Planning Inspectorate

Appeal Decision

Site visit made on 29 January 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/Z3825/W/24/3350540
Fairmead, Lyons Road, Slinfold, West Sussex RH13 0QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr and Mrs Hedger against the decision of Horsham District Council.
- The application Ref is DC/24/0524.
- The development proposed is erection of new dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in outline with access to be considered and being taken from an existing access point. Matters relating to appearance, landscaping, layout and scale would be considered at the reserved matters stage. I have therefore considered the submitted layout plan as indicative only.

3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the main parties on this and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers in this decision.

4. The application form states that the proposal is for a self-build dwelling and so would be exempt from the mandatory requirements for biodiversity net gain. It is necessary for me to consider this as a main issue and I have sought further comments from the parties on this matter.

Main Issues

5. The main issues are:

   - whether the site is a suitable location for the proposed development with respect to the spatial strategy; and
   - whether the proposal would make appropriate provision for biodiversity net gain.

Reasons

Suitable Location

6. Horsham District Planning Framework (2015) (HDPF) Policies 2, 3 and 4 seek to direct development to within settlements with defined built-up areas or as expansions of those settlements.

7. The appeal site comprises part of the residential garden of Fairmead, a detached property set in a large garden. Lyons Road connects Slinfold and Broadbridge Heath. Along it, there are some residential properties, generally set in large gardens. It is unlit and subject to a 40mph speed limit. There is a footpath, albeit quite narrow, which connects the site to both settlements.

8. HDPF Policy 3 identifies Slinfold as a medium village and Broadbridge Heath as a small town/larger village. The site lies 1km and 0.86km from these settlements respectively. It is not in dispute that the site lies beyond any built-up area boundary, however it is also accepted that the proposal would not represent an isolated location for the purposes of the Framework.

9. HDPF Policy 26 sets out that any proposals must be essential to their countryside location and meet one of a series of criteria. It is not put forward that the site would comply with any of these.

10. I therefore conclude that the site would not be a suitable location for the proposed development with respect to the spatial strategy. It would therefore be contrary to HDPF Policies 2, 3, 4, and 26 which taken together seek to direct housing development to settlement types identified in the settlement hierarchy and protect the countryside against inappropriate development.

Biodiversity Net Gain

11. Under the statutory framework for biodiversity net gain (BNG), every grant of planning permission is deemed to have been granted, unless exempted, subject to the condition that the biodiversity gain objective is met.

12. The application form states that the proposal would be self-build. This is one of the exemptions set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 SI 2024/No.47 (the regulations). However, the regulations also provide that "self-build or custom housebuilding" has the same meaning as in section 1(A1) of the Self-build and Custom Housebuilding Act 2015. In order for the proposed dwelling to benefit from the exemption, it would be necessary to ensure compliance with that definition.

13. This is not a matter that could be secured by condition. Such a condition would not be reasonable or enforceable as it would require the person who built the house to occupy it. Compliance with the definition of self-build or custom housebuilding could only be achieved through the use of a planning obligation. There is no such obligation before me. As such, there is no mechanism to prevent the proposed dwelling from coming forward as a market dwelling.

14. The Planning Practice Guidance[1] confirms that BNG will often be a material consideration, and it should be considered, where relevant, whether the

[1] Biodiversity net gain Paragraph: 002 Reference ID: 74-002-20240214

biodiversity gain condition is capable of being discharged successfully. To this end, there are minimum national information requirements in relation to BNG which applicants must provide. As the applicant sought exemption, this information has not been provided. I therefore could not be satisfied that were the proposal to be brought forward as a market dwelling, it would be capable of complying with the biodiversity gain condition.

15. The application therefore fails to demonstrate that it would be exempt development or that the biodiversity gain condition could be met. This is contrary to the requirements of HDPF Policies 25 and 31, Schedule 7A of the Town and Country Planning Act 1990 and with paragraph 187 of the Framework insofar as it requires decisions to contribute to and enhance the natural and local environment by providing at least a 10% net gain for biodiversity.

Other Matters

16. A single dwelling would give rise to a limited number of additional trips. These could be safely accommodated by the highway network. The use of the existing access would not harm highway safety. Suitable provision for parking would be addressed at the reserved matters stage.

17. The officer report identifies a limited harm to the street scene would arise. Given the existing buildings on the site and the pattern of development along Lyons Road, I do not find that the addition of a further dwelling would in principle harm the street scene. The detail of this would be assessed at the reserved matters stage, along with the appearance of the dwelling itself and the effect on the living conditions of neighbouring properties and future occupiers. However, I have no reason to think an acceptable scheme could not be brought forward. The site is not within an area of flood risk. However, these are to be expected of any well designed development and so would be neutral in my assessment.

18. I have been directed to another appeal decision[2] within the district. However, this decision pre-dated the mandatory requirement for biodiversity net gain and so would not alter my conclusions with respect to this proposal.

19. Ashlands Farmhouse is a Grade II listed building which lies opposite Fairmead. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting. I am also mindful of the advice in the Framework that significant weight should be attached to any harm to designated heritage assets.

20. The significance of the listed building is derived from its historic fabric and its relationship to the surrounding agricultural landscape. The site, on the opposite side of the road and within the expansive garden of Fairmead, does not form part of that agricultural setting, or contribute to that relationship. Consequently, the proposal as before me, would have a neutral effect and would therefore preserve the setting of Ashlands Farmhouse.

21. The appeal site is within the Sussex North Water Supply Zone. The Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar

[2] APP/Z3825/W/22/3303603 allowed 21 August 2023

site are vulnerable to pressures arising from groundwater abstraction from this supply zone. The appellant has submitted a water neutrality statement in mitigation. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the European site and if the mitigation had been appropriately secured. However, it has not been necessary for me to pursue this issue, as a finding that the proposal would not have an adverse effect on the integrity of the habitats sites, with or without any mitigation, would be at best a neutral matter.

Planning Balance

22. It is not in dispute that the Council cannot demonstrate a five year deliverable supply of housing land and that supply would at best be 2.9 years. The results of the most recent housing delivery test show a rate of 62%. There is some uncertainty around the emerging Local Plan. In such circumstances, paragraph 11d) of the Framework is engaged. Paragraph 11d)i is not engaged with respect to heritage assets and habitats sites as these would not provide a strong reason for refusing the development proposed.

23. Consequently, paragraph 11d)ii applies. This sets out that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having regard to key policies.

24. There would be a benefit from the delivery of an additional dwelling and I attach moderate weight to this given the shortfall in housing land supply and the failure to meet the requirements of the housing delivery test. I attach limited weight to the economic benefits of the proposal given it is for one dwelling.

25. The site in itself is contrary to the locational policies of the development plan. It is a short distance from two settlements which are identified by the HDPF as having moderate or good levels of services and facilities. There is a footpath along Lyons Road and it has a 40mph speed limit and so it would be possible for those settlements to be accessed by means other than the private car. I therefore attach limited weight to this conflict. However, I cannot be certain that the proposal would be delivered as a self-build dwelling. I also cannot be certain that requirements with respect to biodiversity net gain could be achieved on site in the absence of supporting information. Consequently, I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore does not benefit from the presumption in favour of sustainable development.

Conclusion

26. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace
INSPECTOR