The Planning Inspectorate

Appeal Decision

Site visit made on 30 January 2024

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 08 March 2024

Appeal Ref: APP/Z3825/W/23/3325926
Cowfold Lodge Cottage, Henfield Road, Cowfold, West Sussex, RH13 8DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Hannah Cullimore against the decision of Horsham District Council.
- The application Ref DC/22/2250, dated 30 November 2022, was refused by notice dated 31 March 2023.
- The development proposed is construction of log cabin dwelling and access from Henfield Road.

Decision

1. The appeal is allowed and planning permission is granted for construction of log cabin dwelling and access from Henfield Road at Cowfold Lodge Cottage, Henfield Road, Cowfold, West Sussex RH13 8DU in accordance with the terms of the application, Ref DC/22/2250, and the plans submitted with it subject to the conditions in the attached schedule.

Preliminary Matters

2. The main Parties have had the opportunity of commenting on the implications of the latest revised National Planning Policy Framework (the Framework) published in December 2023. I have taken account of the comments made.

3. The Cowfold Neighbourhood Plan 2019-2031 (the emerging NP) has been successfully examined but cannot proceed to Referendum because of legal requirements in relation to water neutrality and the Habitats[1] Regulations. However, its policies align with national and local policy and it is a material consideration of some weight. The emerging new Horsham District Local Plan is at too early a stage to carry weight in this appeal.

Main Issues

4. The main issues are:

    - whether the site is an appropriate location for a dwelling taking into account the spatial strategy;
    - the effect on the character and appearance of the area;
    - the effect on protected species and habitats; and

[1] Conservation of Species and Habitats Regulations 2017 (as amended)

- whether satisfactory living conditions would be provided for future occupiers of the proposed dwelling.

Reasons

Spatial Strategy

5. Policy 2 of the Horsham District Planning Framework 2015 (the HDPF) focuses development in and around the key settlement of Horsham. Elsewhere growth can take place within defined towns and villages in accordance with the settlement hierarchy set out in Policy 3. The appeal site is some 190 metres from the built-up area boundary of Cowfold and is in the countryside for planning policy purposes.

6. Windfall sites help to meet housing needs but it is expected that the majority of these should be within settlement boundaries. The site is not allocated in the HDPF or the emerging NP. It is not isolated as it is near other dwellings, but it does not adjoin a settlement edge. In these respects, the proposal does not meet the limiting criteria of Policy 4. Nor is the proposal one for which a countryside location is essential as defined in Policy 26 of the HDPF.

7. Cowfold is a 'medium village' with a moderate level of services and facilities. The appeal site is some 800m from the village centre. There are no streetlights or footpath between the site and the built up area so walking or cycling is unlikely to be attractive especially during the winter months or inclement weather. However, there is a bus service along Henfield Road which provides some means of access to services and facilities without relying on the private vehicle so the site is not as inaccessible as some.

8. Overall, I conclude the proposal would not be a suitable location for a new dwelling in terms of the spatial strategy. There would therefore be conflict with those parts of Policies 1, 2, 3, 4 and 26 of the HDPF, Policies 9 and 10 of the emerging NP and those principles of the Framework that seek to direct development to the most sustainable locations and to protect the countryside.

Character and appearance

9. The appeal site is part of an unremarkable field adjacent to the curtilage of Cowfold Lodge Cottage and its outbuildings, including a stable block, and near to Cowfold Lodge. To the south the site is contained by a public right of way; otherwise the site is surrounded by fields.

10. Nearby buildings have no common size, style, design or materials. A single storey building would not be out of scale with other buildings. It would have a simple rectangular footprint similar to others nearby. The proposed design is typical of log cabins. Whilst not replicating details of the nearby dwellings, a timber finish would not be out of character with the adjacent stable block or other buildings in the local area. It would be set back from the road frontage and the existing trees and hedge would provide some degree of screening which would be supplemented by new planting.

11. The proposal would introduce a building where no building exists and would extend the built up area which would harm the openness of the countryside. However, the building would be low level single storey which would minimise its prominence. The appearance of the log cabin, whilst not particularly

remarkable, would not be inappropriate in this rural area close to other buildings.

12. There would be some harm to the character and appearance of the area by way of a reduction in the openness of the countryside. There would be conflict with Policies 25, 26, 32 and 33 of the HDPF in this respect. However, as the site is not isolated and the log cabin would not be unduly prominent this harm would be modest.

Protected species and habitats including an Appropriate Assessment

13. The Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site (the Arun Valley Sites) are low-lying wetland areas that offer a variety of ecological conditions for over wintering birds, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants. The appeal site is in the zone of influence of the Arun Valley sites and is in the Sussex North Water Supply Zone (SNWSZ).

14. Natural England (NE)[2] have advised that developments, alone or in combination with other developments, within the SNWSZ must not add to the impact of water abstraction on the Arun Valley Sites. As competent authority under the Habitat Regulations I must assess the effect on the Arun Valley sites.

15. The submitted Water Neutrality Report Rev P2 provides for water efficient fixtures and fittings; a water meter to track consumption and identify leakages, and a rainwater harvesting system with sufficient capacity for a 40 day drought period. With these measures the dwelling should be self-sufficient in terms of water usage with a mains water connection only for emergency use. Due to the limited water abstraction the proposal would not affect the integrity of the Arun Valley sites. NE do not object providing that the mitigation measures are appropriately secured in any planning permission given.

16. The site is semi-improved grassland with hedges and an oak tree. The appeal was accompanied by a Preliminary Ecological Assessment 2023 and Hazel Dormouse Summer Nest Search - letter of report dated September 2023. There is medium to high potential for the site to support nesting birds and foraging and commuting by mammals, [redacted] and bats and recommendations to minimise disruption are proposed. These include managing artificial lighting and the requirement for a Biodiversity Enhancements and Mitigation Plan

17. I conclude that subject to the securing of the measures proposed there would be no unacceptable harm to protected habitats or species and no conflict with the requirements of the Regulations, Policy 31 of the HDPF, Policy 2 of the emerging NP or those principles of Framework that seek to protect and enhance biodiversity.

Living conditions

18. There is a U shaped stable block a short distance away from the appeal site on land indicated as being within the ownership or control of the appellant. The stable doors face away from the proposed dwelling into the enclosed yard which is accessed from the drive between Cowfold Lodge and Cowfold Lodge Cottage.

[2] Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach (Position Statement 2021) as amended

19. There is likely to be some noise, disturbance and odour from horses using these stables which is less than ideal. This is mitigated to some extent as the stable doors face away from the proposed dwelling and the stable block would act as a shield for activities in the yard. The appellant owns the horses that use the stable block and, at least initially, is likely to occupy the proposed dwelling, although that may change. There is no indication of other agricultural activities in the vicinity that would have a harmful effect on living conditions.

20. I conclude that less than ideal living conditions would be provided for future occupiers of the proposed dwelling. There would be some conflict with Policies 32 and 33 of the HDPF and those principles of the Framework that seek to ensure a high standard of amenity for future occupiers of land and buildings.

Other Matters

21. The Highway Authority advise that an 11.8m kerbside crossover may not be acceptable at licensing stage. However, this is not considered to be a highway safety issue and can be resolved by condition.

Planning Balance

22. It is common ground that the Council cannot demonstrate a five year supply of deliverable housing land and the appellant suggests it could be as low as three years. I have seen little other evidence but see no reason to suppose there is not a substantial shortfall against the requisite five year supply. In these circumstances Paragraph 11d) of the Framework is engaged.

23. The proposed development would not be in a suitable location when judged against relevant HDPF and emerging NP policies. There would be harm to the openness of the countryside but this harm would be relatively modest and the design would not be inappropriate in a rural area. Living conditions for future occupiers would be less than ideal. The site is not close to services and facilities but there are some opportunities for travel by means other than the private car. There would be conflict with development plan Policies in these respects.

24. However, the general housing supply position is deficient. An additional dwelling would contribute towards the much needed supply of houses. Small sites can often be built-out relatively quickly and in this case the appellant intends to occupy the dwelling. There would be economic benefits arising from construction and spend in the local economy. Although these benefits are tempered by the small contribution that one house would make in the context of the current circumstances the additional dwelling would be valuable. There would be no unacceptable effects on protected species or habitats.

25. Paragraph 9 of the Framework explains that the three objectives of sustainable development are not criteria against which every decision should be judged. Rather, when Paragraph 11d) applies, the starting point is that permission should be granted. The overall adverse impacts would be significant although qualified to some extent by the small scale of the proposal. The objections identified nevertheless need to surmount a high hurdle to prevail in this balance.

26. In this case the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of an additional dwelling when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development should be applied and

Paragraph 11 d) indicates that permission should be granted. There are insufficient other material considerations to override this finding.

Conditions

27. I have considered the conditions put forward by the Council in the light of the tests in the Framework and the Planning Policy Guidance. Where necessary I have altered the wording for clarity and to meet the guidance. I have changed the water storage requirement to 40 days to reflect the evidence in the Water Neutrality Statement.

28. Compliance with the submitted plans and a time scale for implementation are necessary for certainty. Conditions 3 and 11 relating to drainage and waste and recycling facilities are necessary in the interests of health and safety. Conditions 7, 9, 16, 17 are necessary in the interests of highway and pedestrian safety and as required by the Highway Authority and Access Ranger.

29. Conditions 4, 14, 18 are necessary to safeguard and enhance the ecology and biodiversity of the area. Conditions 5, 6, 13, 15 are necessary to ensure the development is Water Neutral to avoid an adverse impact on the integrity of the Arun Valley sites.

30. Conditions 8, 10 and 12 are respectively necessary in the interests of air quality; in the interests of the character and appearance of the area; and to meet the needs for connectivity of future occupiers.

Conclusion

31. For the reasons set out above the appeal should be allowed.

S Harley

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Photographs HC/22/01; Site/Block Plan HC/22/02; Plans, Sections Elevations and Photographs HC/22/03A; Visibility Splays from Proposed Site Access 12452_100 Rev P1; Water Neutrality Report Rev P2 dated 27 January 2023.

3) No development shall commence until a drainage scheme detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and retained thereafter.

4) No development shall commence until a lighting design scheme for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging and shall show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

   All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other external lighting be installed without prior consent from the Local Planning Authority.

5) No development above ground floor slab level shall commence until a management and maintenance plan for the rainwater harvesting system has been submitted to and approved in writing by the Local Planning Authority. The management and maintenance plan shall include the following details:

   - The sampling regime and parameters etc, recognising that the sampling will need to be undertaken by a DWI certified sampler and analysed by a UKAS accredited lab.

   - Details of how any failure of any samples will be investigated and managed.

   - Details, including a plan or schematic, showing the supply – storage tanks, treatment etc, and means to record the total water consumption of the dwelling.

   - Details of the type of treatment that will be installed on the supply with information clearly indicating that it is appropriate for the amount of water being used.

   - Details on how the treatment system, pipework, tanks etc will be cleaned and maintained and who will maintain them for the lifetime of the development. This should include any re-activation of the system after it has been out of use due to lack of rainfall/use.

- The completion of and submission to the Council in writing of the Regulation 6 risk assessment by a suitably competent person (as required by the Private Water Supply (England) Regulations 2016) prior to the water supply being put into use.

- Details of how continuity of supply during dry periods extending beyond 40 days will be ensured.

- Arrangements for keeping written records of all sampling, results of analysis, inspection, cleaning, and maintenance such records to be available for inspection by the Local Planning Authority at all reasonable times.

- Details of contingency plans to ensure any failures or reported concerns with the supply are investigated and rectified as soon as possible, including timeframes. This should include notification of the investigation and corrective actions to the Local Planning Authority.

The management and maintenance plan shall be operated in full at all times. No alterations or revisions to the approved management plan shall be implemented without the prior written approval of the Local Planning Authority.

6) The development hereby permitted shall not be undertaken other than in full accordance with the measures set out in the Water Neutrality Report Rev P2 dated 27 January 2023. The dwelling hereby permitted shall not be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority demonstrating that the approved water neutrality strategy measures for the dwelling have been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, evidence they meet the required water consumption flow rates, and evidence of the installation and connection of the rainwater harvesting system and appropriate storage tanks to provide a minimum of 40 days storage capacity. The installed measures shall be retained and operated as such at all times thereafter.

7) No part of the development hereby permitted shall be occupied until the car parking spaces necessary to serve it have been constructed and made available for use in accordance with approved drawing Site/Block Plan HC/22/02 July 2022. The car parking spaces permitted shall thereafter be retained as such for their designated use.

8) No part of the development hereby permitted shall be occupied until a fast charge electric vehicle charging point for the dwelling has been installed. As a minimum, the charge point specification shall be 7kW mode 3 with type 2 connector. The means for charging electric vehicles shall be thereafter retained as such.

9) The dwelling hereby permitted shall not be occupied until the cycle storage shown on Plan Ref HC/22/02 has been provided. The cycle storage shall thereafter be retained for their designated use for the lifetime of the development.

10) No part of the development hereby permitted shall be first occupied until a scheme of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:

- Details of all existing trees and planting to be retained

- Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details

- Details of all external hard surfacing materials and finishes

- Details of all boundary treatments.

The landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of the dwelling. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed or retained planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

11) No part of the development hereby permitted shall be occupied until facilities for the storage of refuse and recycling have been provided within the side or rear garden of the dwelling. The facilities shall thereafter be retained for use at all times.

12) No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection has been provided to the premises.

13) Within 3 months of the occupation of the dwelling, evidence of the water consumption by the occupants of the dwelling shall be submitted for the approval in writing by, the Local Planning Authority. The evidence shall demonstrate whether or not there is sufficient water supply from the rainwater harvesting system to cater for the water demand with a minimum of 40 days drought storage capacity. In the event the rainwater harvesting system fails to cater for the combined water consumption and storage of the dwelling, details of how suitable rainwater supply and storage will be provided shall be submitted for the approval in writing by the Local Planning Authority alongside the above evidence. The approved details shall be installed within 1 month of the date of the Local Planning Authority's written approval. Ongoing written evidence shall be made available to the Local Planning Authority upon reasonable request.

14) The development hereby permitted shall be undertaken in strict accordance with the ecological mitigation and enhancement measures including the provision of bird boxes, bat boxes and bee bricks, set out in the Preliminary Ecological Appraisal Report June 2023 and the Hazel Dormouse Summer Nest Search - letter of report September 2023.

As a precaution, the area of potentially suitable habitat scrub (Figure 1) should be repeat checked by a dormouse licensed ecologist 24 hours prior to clearance, and then be cleared by hand. Clearance should be undertaken outside of the breeding bird season (as per PEA advice). Should dormice or evidence of this species (e.g. nests) be found then

advice must be sought from a licensed ecologist, as a license to disturb will be required from Natural England.

15) No dwelling hereby permitted shall be connected to or draw supply from the mains water supply except for emergency purposes in the event of a temporary failure of the rainwater harvesting system. Where a temporary failure has occurred, the occupiers shall immediately undertake the contingency plans set out in the management and maintenance plan agreed under condition 5 until such time as the system is fully operational. The occupiers of the dwelling shall keep an ongoing record of all water taken from the mains supply and hold written evidence to explain why it was necessary as an exceptional measure to take water from the mains supply. Such written evidence shall be made available to the Local Planning Authority upon reasonable request.

16) Notwithstanding the information shown on Plan Ref 12452_100 Rev P1, no part of the development hereby permitted shall be occupied until details of the vehicle cross over and visibility splays for the access serving the development (including details of any planting to be removed) have been submitted to and approved in writing by the Local Planning Authority. These shall include a setback distance of 2.4 metres from the edge of the carriageway. The development shall be carried out in accordance with the approved details. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.

17) A minimum width of 2.5m should be retained for the adjacent public right of way adjacent to the side of the site, which should be on stable, level ground and clear of any overhanging side vegetation and of overgrown surface vegetation.

18) No development shall commence until a Biodiversity Enhancement Strategy for Protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

    a) purpose and conservation objectives for the proposed enhancement measures;

    b) detailed designs to achieve the stated objectives;

    c) locations of proposed enhancement measures indicated appropriate maps and plans;

    d) details of persons responsible for implementing the enhancement measures and a timetable for implementation;

    e) details of initial aftercare and long-term maintenance (where relevant).

    The works shall be implemented in accordance with the approved Biodiversity Enhancement Strategy and shall be retained in that manner thereafter.

End of Schedule