



TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 23 April 2024

DEVELOPMENT: Change of use, removal of dilapidated shelter and the erection of new dog kennel and associated works (part retrospective)

SITE: Ridge View, Spinney Lane, West Chiltington, West Sussex, RH20 2NX

WARD: Storrington and Washington

APPLICATION: DC/23/1371

APPLICANT: **Name:** Mr P Marchant **Address:** Ridge View, Spinney Lane, West Chiltington, West Sussex, RH20 2NX

REASON FOR INCLUSION ON THE AGENDA: More than eight persons in different households have made written representations within the consultation period raising material planning considerations that are inconsistent with the recommendation of the Head of Development and Building Control.

RECOMMENDATION: To refuse planning permission.

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

APPLICATION SITE AND DESCRIPTION:

- 1.1 This application concerns a small section of land to the south of Ridge View outside of the respective residential curtilage of this dwelling. The dwellinghouse itself as shown within the blue line boundary on drawing number 00.03 is within the Built-Up area boundary area of West Chiltington Common and the siting of the proposed kennels is outside of the built up area boundary. The dwellinghouses within the wider locality to the north are characterised by large detached dwellinghouses set within large plots. There is a public right of way running to the east of the application site. The application site is within a red zone for the Great Crested Newt.
- 1.2 Retrospective planning permission is sought for a change of use, removal of dilapidated shelter and the erection of new dog kennel and associated works. It was noted during the site visit that the new building is a large timber outbuilding with associated timber fencing of approximately 2 metres in height. The building has fenestration and internal divisions to accommodate separate dogs, and adjoining each of these separate dividers is a door to a

small run. There is a sink within the building that appears to be attached to mains. During the time of the site visit paving slabs up to the structure had been placed.

APPLICATION HISTORY

- 1.3 Whilst there is recent planning history with regards to Ridge View, there is no relevant planning history within the location of the proposed kennels.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 4 - Strategic Policy: Settlement Expansion
Policy 7 - Strategic Policy: Economic Growth
Policy 10 - Rural Economic Development
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 27 - Settlement Coalescence
Policy 28 - Replacement Dwellings and House Extensions in the Countryside
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 40 - Sustainable Transport
Policy 41 - Parking

Storrington Sullington and Washington Neighbourhood plan 2018-2031

Policy 2 – Site allocations for development
Policy 8 – Countryside protection
Policy 9 – Green Gap

3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk.

- 3.2 It should be noted that only comments received subsequent to the previous referral to planning committee have been summarised within this section.

- 3.3 **Nature Space:** Comment

As this is a retrospective application it is not considered that a District Licensing scheme is required in this case. No comments to make.

3.4 **Natural England:** Objection

Further information is required to determine the significance of impacts on designated sites and the scope for mitigation, chiefly:

- Information pertaining to the existing baseline water use or the use of a zero baseline.
- Evidence to support the average water use given for each dog.
- Mitigation to render the proposal water neutral, presuming a zero baseline figure is being used.

3.5 **Ecology:** Temporary Holding Objection

Have reviewed the Biodiversity Net Gain Statement (RDV a Design, undated), Biodiversity Statement (RDV a Design, undated) and the External Lighting Assessment (RDV a Design, undated), supplied by the applicant, but unfortunately there is an absence of ecological information included with the application to help assess the potential impact on irreplaceable habitat (ancient woodland), bats, Hazel Dormouse, Great Crested Newt, Otter and other protected species (Water Vole).

This is considered a reasonable request as the site lies north and west of ancient woodland (Furze Field/Perrets Copse). Understand from the Arboricultural Statement (RDV a Design, undated) that no trees or hedgerows will be affected. However, according to Government Standing Advice, a 15m buffer must be maintained between any development and ancient woodland and therefore evidence of this must be provided.

As the dilapidated shelter is being demolished, it is reasonable for a suitably qualified ecologist to check for any potential roost features (PRFs) in the shelter and assess if any features used by bats will be impacted so a Preliminary Roost Assessment needs to be provided. This can be undertaken at any time of the year and the results need to be submitted to the LPA together with full details of any mitigation and compensation required to avoid an offence.

In addition, Hazel Dormouse may be present and affected by the development as there is a record for a Hazel Dormouse European Protected Species Mitigation Licence approximately 900m to the north west of the site and given that the site is close to ancient woodland.

Also note there is a pond 65m to the west of the site. According to Government Standing Advice on Great Crested Newt (GCN), "you should survey if distribution and historical records suggest GCN may be present or there's a suitable water body such as a pond or ditch up to 500 metres of the development, even if it only holds water for some of the year".

Understand from the Biodiversity Statement (RDV a Design, undated) that there is a watercourse to the north of the kennel. Any impacts to the watercourse and protected and Priority species, including Otter and Water Vole, should be assessed by a suitably qualified ecologist and the results submitted to the LPA together with full details of any mitigation and compensation required to avoid an offence.

The results of the above surveys for protected species are required prior to determination because paragraph 99 of ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

3.6 **Storrington and Sullington Parish Council:** Strong Objection

- Development outside of the built up area boundary

- Located within 15m buffer zone of ancient forest
- Within the Green Gap identified within Storrington, Sullington, and Washington Neighbourhood Plan.
- Precedent for future development from agricultural land to residential
- Overall request to go to Planning committee if the officer minded to approve.

3.7 **Arboriculture Officer:** Comment

The mature trees along the laneside adjacent to the new building mainly consist of ash in various states of decline due to infection with ash dieback disease. These trees would not be considered a significant constraint on site development due to their condition.

There is a mature oak off the SE corner of the build in the hedgerow line. This tree may have suffered some root disturbance from construction and associated process. The submissions state that the building sits on ski's with no foundation or excavation of the underlying soil.

A lightweight structure supported on the existing ground levels in the current build position would not have been a reason for refusal on arboricultural impact grounds, subject to control of the development process.

3.8 **Landscape Architect:** Comment

Views of the new building are available from the junction of spinney lane and the public footpath, and at its worst, this time of the year when leave cover is less effective. These views are very localised and due to intervening vegetation and topography, no views or only few short glimpses are available from where the land rise assists and leave cover is thinner. In both cases however, these views are experienced either from within the settlement or with the settlement in the background and therefore not an unfamiliar feature within the view.

Note HDC arboriculturist's comments that the likelihood is that the existing trees along the site's eastern boundary are in decline and likely to need removal within the next 10 years due to ash dieback. This is expected to expose development further on these close proximity views.

The new building is wood clad and in time, anticipated to go grey and better integrate into the receiving landscape.

The proposed change of use could have a slight adverse effect to the tranquillity of the area but at the time of visit (05/01/2024) no noise was experienced. It is unknown if dogs were on the premises or not.

Overall, and subject to recommended mitigation planting being secured, satisfied that the level of adverse effect on the landscape character and amenity of the area experienced as result of the replacement building, is acceptable on landscape grounds.

3.9 **Environmental Health:** Comment

- A condition should be imposed restricting the new dog kennel to no more than 6 dogs.
- A condition should be imposed restricting the keeping of dogs to domestic use only i.e. no use as a commercial kennels, dog day care, dog agility etc

3.10 **PUBLIC CONSULTATIONS**

3.11 Letters of representation were received from 42 in conjunction with the proposal. 2 appeared neutral, 12 in support, 25 in objection. 1 letter was from the parish council and 5 addresses had duplicate comments. 2 of the letters were pictures associated with the addresses.

3.12 The main material grounds for support can be summarised as:-

- Improvement over replacement shelter.

- Animal welfare
- Disagreement to letters of objection

3.13 The main material grounds for objection received subsequent to the previous referral to Planning Committee can be summarised as:-

- Encroachment into the countryside
- Contrary to Neighbourhood plans
- Contrary to development plan
- Precedent for future development
- Harm to trees and landscaping
- Overdevelopment
- Loss of general amenity
- Highways and Parking
- Retrospective nature of application
- Request for site notice to be put up

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Principle of the Development

6.1 Whilst the dwellinghouse shown within the blue line boundary is within the Built up area boundary in policy terms, part of the site and the location of the kennels is located outside of the built-up area and is not allocated within Horsham's adopted development plan (comprising the HDPF and a 'Made' Neighbourhood Development Plan). The proposal would be for personal use, with the dogs being owned by the applicant themselves.

6.2 Policy 26, Countryside Protection, of the HDPF states that all proposals (in the Countryside) must be essential to its countryside location and meet one of the following criteria:

1. Support the needs of agriculture or forestry;
2. Enable the extraction of minerals or the disposal of waste;
3. Provide for quiet informal recreational use; or
4. Enable the sustainable development of rural areas.

In addition, proposals must be of a scale appropriate to its countryside character and location. The policy also notes that development will be considered acceptable where it does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and / or enhances, the key features and characteristics of the landscape character area in which it is located.

- 6.3 The application site is located within an area designated as Green Gap under Policy 9 of the Storrington Sullington and Washington Neighbourhood plan 2018-2031. This seeks to resist development between Storrington and West Chiltington for the prevention of coalescence of rural settlements. Whilst the proposal would be sited within the Green Gap under Policy 9, given the scale of the proposal which is limited to what can be considered a residential outbuilding, it would not represent a degree of harm to conflict with this policy.
- 6.4 The current application seeks retrospective permission for the change of use of the land from agricultural to residential with the built form representing an ancillary outbuilding to 'Ridge View'. This application concerns a small section of land to the south of Ridge View outside of the respective residential curtilage of this dwelling. Confirmation from the applicant has indicated that the development would be for personal use and not commercial.
- 6.5 It is noted that Ridge View benefits from a reasonably sized curtilage which extends to the north and west of the dwelling. There appear to be no existing detached buildings within the curtilage, albeit that a detached garage is located to the north-east of the dwelling. No justification has been provided to demonstrate that the kennel building could not be located within the existing curtilage of the dwelling, where a building for incidental purposes would be considered more appropriate.
- 6.6 It has not been demonstrated that the development subject of the application could not be appropriately accommodated within the existing residential curtilage of Ridge View. It is not considered that there is justification for the extension of the private garden, where the proposal would result in the loss of agricultural land. The development would not meet any of the criteria listed in Policy 26 of the HDPF and the development would therefore be unacceptable in principle.

Design and Appearance

- 6.6 Policy 25 of the HDPF states that the natural environment and landscape character of the District, including landscape, landform and development pattern, together with protected landscapes, will be protected against inappropriate development. Proposals should protect, conserve and enhance the landscape character, taking into account areas identified as being of landscape importance. In addition, policies 32 and 33 of the HDPF promote development that is of a high quality design, which is based upon a clear understanding of the local, physical, social, economic, environmental, and policy context. Development will be expected to provide an attractive, functional, and accessible environment that complements locally distinctive characters and heritage of the District. Development should contribute to a sense of place both in the buildings and spaces themselves and in the way they integrate with their surroundings and the historic landscape in which they sit. Development should ensure that the scale, massing and appearance of the development relates sympathetically with the built surroundings, landscape, open spaces and routes within and adjoining the site.
- 6.7 Paragraph 135 of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.8 The character of the area to the north of the site within the built up area boundary is large detached dwellinghouses set back within their plots. To the south of the site, the area is rural with some sporadic development. The plans submitted do not include the amount of fencing erected on site. The discrepancy between the built form on site and the submitted plans are noted. Whilst the height of the proposal would not be visually obtrusive from the footpath of Spinney Lane, the siting in close proximity and when in conjunction with the kennel access, pen areas and overall level of residential paraphernalia within an otherwise rural field, would be considered to harm the character and appearance of the site. It is noted that the

Landscape Architect has been consulted during the course of the application and would not object to the proposals subject to the inclusion of relevant conditions.

- 6.9 The description of the proposal does not include the separate footpath access created to link the proposed kennels with the dwellinghouse and public footpath, this is also considered to have an impact on the character of the existing field. It was noted at the time of the site visit that the footpath leading from the house to the kennels was stone paving slabs and the footpath access was decking.

Amenity impacts

- 6.10 Policy 32 of the HDPF states that development will be expected to provide an attractive, functional, accessible, safe, and adaptable environment that contributes a sense of place both in the buildings and spaces themselves. Policy 33 continues that development shall be required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land.
- 6.11 Environmental Health have been consulted during the course of the application and have no objection to the development subject to relevant conditions. In some instances, the construction of a kennels would have potential to result in harm to neighbouring properties through noise or other forms of pollution. There is a sufficient distance from the siting of the proposal and the nearest neighbour such that it is not considered that the development would reduce daylight/sunlight, result in a loss of privacy, or an obtrusive appearance.
- 6.12 Furthermore, given the proximity of the proposal and the nearest PROW, it is relevant to consider the impact of the proposal on the PROW.
- 6.13 Given the design of the proposal, and site boundary treatment, it is considered that the proposal would not give rise to any unacceptable impact from the Public Right of Way. Overall, there are no objection to the proposal in regard to Policy 32 or 33 of the HDPF.

Highways and Parking

- 6.12 Policy 40 of the HDPF state that development should provide safe and adequate access suitable for all users. Policy 41 of the HDPF provides that development should provide adequate parking facilities to meet the needs of anticipated users, including appropriate provision to support electric vehicles and to meet the needs of cyclists and motorcyclists.
- 6.13 No additional parking has been included within the proposal, however there are alterations to the site access which links the proposal with the rest of the site. The access to the site is from a path to the main dwellinghouse and also in connection with the Public Right of Way. Had this proposal been otherwise acceptable, the parking and access would have been dealt with by way of a suitably worded condition.

Water Neutrality

- 6.14 In September 2021 the Local Planning Authority received a 'Position Statement' from Natural England pertaining to the use of groundwater within the Sussex North Water Supply Zone and the effects of groundwater supply on the Arun Valley Ramsar, Special Area of Conservation and Special Protection Area habitat sites. The 'Position Statement' advises that groundwater abstraction supplying the public mains-network may be adversely affecting the integrity of Arun Valley habitat sites.
- 6.15 The advice issued by Natural England, within the Position Statement, is that Planning Authorities within the Supply Zone pause decisions until a strategy is devised, in partnership with Natural England, to offset increased water-use associated with new development within the Supply Zone. Where it is critical that individual applications proceed Natural England

advise that any application needs to demonstrate 'water-neutrality', such to provide certainty that new development will not further contribute to the existing adverse effect known from public groundwater abstraction.

- 6.16 The application site falls within the Sussex North Water Supply Zone, where increased demand for mains-water would exacerbate demand for the continued use/scale of public groundwater abstractions at Hardham Water Works contributing to associated adverse effect upon the integrity of the Arun Valley SAC, SPA and Ramsar sites.
- 6.17 The applicant has provided Water Neutrality calculations in support of this application which advances that each of the dogs on site would drink an average of 0.5 litres of water per day, which given the number of dogs suggested to be within the kennels would result in a total figure of 2 litres per day. No mitigation has been proposed to suggest how the water would be offset such that there are no mitigation measures included. Given that there is no baseline water consumption submitted for the existing use of the land and no rationale for the proposed figure of 0.5 litres per day per dog, the suggested water consumption cannot be concluded with a reasonable degree of certainty.
- 6.18 On the basis of the evidence currently available it cannot currently be demonstrated that the proposed development would avoid contribution to the possibility of adverse effect upon the integrity of the Arun Valley sites by way of demonstrating net-neutrality in respect of the use of mains-water resources. Natural England have been consulted on the matter and agree with the Council's conclusions.

Ecology

- 6.19 Policy 31 of the HDPF states that development will be supported where it demonstrates that it maintains or enhances the existing network of green infrastructure. Development proposals will be required to contribute to the enhancement of existing biodiversity and should create and manage new habitats where appropriate.
- 6.20 Circular 06/2005 identifies that the presence of protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Therefore, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed application, is established before planning permission is granted. Information on biodiversity impacts and opportunities should inform all stages of development, and an ecological survey is usually necessary where the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
- 6.21 Ecology have objected to the proposal, concluding that there has not been sufficient ecological information submitted to be able to make an assessment of the impact of the proposal on protected species. There has been no information submitted in regard to the demolition of the dilapidated shelter such that no assessment of bar roost features was made within the shelter. Hazel Dormouse may have also been present given the proximity to ancient woodland. A Biodiversity Net Gain statement has been supplied by the applicant The Biodiversity Statement noted the watercourse to the north which gives potential habitat for the Otter and Water Vole. The proposed works have already been undertaken such that any harm to protected species has already been undertaken. As a result of the insufficient evidence available, it is not possible to make an assessment of whether any mitigation would have been required.
- 6.22 Given that there is insufficient information submitted to ensure that the development would not the proposal would conflict with Policy 31 of the HDPF, and would be inconsistent with the expectations set out under para 174 of the NPPF.

Conclusion

- 6.23 The application seeks retrospective permission for the change of use of land from agricultural to residential with the construction of the kennels.
- 6.24 No justification has been provided with respect to the siting of the kennel building outside of the existing residential curtilage, and it has not been satisfactorily demonstrated that the development could not be appropriately located within this area. The proposal would not meet any of the criteria listed under Policy 26 of the HDPF, and there is considered to be no benefits that would outweigh the identified harm. As such, the development is considered unacceptable in principle.
- 6.25 Subsequent to the receipt of the Natural England position statement, and in the absence of the applicant demonstrating water neutrality (as above), the proposal would result in an increase in water abstraction from the Pulborough borehole, in which its cumulative impact would adversely affect the integrity of the Arun Valley SAC, Arun Valley SPA, and Arun Valley Ramsar site.
- 6.26 Furthermore, insufficient information has been submitted to establish the protection of the ecological and biodiversity interests of the site and whether suitable mitigations or enhancements are necessary and achievable, contrary to Policy 31 of the Horsham District Planning Framework (2015).

7. RECOMMENDATIONS

- 7.1 To refuse the planning application for the following reason:

Reasons for refusal:

1. The proposed development represent inappropriate development within a countryside location, and on a site allocated as a Green Gap within the Storrington Sullington and Washington Neighbourhood Plan 2018-2031, where it has not been demonstrated that the development would meet any of the criteria listed within Policy 26 of the Horsham District Planning Framework (2015). It is considered that there are no material considerations in this instance which would outweigh harm arising from conflict with Policies 1, 2, 3 and 26 of the Horsham District Planning Framework (2015).
2. Notwithstanding the information submitted, insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 180 of the National Planning Policy Framework (2021), thus the Council is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).
3. Insufficient information has been submitted to establish the protection of the ecological and biodiversity interests of the site and whether suitable mitigations or enhancements are necessary and achievable, contrary to Policy 31 of the Horsham District Planning Framework (2015).

