



Appeal Decision

Site visit made on 21 February 2024

by **Stewart Glassar BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/Z3825/W/23/3321541

Slinfold Stud, Land opposite Whitbreads Farm, Stane Street, Slinfold RH13 0RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Debbie Lax (SFB Equestrian Ltd) against the decision of Horsham District Council.
 - The application Ref is DC/22/0942.
 - The development proposed is the construction of new equestrian facilities comprising a stable building, outdoor riding arena, horse walker and car parking area. Use of existing agricultural barn for related equine purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The main parties disagree on the extent to which the proposal includes the fields adjacent to the site edged red and their use for the grazing of the horses. For the reasons set out below, I have excluded it from my consideration of the issue of 'character and appearance'.

Main Issues

3. The main issues are the effect of the proposed development on a) the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites; and b) the character and appearance of the area.

Reasons

Arun Valley SPA, SPA and Ramsar sites

4. The site is within the Sussex North Water Supply Zone (SNWSZ), where some supplies are sourced from groundwater abstraction. In September 2021 Natural England (NE) issued a Position Statement which noted that NE was unable to conclude that existing abstraction in the SNWSZ was not having a negative effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.
5. One way of ensuring that plans or projects do not contribute further to this existing adverse effect is to demonstrate water neutrality. In accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), the Council was required to undertake an Appropriate Assessment (AA) to determine whether the proposal would have an adverse effect on the protected sites. A positive outcome is required from an AA in order for a development to proceed.

6. The Council consulted NE, as the Statutory Nature Conservation Body, which is a requirement for completion of an Appropriate Assessment. Having considered the submissions and representations, including those of NE, the Council's AA concluded that it could not be certain that there would not be adverse effects from the proposal on the integrity of the protected sites. The Council was therefore unable to grant permission.
7. At the appeal stage further reports and information have been provided by the appellant, to address what the Council considered to be omissions and shortcomings in the information submitted at the application stage. Responsibility for conducting the AA has now passed to me and similarly must be undertaken prior to any decision to grant planning permission. I consulted NE for their opinion on the new information in support of the proposal.
8. NE has noted that within the Hydrogeological Assessment, the report and the conclusions contained within it have been based on a site-specific literature review, rather than on-site investigations. Furthermore, they consider it unclear as to how the abstracted water would be adequately treated, and how any measures required would be secured. The treatment of water is a matter outside of NE's remit. Nevertheless, they have concerns around the suitability of a borehole as an appropriate means of ensuring water neutrality given the current lack of supporting information demonstrating how the water will be treated to a potable standard (and therefore be suitable for offsetting the remaining future water demand).
9. The Habitat Regulations set a high bar, requiring the decision maker to be certain that there would not be a likely significant effect on the integrity of habitat and species in the protected sites from the proposal alone, or in combination with other development. Notwithstanding any other issues, the concerns highlighted above represent a significant uncertainty over a fundamental element of the appellant's approach for meeting water neutrality.
10. As a result, and based on the substantive evidence before me, I cannot be certain that the proposal would achieve and secure the necessary neutrality. Therefore, I am unable to conclude that the proposal would not be likely to adversely affect the integrity of the Arun Valley SAC, SPA or Ramsar sites.
11. As a result, the proposal would be contrary to Policy 31 of the Horsham District Planning Framework (HDPF), which, amongst other things, requires development to avoid adverse impact on sites or features for biodiversity, demonstrating any appropriate mitigation and compensation measures.
12. The proposal is also contrary to the Framework and the Habitat Regulations, insofar as they seek to protect and enhance biodiversity, including protected sites.

Character and Appearance

13. The appeal site comprises an existing field parcel, set behind other fields and largely screened by the existing woodland tree belt and field boundaries. The site itself is accessed from a single track that passes through the adjacent field to an apron which connects to the A29.
14. The proposed stables and facilities would be grouped with the existing barn, in the south eastern part of the field. Existing trees would limit views of the main structures from the A29. Furthermore, the proposed stables would in part be

screened by the existing barn and its prominence further reduced by being positioned on a lower lying part of the field. Both the distance and alignment of the access track assist in minimising views into the site from the A29.

15. Nevertheless, given the location and scale of the proposal there would be some impact upon the landscape. Furthermore, the use would increase the levels of activity at the site and entrance. However, the Council accepts that the siting and development of an equine-based rural commercial enterprise is considered to accord with the overall provisions of Policies 10, 26 and 29 of the Horsham District Planning Framework (2015), which generally seek to ensure that such proposals support rural economic development whilst protecting the character of the area.
16. A number of mitigation measures have also been advanced by the appellant's landscape consultants in support of the scheme. Although the Council considers that some further enhancements may be necessary, there is broad agreement that although there would be some impact on the wider landscape, it could be successfully mitigated. From my site visit and consideration of the evidence before me I am satisfied that whilst there would be some impact and visual intrusion from the proposal, it would not be significant upon the receiving environment and that sufficient mitigation could be achieved.
17. The land on which some of the mitigation would be required is outside of the appeal site but is nonetheless controlled by the appellant. There is nothing to indicate that the implementation of such works would be unlikely or uncertain if they were subject to a negatively worded condition.
18. Therefore, insofar as the erection of the buildings/structures and the use of the access and car park is concerned I am satisfied that the proposal would accord with Policies 25, 26, 29, 31 and 33 of the HDPF and Policy 12 of the Slinfold Neighbourhood Plan (2018). These collectively seek, amongst other things, to ensure that buildings are appropriately sited and that the character of an area is conserved and the landscape maintained.

Other Matters

19. The main parties agree that the size of the operations would necessitate grazing the horses in the appellant's fields adjacent to the appeal site. This is the land edged blue on the site plan. The appellant considers the grazing to be part and parcel of the stabling/sand school operations and that the fields are already used for the grazing of horses. Therefore, it is suggested that even though these fields are outside of the site edged red, such activity could be controlled through conditions.
20. In contrast the Council is concerned that the activities would be outside of the appeal site and have already led to the subdivision of the fields with wooden fencing. Furthermore, there is a concern that it would lead to the proliferation of additional paraphernalia such as field shelters and drinking troughs.
21. Whilst I note that these fields may currently be being used to graze horses, there is nothing before me to indicate that the lawful use of the appellant's fields surrounding the appeal site is anything other than agricultural. The grazing of horses used in connection with the stables and sand school would not be agricultural. Therefore, whether the grazing is considered to simply be part and parcel of the overall use or requires specific inclusion within the

proposed primary use, it seems to me that there would need to be a formal change of use of these adjacent fields.

22. I acknowledge that the appellant considers it obvious from the initial submission that the proposal included the use of these fields for the grazing of horses. Whilst it may be possible to infer this from reading the Planning, Design & Access Statement, grazing was not specifically included or alluded to within the description of development and perhaps more crucially the fields were not within the site edged red which indicates the extent of the appeal site.
23. Therefore, to my mind, whilst it may have been the intention to include these fields within the overall proposal, in the form currently proposed, this would not be the outcome. Whilst an Inspector can accommodate some amendments to a proposal without causing unfairness to all the relevant parties, I do not consider that such powers would extend to changing the extent of the red line and the size of the appeal site to formally include the grazing of horses on the adjacent fields. For similar reasons, a condition to achieve this would not be appropriate.
24. However, given my findings on water neutrality, even if I were able to include and consider this issue, it would not change the overall outcome of this appeal.
25. Any concerns that the appellant may have in how the Council handled this aspect of the planning application, and the consistency regarding such matters generally, would be an administrative matter to be taken up directly with the Council.
26. It is also suggested that the scheme would necessarily lead to other development being proposed. The Council notes that the proposal is not associated with a residential property. In response the appellant has indicated that that a touring caravan would be brought to site to facilitate staff accommodation during foaling if needed. Although I acknowledge that it is legitimate for the Council to be concerned about such matters, these concerns have not been substantiated. In any event, it is my responsibility to solely consider the proposal that is before me upon its own individual merits.

Conclusion

27. As the proposal would not achieve water neutrality, it would adversely affect the integrity of the Arun Valley SAC, SPA and Ramsar sites. Because of the provisions of the Habitat Regulations and notwithstanding that I have found the proposed buildings to be acceptable, this is an overriding consideration. Overall, the proposal would be contrary to the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

Stewart Glassar

INSPECTOR