



Appeal Decision

Site visit made on 8 August 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 27th August 2025

Appeal Ref: APP/Z3825/W/24/3356921

Land at Southview Terrace, Henfield, West Sussex, BN5 9ES

- 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 Miss S Hammond against the decision of Horsham District Council.
 - The application Ref is DC/23/0463.
 - The development proposed is the construction of detached dwelling with attached car port.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including on the significance of the nearby Henfield Conservation Area, a designated heritage asset, through development within its setting;
 - Whether or not the appeal site is an appropriate location for the proposed dwelling having regard to the development plan policies relating to development outside built-up area boundaries; and
 - The effect of the proposed development on ecology and protected species and whether or not it would contribute to the enhancement of existing biodiversity.

Reasons

Character and appearance

3. The appeal site is located immediately adjacent to the Henfield Conservation Area (HCA). A particular feature of this part of HCA is that open countryside can be seen from within Henfield. This is particularly true from Southview Terrace which comprises a particularly attractive row of two storey period properties that have a view over open countryside, as does an area of open space in front the row.
4. The significance of this part of the HCA derives from the enduring historic pattern of development particularly along Nep Town Road and Southview Terrace where the latter comprises an attractive row of properties along the road which face towards a backdrop of open green areas including agricultural land which provide both aesthetic and historical value.

5. The appeal site comprises a green and open area of sloping land which although overgrown and close to the settlement boundary appears as an undeveloped open green area of land surrounded by some mature vegetation. There is a public footpath that runs along the boundary of the appeal site and a bench that provides views towards the South Downs to the south. At the foot of the slope is a significant open area comprising agricultural land. There are some dwellings to the south of Mount Pleasant and to the east of Windmill Lane. However, these do not detract from the undeveloped sense of tranquillity that I observed at the appeal site and the open countryside beyond.
6. Consequently, the character and appearance of the appeal site and the adjoining land to the south derives to a significant extent from its largely green open appearance which creates a sense of spaciousness and tranquillity to the south of Southview Terrace. This sense of green spaciousness also provides an important transition from the countryside feel associated with the land to the south and the more suburban feel associated with the HCA. This sense of spaciousness makes a significant contribution to the character of the area. Moreover, the undeveloped green and tranquil nature of the appeal site and the area to the south is an important part of the surroundings in which the HCA is experienced. As a result, the appeal site is part of the setting of the HCA that makes an important positive contribution to its setting as a designated heritage asset.
7. The proposal would involve the introduction of a detached dwelling. I acknowledge that the proposal would be well designed in architectural terms and the proposed height and roof profile would respect the sloping site in an attempt not to compete with the properties along Southview Terrace.
8. However, the introduction of the proposed dwelling along with the associated works and domestic paraphernalia would result in an urbanising impact which would significantly diminish openness and the existing sense of spaciousness and tranquillity and consequently would appear as an incongruous feature within the landscape. It would also diminish the important transition between the agricultural fields to the south and the HCA. This would have a significant adverse impact on the character and appearance of the area including the setting of the HCA.
9. The HCA is a designated heritage asset, and the proposal would result in a high level of less than substantial harm to its significance. In accordance with the National Planning Policy Framework (the Framework) I afford great weight to the HCA's conservation which will form part of the planning balance later in my decision.
10. I therefore conclude that the proposal would unacceptably harm the character and appearance of the area including the significance of the nearby HCA, a designated heritage asset, through development within its setting. Consequently, the proposed development would conflict with Policies 25, 26, 32, 33 and 34 of the Horsham District Planning Framework, November 2015, (HDPF) and Policy 12 of the Henfield Neighbourhood Plan (HNP), which among other things set out that outside built-up areas the rural character and undeveloped nature of the countryside will be protected from inappropriate development, that development should complement locally distinctive characters and heritage, should respect the character of the surrounding area, make reference to the significance of heritage assets and retain and improve the setting of such assets and reflect the historic character of its surroundings. I afford this issue great weight in the determination of the appeal, and

subject to my overall planning balance it provides a strong reason for refusing the proposed development.

Whether or not an appropriate location

11. The appeal property is located outside the built-up area boundary of Henfield, albeit just outside. Policy 26 of the HDPF sets out that outside built-up area boundaries the rural character and undeveloped nature of the countryside will be protected against inappropriate development.
12. The policy highlights that any proposal must be essential to its countryside location and in addition it sets out certain criteria that should be met. Among others, this sets out that any proposal should enable sustainable development of rural areas and goes on to highlight that proposals must be of a scale appropriate to its countryside character and location, and should protect, conserve and or enhance the key features and characteristics of the landscape character including the development pattern of the area, its historical qualities, tranquillity and sensitivity to change.
13. Given my findings in relation to the first main issue, the proposal would not accord with Policy 26 of the HDPF as bearing in mind the unacceptable harm the proposal would have on the landscape character of the area it would represent inappropriate development under the terms of this policy.
14. Policy 3 of the HDPF sets out the settlement hierarchy and includes Henfield within the small town and larger village category with a good range of services and facilities, local employment provision together with reasonable rail and/or bus provision. I accept that the appeal site is just on the edge of the settlement and would be adequately served by services, facilities and public transport.
15. Policy 4 of the HDPF sets out that outside built-up area boundaries the expansion of settlements will be supported where certain criteria are met. This includes that the landscape and townscape character features are maintained and enhanced. Again, given my findings on the first main issue the proposal would not accord with Policy 4 of the HDPF. It also follows that the proposal would be at odds with Policy 1 of the HNP as it does not conform with HDPF policies in respect of development in the countryside.
16. Consequently, relevant development plan policies do not support residential development in this location. However, I acknowledge that future occupants of the proposed development would be well served by the services, facilities, employment opportunities and public transport facilities within Henfield and as a result I afford this matter moderate weight in the determination of the appeal.
17. I therefore conclude that the proposed development would not be located in an appropriate location having regard to the development plan policies relating to development outside built-up area boundaries. Consequently, the proposal would be at odds with Policies 3, 4 and 26 of the HDPF and Policy 1 of the HNP for the reasons set out above. The Council's refusal notice also refers to Policy 1 of the HDPF which reflects the presumption in favour of sustainable development contained within the Framework and I shall deal with this matter later in the decision.

Ecology Matters

18. The appellant has prepared a preliminary ecological appraisal survey (PEA). Among other things this identified that the proposal would result in the loss of suitable bat foraging habitat, the mixture of scrub, woodland, bracken and ruderal would support a variety of invertebrate species and provide a suitable habitat for reptile foraging and basking and that this suitable habitat would be lost as a result of the proposal. Moreover, a few holes that were characteristic of badger setts were identified on the appeal site and there were signs of badger activity on site and consequently the proposed development could result in the destruction of the badger sett and could kill or injure badgers.
19. As a result of these findings the PEA made a number of recommendations including the production of an Environmental Plan, an Ecological Mitigation Plan, an Ecological Management Plan and reptile and badger surveys to determine whether these species are present or not. The PEA indicated that the surveys would be required before planning permission could be granted.
20. The appellant indicated that due to the timing of the refusal no additional ecology survey could be undertaken and that the next survey season would be outside the time limit for submitting the appeal and so the only reasonable option would be to impose a condition.
21. However, I do not agree with that approach. I am mindful of the advice provided in Circular 06/2005 that sets out that it is essential that the presence or otherwise of protected species, and the extent they may be affected by a proposed development is established before planning permission is granted. The circular further advises that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances.
22. The timing of the refusal or the need to appeal the decision do not represent exceptional circumstances, particularly as the PEA recognised that such work would be required to have been undertaken prior to planning permission being granted. Moreover, without sufficient information to establish what appropriate guidance or mitigation measures would need to be put in place to mitigate possible ecological impacts, I would be unable to determine what would be the reasonable requirements of such a condition.
23. Consequently, the imposition of a planning condition would not be reasonable, precise or possibly enforceable if for example it required the proposed dwelling to move location on the appeal site to prevent harm to a protected species or to provide appropriate mitigation. Consequently, the proposal is at odds with Policy 31 of the HDPF which sets out that development that would have a direct or indirect adverse impact on sites or features for biodiversity will be refused unless it can be demonstrated that appropriate mitigation and compensation measures are provided. That is not the case here. Further, the reason for the development does not clearly outweigh the need to protect the value of the site.
24. In relation to biodiversity net gain (BNG), the appellant makes the point that the planning application was submitted prior to BNG being mandatory and in any event the proposal would be exempt as it is for a self-build dwelling. I shall deal with the self-build matter later in the decision. In relation to BNG, based on the available evidence I am not persuaded that it has been demonstrated that biodiversity enhancements would be achieved via the approval of a landscaping plan.

Consequently, although I have taken account of the appellant's position in relation to whether or not such a requirement was mandatory at the time of the application, nevertheless the proposal is at odds with Policy 31 of the HDPF which among other things seeks to ensure development proposals contribute to the enhancement of existing biodiversity.

25. I therefore conclude that it has not been demonstrated that the proposal would not have an adverse impact on ecology with particular regard to protected species. Nor has it been demonstrated that the proposal would contribute to the enhancement of existing biodiversity. Consequently, the proposal would conflict with Policy 31 of the HDPF, for the reasons set out above. I also find conflict with those parts of the Framework that seek to protect habitats and biodiversity, and I attach significant weight to this matter.

Other Matters

26. I turn first to consider housing supply. The Council accept that they are unable to demonstrate a 5-year supply of housing land and the appellant highlights that they can only demonstrate 2.9 years supply of housing land. This is well below Government's expectations and the proposal would be valuable in boosting housing stock. However, given that the proposal would only result in one additional dwelling that tempers the weight of this matter.
27. The Council has a duty under the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet identified demand for the district.
28. The appellant indicated on a Community Infrastructure Levy form that the proposal was for a self-build property. I accept that this information does indicate a desire on behalf of the appellant to proceed with a self-build development.
29. The Framework supports small sites to come forward for self-build and custom-build housing. The addition of a self-build dwelling on the appeal site would help to meet the demand for such housing in the area. However, again the weight afforded is tempered by the fact that the proposal would only result in one additional dwelling. Moreover, and more importantly there is no planning obligation to secure some means of ensuring the proposal would be constructed for such use.
30. The appellant has provided suggested wording for a condition, and I have considered whether it would be reasonable to impose such a condition. However, monitoring and enforcing any such condition would be extremely difficult, and consequently I am not satisfied that such a condition would meet the necessary tests set out in the relevant Planning Practice Guidance. Consequently, this significantly reduces the weight afforded to this matter.
31. As outlined above, I have found that the proposal would unacceptably harm the character and appearance of the area including the significance of the nearby HCA, a designated heritage asset, through development within its setting. Consequently, the application of policies in the Framework that protect areas or assets of particular importance (i.e. the HCA), provides a strong reason for refusing the proposed development. It follows that the presumption in favour of sustainable development, as set out in paragraph 11(d) of the Framework is disengaged and

the appeal will be determined in accordance with a normal planning balance. Given that finding, Policy 1 of the HDPF which reflects the presumption in favour of sustainable development contained within the Framework does not weigh in favour of allowing the appeal.

32. That said, having also considered any public benefits, I accept that the proposal would have a cumulative effect on the supply of housing, albeit only to a limited extent and would have some economic, social and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase and would broaden the availability of housing in the area.
33. The proposal would also make a modest contribution to enhance or maintain the vitality of the local settlement. I also acknowledge that the proposed development would make efficient use of the appeal site which is conveniently located relative to Henfield and the associated services, facilities, employment opportunities and public transport. On that basis, I afford the totality of the benefits moderate weight in the determination of the appeal.
34. In reaching that view I have taken account of the other appeal decisions that have been brought to my attention. These include one at Marlpost Meadows, Southwater¹ and one at Cowfold Lodge Cottage, Cowfold². However, they are both materially different from the case before me.
35. For example, in the Marlpost Meadows case it was common ground that the scheme would be acceptable in terms of its impact on the character and appearance of the area and in the Cowfold Lodge Cottage case the Inspector concluded that the harm to the character and appearance of the area would be modest. That is materially different from the case here. Similarly, in both cases there were no concerns about the impact of the proposal on ecology or protected species. Further, in both cases the Inspectors found that Paragraph 11(d) of the Framework was engaged. That is materially different from my findings, and it follows that the planning balance undertaken in those cases is materially different from the situation here. As a result, these other appeal decisions have limited weight in the determination of the appeal.
36. The appellant has also made reference to a document titled Facilitating Appropriate Development (FAD) which was endorsed by the Council in response to housing policies being deemed out of date due to the housing land supply situation. I have considered the provisions of FAD, but it has not altered my view as similar to my findings in relation to Policy 4 of the HDPF, I have found that the proposal would not maintain and enhance landscape and townscape character features. Consequently, the proposal would not comply with the relevant criterion set out in FAD.
37. The appeal site is located within the zone of influence of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site and the Pullborough Brooks and Amberley Wild Brooks Site of Special Scientific Interest. The European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (The Habitat Regulations).

¹ APP/Z3825/W/22/3303603

² APP/Z3825/W/23/3325926

38. The appellant has submitted a Water Neutrality Report. The Council and Natural England are satisfied with the information provided and subject to the imposition of appropriate conditions they are content that this would provide appropriate mitigation.
39. Regulation 63 of the Habitat Regulations requires the competent authority to carry out an Appropriate Assessment (AA). However, an AA is only required where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal, it is unnecessary for me to undertake an AA. That said, I have no reason to consider that the proposed mitigation measures would not address this matter and consequently it does not weigh against the proposal.

Planning Balance

40. I have afforded some matters weight as outlined above and overall, I afford the totality of the benefits moderate weight in the determination of the appeal. On the other hand, I have found that the proposal would unacceptably harm the character and appearance of the area including the significance of the HCA, it would not be located in an appropriate location and it has not been demonstrated that the proposal would not have an adverse impact on ecology with particular regard to protected species, nor has it been demonstrated that the proposal would contribute to the enhancement of existing biodiversity. I have afforded these matters great weight, moderate weight and significant weight respectively.
41. Bearing in mind that Paragraph 11(d) of the Framework is disengaged, and the scheme should be considered under a normal planning balance I find that the harm clearly outweighs the benefits.

Conclusion

42. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

S Rawle

INSPECTOR