Statement of the Local Planning Authority

PLANNING INSPECTORATE REFERENCE: APP/Z3825/W/24/3355568

LOCAL PLANNING AUTHORITY REFERENCE: DC/24/0180

Town and Country Planning Act 1990

Planning appeal by **Habin Limited** at:

Ford Farm, Ford Lane, Ashurst, West Sussex, BN44 3AT

Appeal to be determined by an Inspector appointed by the Secretary of State by way of the **Written Representation** procedure.

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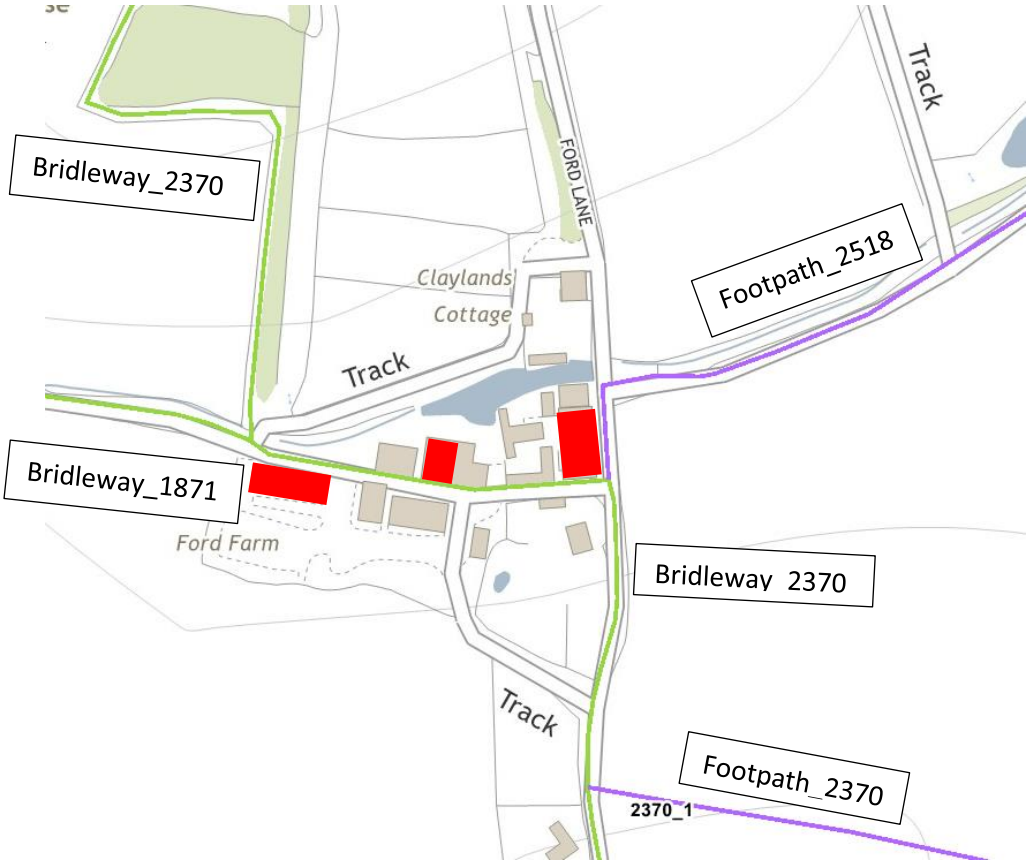
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1. The Appeal Site

1.1 The appeal site is located in a rural location, outside of a defined built-up area boundary, and forms a cluster of farm buildings and dwellings which line up along farm tracks and Public Rights of Way, comprising both footpaths and bridleways (see map below).



Appeal site (red) in relation to the PRoW

1.2 As recognised in the delegated report, a number of these farm buildings are no longer necessary to support the agricultural holding, on account of the changing nature of agricultural activities taking place within the wider land holding.

1.3 The Council also recognises that the three buildings, subject to the planning appeal, are currently in use for non-agricultural purposes, but have not been subject to any formal consent, or CLEUD application to confirm lawful alternative uses.

The Appeal Proposal

1.4 The appeal proposal was submitted in early 2024 and sought formal (retrospective) planning permission for the conversion of three former agricultural buildings, which are currently in non-agricultural use.

1.5 The formal use being sought under the appeal is for B8 (storage / distribution) use.

1.6 The Council acknowledges that farming practices have changed at the wider appeal landholding, particularly where there is an increased emphasis on biodiversity enhancements across the former productive land parcels, and where part of the lands have since been repurposed for a temporary period as a solar farm. There are therefore buildings which are robust in their structure, and which offer viable alternative non-farming storage uses. The delegated report addresses the local planning policies which support appropriate rural economic development and farm diversification.

1.7 Also acknowledged in the delegated report is the proximity between the appeal buildings and neighbouring residential uses, as well as the public amenity of the Public Rights of Way, concluding that suitable planning conditions could be utilised to ensure no adverse harm to neighbour or public amenities occurs.

1.8 The case was fully considered and assessed against the relevant local plan, neighbourhood plan, and the national planning policies (NPPF 2023), and refused under delegated authority on 14th August 2024 for the following single reason:

1 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).

Refusal Reason:

"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).

1.9 The Council received a Position Statement in September 2021 from Natural England setting out a localised issue of severe water stress, affecting the Sussex North Water Resource Zone, and covering the districts of Horsham, Crawley and Chichester. As a consequence of the Position Statement, all new development from that date must demonstrate a water neutral position, and ensure that there is no increase in water abstraction within the Sussex North Water Resource Zone. In the event that a development leads to an increased water demand, then suitable offsetting measures must be demonstrated and secured.

1.10 The Council acknowledges that a water neutrality statement was submitted with the appeal case, setting out that only one wash hand basin is located on one of the appeal buildings (Building A).

1.11 The submitted water neutrality statement was therefore based on the assumption of the following:

1) *That the farm would have used more water than the 'few cups of tea and coffee or hand washing' by way of the appeal proposal, stating that some 47acres (19ha) of agricultural land has been taken out of cereal crop production, which would have involved spraying for weeds and with pesticides each year, resulting in a high water use.*

2) *That there is an infrequency of visitors and no demand for water at the appeal site.*

3) *Being retrospective in nature.*

4) *Able to demonstrate a water neutral position on account of the preceding.*

1.12 As noted in the delegated report, the change in farming practices and agricultural activities at the wider farm holding occurred significantly prior to the Position Statement being issued, and no water bills have been provided to demonstrate what the existing water demand has been within the three appeal buildings over any preceding period of time, thus failing to establish an existing baseline water use within the appeal site.

1.13 Given that the appeal proposal seeks formal B8 use of the three buildings, the Council has made a robust assessment on potential water demand, considering that, if granted, the B8 (storage and distribution) use of the appeal site, amounting to some 1,280sq.m of floorspace across three buildings, could lead to an employment density of between 14-19 staff, based on the Homes & Communities Agency Employment Density Guide (2015) which uses a ratio of 70-95sq.m / employee across various B8 storage uses.

1.14 In terms of likely water use, the Council considers a daily figure of 50 l/p/d to be commensurate for such employment uses, leading to an overall expectation of 700 – 950 l/d within the appeal site.

1.15 However, as part of the appeal application, no baseline water demand was advanced, and no calculations provided on the likely water demand arising by way of any formalised use of the buildings to B8 (storage and distribution) use. The Council has therefore not been able to conclude with any degree of certainty, that the change of use would not result in a Likely Significant Effect on a designated habitats site, as required by regulation 63 of the Habitats Regulations 2017, over and above any demonstrated baseline.

2 Conclusion

2.1 The Council acknowledges the appellant's statement that the three appeal buildings have been in B8 / storage use for a period of time preceding the appeal application, and that a CLEUD might be the next course of action. In the event that a CLEUD is submitted, then the Council will consider the accompanying evidence in due course and determine any such CLEUD application accordingly. However, as part of the appeal application for full planning permission, the Council was not asked to provide a view on whether the existing B8 / storage uses of the appeal building were lawful by virtue of the elapse of a period of time.

2.2 Notwithstanding that the buildings may have been in use for non-agricultural uses for a number of years preceding the submission of the planning application in early 2024, the Council contends that it has been provided with no evidence of any baseline water use, thus providing the level of certainty required by the Habitats Regulations, that any subsequently approved uses would not lead to any increased water use over and above any evidence pre-existing baseline.

2.3 Furthermore, as the Council has been asked to formally consider the conversion of the building for B8 employment uses, it must consider the implications that arise by way of the proposed employment use, such as ensuring sufficient car parking and delivery space exists to serve any prospective B8 user(s), with highways data using averages upon which to assess likely car parking demand and vehicular movements.

2.4 Similar assessments are therefore now also applied to the likely water demand arising by way of a proposed B8 employment use, whereby the Homes & Communities Agency Employment Density Guide (2015) is used to calculate potential employees generated by any particular employment use, from which a robust likely water demand can then be derived.

2.5 Whilst the Council notes that the existing situation at the appeal site may be such that minimal water use is occurring, it must consider that a reasonable future requirement for any B8 employment floorspace extends to staff welfare facilities, such as WCs and basic hygiene facilities, whether these are shared between all buildings or installed in each unit.

2.6 Lastly, the Council notes that the lawful use of the agricultural holding is indeed agricultural farming, be that arable or pastoral. As such, there are no restrictions in place on the land should there be a desire in the future to restart any form of agricultural use, or to re-intensify the former land uses. The Council could only restrict activities or water uses across the appellant's wider land holding, in the event that these were being offered up as part of off-site off-setting measures necessary to achieve a water neutral position by way of any proposed development. Such measures would need to be evidenced and secured in perpetuity by way of a legal agreement, restricting uses or activities, in order to offset the likely water demand created by way of the appeal proposal. In this instance, the Council notes that the agricultural diversification across the wider land holding began prior to the Position Statement in 2021, and has not been calculated in any way as part of the current appeal proposal's water neutrality position.

2.7 The Inspector is therefore invited to dismiss this appeal.

3. Suggested Conditions

In the event that the Inspector is minded to allow the appeal, the following conditions are suggested, noting that to date, no details have been made available to demonstrate a suitable and viable water neutral position can be achieved, or the mechanisms to be implemented to achieve a water neutral position:

1 Plans list

2 Within 3 months of the date of this permission, a plan showing the layout of the site and the provision of car, vehicle and cycle parking facilities, along with all turning space necessary, for the users of, and visitors to, the approved development, shall be submitted to and approved in writing by the Local Planning Authority, along with a timetable for their formation / demarcation. The approved car, vehicle and cycle parking facilities, and necessary turning space, shall thereafter be retained for use at all times.

3 Within 3 months of the date of this permission, details for the provision and storage of refuse and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority along with a timetable for their formation. These facilities shall thereafter be retained for use at all times.

4 No internally and/or externally located plant, machinery equipment or building services plant shall be without the prior written approval of the Local Planning Authority. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

5 No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

6 The units are only to be accessed or in operation between the hours of 07:00 - 23:00 hours Monday to Fridays, 08:00 – 16:00 Saturdays, and no activity on Sundays and Public / Bank Holidays.

7 No produce, products, crates, packing materials or waste shall be stacked or stored within the site area without express planning consent from the Local Planning Authority first being obtained.

8 No steel stockholding or heavy plant hire shall take place without express planning consent from the Local Planning Authority first being obtained.

9 No activities other than loading or unloading shall be undertaken in the open air, or shall take place without express planning consent from the Local Planning Authority first being obtained.

10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), and the Town and Country Planning (Use Classes) Order 1987 (as amended), the premises hereby permitted shall be used for B8 storage purposes only, and shall not include trade counters, and

for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and/or any Order revoking and/or reenacting that Order) no development falling within Class H of Part 7 of Schedule 2 of the order shall be erected, constructed or placed within the curtilage(s) of the development hereby permitted without express planning consent from the Local Planning Authority first being obtained.