



Appeal Decision

Site visit made on 23 April 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/C1435/W/18/3217765

Land adjacent to 30 Sycamore Court, Uckfield TN22 1TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Harding against Wealden District Council.
 - The application Ref WD/2018/1232/F is dated 12 January 2018.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The evidence indicates the main issues are:
 - the effect of the development on the character and appearance of the area, and
 - the likely effect of the development on the Ashdown Forest Special Area of Conservation (SAC).

Reasons

Character and Appearance

3. The area is characterised by semi-detached and terraced houses with front and back gardens, on a planned estate. The appeal site is a spacious plot on the corner of Sycamore Court and Downsview Crescent and contains one such semi-detached house, typical of others seen in the area.
4. Whilst I saw there are detached houses further down Downsview Crescent, these are some distance from the appeal site and on the opposite side of the road. Therefore, the proposed dwelling would not be seen within the context of these detached houses and would instead appear incongruous, sited between two blocks of semi-detached houses.
5. Moreover, the proposed dwelling would be on a different alignment to the houses on the adjoining plots and, by reason of being detached, would be considerably closer to the footway adding to its incongruous appearance. Whilst the proposed house would match the style and materials of neighbouring homes, this does not overcome the harm I have identified above.

6. I conclude that the proposed development would harm the character and appearance of the area. The Council has not specified which of the policies supplied it considers are relevant to this main issue. But of those provided, the proposed development would not comply with Policy EN27 of the Local Plan 1998 (the Local Plan). This seeks that the layout, form and design of development respects the character of adjoining development.

Ashdown Forest SAC

7. Under the precautionary principle in the Habitats Directive as embodied in the Habitats Regulations¹ it is necessary to ensure that development, either alone or in combination with other plans or projects, will only be permitted if it can be concluded that it will not affect the integrity of European sites, including SACs. The evidence indicates the appeal site is within 7km of the Ashdown Forest SAC. This is a designated European site which contains wet and dry heaths which provide habitats for flora and fauna. These are at risk from atmospheric pollution including from nitrogen deposition in part due to vehicle emissions from traffic on roads crossing or near to the SAC
8. The appeal scheme is likely to increase traffic on roads in proximity to the SAC. Even very small increases in traffic movements may have an impact on the SAC, in combination with other plans and projects, and so I cannot be certain the development would not have a significant and adverse effect on the integrity of the SAC as a European protected site.
9. The appellant has submitted a draft Unilateral Undertaking offering financial contributions which seek to avoid and mitigate effects on the SAC. But this document is not signed and therefore it cannot be relied on to secure appropriate avoidance or mitigation measures. As I am dismissing the appeal for other reasons the submission of a planning obligation, whether agreed with the Council or not, would not make any difference to my overall decision in this case.
10. Considering the above, based on the precautionary principle, I conclude the appeal development, in combination with other plans and projects, would harm the SAC and this would not comply with the relevant development plan policies my attention has been drawn to in respect of this main issue. These are Policies EN1 and EN15 of the Local Plan and Policy WCS12 of the Core Strategy 2013. Together these require that regard be had to the effects of proposals on air quality, seek mitigation for the effects of nitrogen deposition and seek to safeguard designated nature conservation sites by resisting development likely to adversely affect their nature conservation value.
11. My attention has been drawn to policies of the emerging Local Plan. However, I do not know to what extent there are unresolved objections to the emerging policies referred to and examination of these policies is yet to be completed. It is possible these policies could be amended or deleted as a result of the examination and therefore I attach limited weight to these policies. My attention has also been drawn to a decision at 11 Views Wood Path in Uckfield². However, that appeal was allowed not with a Unilateral Undertaking but with an Agreement entered into to secure mitigation and so I give that case limited weight in this decision.

¹ The Conservation of Habitats and Species Regulations 2017

² APP/C1435/W/16/3152250 dated 30 December 2016

Planning Balance

12. The appeal scheme would deliver 1 new home and is in an area with good access to services and facilities. These are benefits of the scheme. The evidence indicates the Council does not currently have a 5 year supply of land for housing. Paragraph 11 of the National Planning Policy Framework sets out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development.
13. In this case, such policies include those relating to SACs. In respect of that main issue I have found harm as set out above. Accordingly there is a clear reason for refusing the development, notwithstanding any benefits of the scheme. Therefore, the Council's 5 year housing land supply position is therefore not a determinative issue in this appeal.
14. I realise the scheme has been revised from an earlier scheme but this does not make the development acceptable in light of the harm identified above. I appreciate the appellant may have experienced delay in waiting for a decision from the Council but the way in which the Council handled the application is not a matter for me to consider in the context of an appeal under section 78.

Conclusion

15. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR