavily influenced by urbanising features. Within the site are the pylons and mobile phone mast. To the north is Phases 1 and 2 of the BTBP. This is partly constructed and occupied and partly under-construction and comprises a number of fairly substantial commercial buildings with associated access roads and car parking. It sits at a lower elevation than the appeal site. To the south and west is a road and on the opposite side residential development, marking the current boundary of Billingshurst. The appeal site is visible from the residential properties to the south and west, from users of the BTBP, from drivers along the road to the south west, and also from a Public Right of Way (PRoW) which runs along the eastern boundary of the site.
13. It is proposed to construct four relatively substantial commercial buildings with associated access roads and car parking. Most of the trees to the northern boundary would be felled, although the 'category A' tree would be retained. The group of trees to the south east corner would be retained. Substantial new tree planting is proposed to the eastern boundary and a green corridor would be retained underneath the pylons along the south west boundary. The provision and detail of these elements could be controlled by condition.
14. The proposal is in outline with all matters reserved apart from access. However, the proposal would be an extension to the existing BTBP and the appearance of the proposed buildings would therefore likely be similar to those already built or under-construction in Phases 1 and 2 of the BTBP. This could be controlled by future reserved matters and/or condition discharge submissions.
15. The proposal would urbanise a currently open field. It would be relatively prominent because it is on an elevated piece of land compared to its immediate surroundings. It would be more visible than the existing BTBP, particularly to the residents to the south west, both due to this higher elevation and because it would be closer to them. However, this would still be appreciated in the context of the existing BTBP, which is visible to the residents of those properties. The scale of the proposal would be appropriate, as it would act as an extension to the existing BTBP, with similarly sized commercial buildings, and a relatively modest expansion to the overall size of the BTBP. The proposal would also sit behind the tall and prominent electricity pylons running along the south west boundary. The proposed green corridor would run underneath and in front of these pylons which would partially mitigate the visual effect of the proposed buildings.
16. The proposal would also introduce substantial built form adjacent to the PRoW. However, the proposed planting to the eastern boundary would significantly reduce the negative effect of the built form on users of the PRoW. In addition, the most attractive of the existing views from the PRoW are to the east, being the long distance views over the wooded countryside. The existing views over the appeal site are already truncated and influenced by Phases 1 and 2 of the BTBP, the existing road, and the electricity pylons.
17. Overall, the proposal would constitute relatively substantial built form on an open, undeveloped relatively small and irregularly shaped field, which is one of the key characteristics of the area. However, the proposed development would be appreciated in the context of the existing urbanising influences, in particular the existing BTBP, the pylons, and the road and new residential development. Reserved matters and condition discharge submissions could control the detail

of the design, location and height of the proposed buildings, as well as the proposed landscaping and other mitigatory features. Consequently, the proposal would only result in limited harm to the character and appearance of the appeal site and the surrounding area, including to landscape character.

18. Nevertheless, although limited, there would be some harm and the proposal therefore fails to comply with Policy 25 of the Horsham District Planning Framework (excluding South Downs National Park) 2015 (the HDPF) which seeks to protect landscape character. It fails to comply with Policy 26 of the HDPF in so far as it relates to rural and landscape character, and scale appropriate to its character and location. It fails to comply with Policy 31 of the HDPF because it would result in the loss of green infrastructure through the development of the existing field. Lastly, the proposal fails to comply with Policies 32 and 33 of the HDPF insofar as they require high quality design.
19. Within Billingshurst, to the south west, is St Mary's Church, a grade I Listed building. The church sits on a hill and views of the church, and in particular its spire, are protected by Policy BILL 17 of The Billingshurst Parish Neighbourhood Plan 2019-2031, Referendum Version May 2021 (the NP). There is ambiguity in the character and appearance reason for refusal because although views toward the church are explicitly mentioned as being harmed, there is no heritage related reason for refusal and nor has such a case been advanced by the Council through the appeal. In any event, the proposal would not affect the setting of the church because it is sufficiently distant so that the church cannot be appreciated within the historic core of Billingshurst. In addition, although the proposal would partially block views of the spire from parts of the PRoW, the spire can only be appreciated in the context of significant intervening built form at present. The proposal therefore complies with Policy BILL 17 of the NP.
20. Similarly, although views from the PRoW towards the SDNP are explicitly mentioned in the reason for refusal, no case has been advanced by the Council that there would be harm to the setting of the SDNP. Given the significant distance to the SDNP and the relatively small scale of the proposal in the context of that distance, I agree that there would be no harm to the setting of the SDNP. The proposal therefore complies with paragraph 176 of the Framework.

Principle of development

21. Policy 2 of the HDPF is a strategic policy for development in the District. Part 5 of the policy supports an appropriate scale of development which retains the existing settlement pattern. The proposal is for a relatively modest extension to an existing trade park on the edge of the identified Small Town of Billingshurst, which is second in the hierarchy of settlements below only Horsham, as set out in Policy 3 of the HDPF. The proposal would therefore comply with this element of the policy. Part 6 requires development around the edges of existing settlements to be managed so as to prevent the merging of settlements and to protect the rural character and landscape. There would be no merging of settlements as a result of the proposal, either physically or perceptually. However, as established above, the proposal would result in some harm, albeit limited, to the rural character and landscape of the site and area. It therefore fails to comply with this element of the policy. Part 8 encourages the reusing of previously developed land. The proposal would introduce built form onto a

currently open field and would fail to comply with this element of the policy. The proposal therefore fails to comply with Policy 2 of the HDPF.

22. Policy 4 of the HDPF relates to the expansion of settlements and supports proposals that meet all of five different criteria. In this regard, the appeal site is not allocated for development and conflicts with the development strategy for the District, as set out above. The appeal site is not contained within an existing defensible boundary because it is on an open field with an open boundary to the countryside beyond to the east. The proposal therefore fails to comply with Policy 4 of the HDPF.
23. The appeal site lies outside of the defined built-up area of Billingshurst. It is an open field. It is proposed to construct commercial buildings. Policy 10 of the HDPF supports the principle of economic development that maintains the quality and character of the area in such locations, but only for rural economic development, such as farming based enterprises. Insofar as it relates to the principle of development, Policy 26 of the HDPF states that, outside the built-up area boundaries, any proposal must be essential to its countryside location. A number of appropriate development types are listed, none of which are trade park-style commercial development. Policy Bill 1 of the NP directs development to within the defined built-up area apart from a number of exceptions, none of which apply to the proposed development.
24. The proposal therefore fails to comply with any of the Development Plan policies that relate to development outside of the defined built-up area and the appeal site would not be an appropriate location for development of this type.

Need for employment floorspace

25. The proposal is for 9,825 sq m of Class E (Industrial Processes), B2 and B8 floorspace. Use Class E was formerly Use Classes B1a, B1b and B1c, of which Use Class B1c was for 'light industrial' floorspace and relates to the proposed Class E (Industrial Processes) use.
26. Lichfields has produced two Economic Growth Assessments (EGAs), the first in January 2020 covering Crawley Borough Council, Horsham District Council, Mid Sussex District Council, and the second in November 2020 focussed solely on Horsham District (the Horsham EGA). Both EGA's are based on economic forecasts from Oxford Economics from the last quarter of 2018, past trends and how they might change in the future, and estimates of the future growth of labour supply calculations, ie housing delivery, based on 920 dwellings per annum (dpa) for the period 2019 to 2036. The Horsham EGA, as well as being focussed on Horsham, also starts to factor in the effect of the political and societal changes related to the response to Covid-19, including updated data from Oxford Economics, as well as the revised emerging Local Plan period of 2019-2037.
27. The data provided on employment floorspace requirements in both EGAs lacks precision. Three different methodologies for measuring the need are provided resulting in vastly different conclusions for the required floorspace. Baseline job growth equates to a requirement for all employment floorspace of 13,300 sq m whereas past development rates indicates 179,240 sq m. In addition, a breakdown to show the requirements of just Use Classes E (Industrial Processes), B2 and B8 is not provided, creating further uncertainty. However, the Horsham EGA does provide two important conclusions. Firstly, that even

using the scenario with the highest requirement, a surplus of 36,056 sq m of employment floorspace is predicted. Secondly, that the majority of employment job growth is likely to be in the office sector, with Class E (Industrial Processes) predicted to decline and Class B8 predicted to increase but by a lesser amount.

28. The appellant has criticised the methodology in the Horsham EGA, in particular regarding the correct job creation per sq m of floorspace and the need to allow for a vacancy rate of 10% within current stock. Applying the appellant's suggested changes would reduce the floorspace requirement from c.182,000 sq m to c.131,000 sq m. However, the Council has used a mid-point of the floorspace to job creation ratios that apply for the relevant use classes, which I consider to be a robust approach. The Council has also provided evidence to justify not adopting a blanket vacancy rate deduction for existing employment floorspace, albeit this indicates that the current occupancy rate is 90%, which is in accordance with the 10% vacancy rate suggested by the appellant.
29. Alternative scenarios are presented by both main parties based on either 1,200 dpa or 1,400 dpa housing delivery. However, the District is facing significant problems with future housing delivery because of the requirement to demonstrate 'water neutrality' within the SNWSZ. Achieving these higher housing delivery scenarios is therefore highly unlikely and I place very limited weight on them.
30. The above conclusions factor in supply from various sites, some of which are disputed by the appellant. I assess these below:
- Nowhurst Business Park, c.25,000 sq m of mixed employment use – this has not been built and its original planning permission has lapsed. However, an identical resubmission has been made and is due to be determined shortly and there is no reason to believe it will not be approved. It is unclear if the development will be built, given the original permission lapsed, but the resubmission provides some indication that it might be;
 - Land at Brinsbury College/Brinsbury Fields, c.16,000 sq m of mixed employment use – this has not been built and no substantive evidence either way has been provided regarding likely imminent construction;
 - Land north of Hilland Farm, c.19,000 sq m of mixed employment use - this is Phases 1 and 2 of the BTBP. c.5,000 sq m has been built and further units have been provided. However, the newer units are more focussed on retail than business use, being a petrol filling station, café, and potential new supermarket. c.13,000 sq m of the employment floorspace of the original consents is yet to be built. Overall, the BTBP is an active and expanding trade park and does provide significant employment floorspace. However, the more recent consents and construction indicate a shift towards a more retail-style provision; and,
 - Land southwest of Platts roundabout, c.4,500 sq m of mixed employment use – this has not been built and its original planning permission has lapsed. However, a resubmission has been made and is due to be determined shortly and there is no reason to believe it will not be approved. It is unclear if the development will be built, given the original permission lapsed, but the resubmission provides some indication that it might be.

31. The planning permissions for large employment sites are not routinely being converted into built development and/or are changing to become more retail in character if built. In addition, the appellant discounts the delivery of a number of the smaller sites in the EGA. However, the Council has provided detailed background to its calculations for the small sites, and their methodology is robust and consistent. It is therefore difficult to come to definitive conclusions on the delivery of employment sites in the District. However, due to the status of the large sites, a qualitative judgement must be made that I cannot rely on the full supply that is used in the Horsham EGA, and this must inform consideration of the overall need for new employment floorspace.
32. Overall, the quantitative and qualitative picture is opaque. A recent, robust EGA exists for the District which concludes there is a surplus of employment floorspace. However, relatively small changes in methodology or assumptions make significant changes to the employment need position, particularly when forecasting towards the end of the Local Plan period. Delivery, particularly of larger sites, is also unclear. Nevertheless, there is a strong recent track record of employment floorspace being granted planning permission. All of the large sites may not yet be delivering but they are mostly the subject of active planning applications and their future construction is plausible. Importantly, the Development Plan policies, in combination, are clear on directing new employment development to sites within the built-up area. The appeal proposal is on an unallocated site outside of the built-up area. In this context, I would expect to see compelling evidence that there is a need for the proposed employment floorspace, and this is not before me, because of the uncertainties and conclusions I have set out above.
33. It has not therefore been demonstrated that there is a need for the employment floorspace proposed and the proposal fails to comply with Policy 4 of the HDPF, which states that employment development outside the built-up areas must meet identified employment needs and Policy 7 of the HDPF, which states that additional employment areas must meet the need for new business activity.

Other Matters

34. Two letters of objection have been submitted, raising various concerns, which have largely been assessed above. One of the letters also raised concern regarding unacceptable traffic congestion as a result of the proposed development. I have taken this factor into consideration. However, it is not in dispute between the main parties and no substantiated evidence has been submitted that leads me to any different view.

Planning Balance

35. It is common ground, and I agree, that the caveats in paragraph 11di of the Framework are not relevant to this appeal. Therefore, as set out in paragraph 11d of the Framework, where the policies most important for determining a planning application are out-of-date the 'tilted balance' of paragraph 11dii should be engaged.
36. For employment development, when policies should be considered as out-of-date is not explicitly defined in the Framework. However, the HDPF was adopted with a proviso that it be reviewed within three years, as set out at paragraph 3.27. An emerging Local Plan is in production but has been delayed

by the Council with no clear timetable for the next consultation and eventual adoption. Putting these factors together, I assess that the policies of the HDPF that relate to the location of employment development and the spatial strategy are out-of-date. These are Policies 2, 4, 7, 10 and 26 of the HDPF. The 'tilted balance' is therefore engaged. These policies relate to two of the main issues and are therefore part of the policies most important for determining the appeal.

37. I have found the proposal conflicts with the Development Plan, specifically Policies 2, 4, 10 and 26 of the HDPF and BILL 1 of the NP, because it is for a type of development that is inappropriate on an unallocated, greenfield site, outside of the defined built-up area of Billingshurst. It has also not been demonstrated that there is a need for the type of employment floorspace proposed. The proposal therefore also fails to comply with Policies 4 and 7 of the HDPF. I acknowledge that these policies are out-of-date. However, that it has not been demonstrated that there is a need for the proposed floorspace is an important factor. Without this justification, I still place significant negative weight on the location of the appeal site on a greenfield site outside of the defined built-up area.
38. There would be limited harm to the character and appearance of the area, particularly with regard to landscape character and the proposal fails to comply with Policies 25, 26, 31, 32 and 33 of the HDPF and BILL 17 of the NP. The policies in relation to character and appearance are not directly affected by the expectation of a review of the Local Plan and they are consistent with the Framework in promoting high quality design. They are not out-of-date and I place moderate negative weight on this factor.
39. The proposal would create temporary jobs and inward investment during construction. It would then provide substantial employment opportunities in operation, calculated to be 190 full-time equivalent positions. A range of employment opportunities would be created. As directed by paragraph 81 of the Framework, and because of the clear inherent economic benefits of the proposal, I place significant positive weight on these economic benefits.
40. The proposal would result in a biodiversity net gain. Although there would be some trees lost, new native hedgerow, planting, and trees are proposed. This could be secured by condition and at reserved matters stages. I place moderate positive weight on these biodiversity and environmental enhancements.
41. As set out in section 38(6) of the Planning and Compulsory Purchase Act 2004, a planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraphs 12 and 47 of the Framework reflect this requirement. The Framework is an important material consideration and the 'tilted balance' is engaged. However, the significant harm from the lack of demonstration of economic need and conflict with the spatial strategy, and moderate harm from the harm to the character and appearance of the area, in combination, would significantly and demonstrably outweigh the benefits of the proposal, even allowing for the significant economic benefits and the moderate environmental benefits. I am particularly conscious of paragraph 15 of the Framework and that the planning system should be genuinely plan-led. A wider review of the approach of the

Council to development outside the built-up area should come through the emerging Local Plan process.

Appropriate Assessment

42. The site falls within the Impact Risk Zone of The Mens SAC and Ebernoe Common SAC. It also falls within the SNWSZ where 'water neutrality' is required to demonstrate that the integrity of the Arun Valley SPA, SAC and Ramsar sites would not be harmed. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken an AA. These factors therefore weigh neutrally in the planning balance.

Conclusion

43. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Richard Ground KC
Roger Welchman MRTPI
Simon Ward MRICS
Thomas Souto MRICS
Alex Marshall CEng MCIBSE
Michael Joffe CMLI

Cornerstone Barristers
Associate, Armstrong Rigg Planning
Founding Director, Propertonomics Limited
Managing Director, Dunmore Group
Development Director, Dunmore Group
Associate, Davies Landscape Architects

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Porter MRTPI

Senior Planning Officer, Horsham District Council
(HDC)

Adrian Smith MRTPI
Rebecca Fry MRTPI
Ines Watson CLMI

Major Applications Team Leader, HDC
Senior Planning Policy Officer, HDC
Landscape Architect, HDC

ANNEX B: DOCUMENTS

- 1 Council of the City of Newcastle Upon Tyne v SSLUHC[2022] EWHC 2752 (Admin)
- 2 Closing Statement Billingshurst Trade and Business Park, by Richard Ground KC, dated 30 November 2022