The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2023

Appeal Ref: APP/Z3825/C/22/3291409
Land at Rye Island, Hollands Lane, Henfield, West Sussex BN5 9QY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Katherine Barbara Hudson against an enforcement notice issued by Horsham District Council.
- The notice, numbered EN/21/0526, was issued on 15 December 2021.
- The breach of planning control as alleged in the notice is Without planning permission, material change of use of the land and buildings from agriculture to B1(c) office use, B2 workshop use and B8 storage use and as a showroom in connection with two events businesses and change of use of the external yard area from the storage of plant and machinery to B8 storage of metal containers used in connection with the events businesses and storage of a caravan.
- The requirements of the notice are:
  (1) Permanently cease the use of the land and buildings for B1(c), B2 and B8 purposes;
  (2) Remove from the land and buildings all items and equipment associated with these uses as follows:
    (a) Remove all the furniture, props, decorations, fixtures and fittings from the display area/showroom shown in the approximate location on the attached plan.
    (b) Remove all the tents, marquees and associated fixtures and fittings from the warehouse building shown in the approximate location on the attached plan;
    (c) Remove all the desks, furniture and associated equipment from the offices shown on the approximate location on the attached plan;
    (d) Remove all the military vehicles and associated equipment from the warehouse/workshop building shown in the approximate location on the attached plan;
    (e) Remove all the metal containers, storage racks and vehicles from the outside yard shown in the approximate location on the attached plan;
    (f) Remove the caravan shown in the approximate location on the attached plan from the land.
- The period for compliance with the requirements is six months.
  The appeal is proceeding on the grounds set out in section 174(2)(a), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The site comprises a complex of former agricultural buildings arranged around a central yard, as well as a number of storage containers and a static caravan.

Planning permission[1] was granted in October 1992 to use the farmyard hardstanding for open storage for plant machinery. This was renewed in 1997[2].

3. The site provides a showroom and storage/workshop facilities for two businesses. One of the businesses provides luxury tent and marquee hire for weddings and other events. The other business provides storage for military vehicles which are also used for events and film/TV work. Both businesses have offices on site for administrative purposes. Clients and prospective customers visit by appointment. An outdoor area is used to wash and dry marquees. The appellant lives in the adjacent farmhouse. Planning permission has previously been refused for the use[3].

The appeal on ground (a) and the deemed planning application

4. The ground of appeal is that planning permission should be granted for the alleged breach of planning control. Having regard to the reasons for issuing the notice, the main issues are:

- The effects of the development on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site (European Protected Sites),
- Whether the site is suitable for the development having regard to its countryside location.

Effects on Arun Valley European Protected Sites (EPS)

5. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on an EPS, alone or in-combination with other plans or projects.

6. The appeal site falls within Sussex North Water Supply Zone. Natural England has provided substantive advice in the form of an Interim Position Statement in September 2021 and an Advice Note issued in February 2022[4] for all applications which fall within the zone. Natural England has not been able to conclude that the existing water abstraction in the Sussex North Water Supply Zone was not having an adverse impact on the integrity of the Arun Valley EPSs through reduced water levels and potential water quality impacts. Thus any development that could materially increase water consumption will need to demonstrate how the development will achieve no net increase in water consumption. This can be done through a combination of water efficiency measures and offsetting. Each project requires its own appropriate assessment as the Advice Note is not intended to prejudge the outcome of individual applications.

7. The appellant has provided a water neutrality statement. It estimates that the pre-existing site usage was 60 litres of water per day, whereas the existing site water usage is zero litres, giving a decrease in water consumption. This is on the basis that the site comprises former agricultural buildings that had been

[1] Ref HF/80/92
[2] Ref HF/81/97
[3] Ref DC/20/2135
[4] Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone: February 2022 V2

used for housing animals, feed and machinery, a stable accommodating up to 3 horses and a yard. The current use is said to consume no mains water at all as there are no toilets or wash hand basins, and all the water required for the washing down of marquees is obtained by collecting rainwater from the barn roof and stored in containers.

8. I acknowledge the Council's concern that there are ambiguities in relation to the previous use of the site, as the buildings are said to have been redundant. It is not clear whether there was a previous equestrian or agricultural use going on prior to the alleged breach of planning control taking place. Nonetheless, it seems likely that staff and visitors may require basic sanitation facilities and if these are not available on the site, I consider it likely that the facilities in the existing house would be used. This has not been quantified in terms of water consumption for either the previous use or the existing use.

9. Furthermore, it is not clear to me that sufficient rainwater can be collected and stored to enable marquees to be washed throughout the year, even at times when rainfall has been limited. I note that the Planning Officer's delegated report refers to a site visit by Environmental Health where it was noted that there was an external area to power wash marquees.

10. On this basis, and adopting the precautionary principle, I cannot be certain that the development has not resulted in an increase in the consumption of water. I am therefore unable to conclude that there would be no adverse effects on the integrity of the EPS. I can only grant permission if there are no alternative solutions or imperative reasons of overriding public interest and compensatory measures. I have not been advised that any of these circumstances apply.

11. The proposal is therefore in conflict with Policy 31 of the Horsham District Planning Framework 2015 (HDPF) insofar as it sets out the requirements for Appropriate Assessment and any necessary mitigation measures for development affecting the SPA and SAC. The development is also in conflict with the Habitats Regulations and the NPPF.

Countryside location

12. The site is in the open countryside close to the village of Henfield. Policy 2 of the HDPF sets out the strategy for development and seeks to focus development in and around the key settlements. Policy 10 encourages sustainable rural economic development and enterprise in order to generate local employment and economic, social and environmental benefits. Development in rural areas should, amongst other things, contribute to the wider rural economy. It should be contained wherever possible within suitably located buildings which are appropriate for conversion. Policies 25 and 26 seek to protect the rural character and undeveloped nature of the countryside. Any proposal should be essential to its countryside location, should be of an appropriate scale and should not lead to a significant increase in overall levels of activity in the countryside.

13. The development is largely concentrated within former agricultural buildings, with some use of storage containers and a static caravan. It is not an enterprise that requires a rural location, but it provides some limited local employment and uses local supplies and businesses wherever possible. From the information provided by the appellant, it appears that the level of traffic generated by the use is limited. I have seen no evidence that the levels of

activity are significantly higher than any previous use of the site. Although it does not accord with the requirement in Policy 26 that rural development should be essential to its countryside location, it is a form of rural economic development that is supported by Policy 10.

14. I therefore consider that the site is suitable for the development, having regard to its countryside location. It is therefore not in conflict with Policies 2, 10, 25 and 26 of the HDPF, insofar as they seek to ensure that development is appropriate to its rural location and encourages sustainable rural economic development.

Conclusion in relation to the appeal on ground (a)

15. Although I have found that the site is a suitable location for the development, adverse effects on the integrity of the Arun Valley EPS, in combination with other plans and projects, cannot be excluded. Consent can only be granted if the remaining tests in the Habitats Regulations can be met, but I have seen no evidence that this is the case. The development is therefore in conflict with the development plan as a whole.

16. For the reasons given above, the appeal on ground (a) fails and I shall refuse the deemed planning application.

The appeal on ground (g)

17. The ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The period specified in the notice is 6 months, and the appellant considers that 18 months would be reasonable. This is because of the lead in times for planning weddings, and the need to be able to meet existing commitments for bookings. However, six months is a reasonable period for the appellant to look for new premises and strikes an appropriate balance between the interests of the appellant and the need to bring the breach of planning control to an end. The appeal on ground (g) therefore fails.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

N Thomas

INSPECTOR