



Appeal Decision

Site visit made on 11 November 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/L3245/W/19/3235752

Jayroc Stables, Shawbury Heath, Shawbury SY4 4EA

- 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 and Mrs R Hand against Shropshire Council.
 - The application Ref 16/05143/FUL is dated 9 November 2016
 - The development proposed is the installation of 14 x 5.5m high lighting poles and 6 x 4.5m high lighting poles (modification to 13/04270/FUL) and to include for the amendment to the positioning and dimensions of the manege as built.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council confirms that the description of the development was amended during their consideration of the planning application. I have used this description. However, 'retrospective' is not an act of development and therefore I have omitted this from my description.

Main Issue

3. In their statement of case, the Council confirms that were a suitable detailed lighting scheme and plan submitted, which prevents illumination of the hedges and woodland edge, appropriately conditioned and enforced, then planning permission could be granted. In the absence of this, they contend that there is uncertainty over the lighting scheme and the degree of illumination.
4. In light of the above, the main issue is the effect of the proposed lighting on biodiversity.

Reasons

Background

5. The appeal site is within proximity of a hedge and woodland. A Phase 1 habitat survey was carried out by Greenscape Environmental Ltd. The findings of this survey, dated February 2017, conclude that the adjacent southern hedgerow could be used by bats for commuting and at its western end there is an oak tree that shows potential features for roosting bats.
6. The survey results also confirm that when the lights were turned on, the tops of the trees along the southern boundary and the earthbank were illuminated.

The woodland was not affected. It was found that it was the lights along the northern side of the manege that was causing this illumination. A recommendation of the survey report is that the lights on the northern side are angled downwards to reduce light spill onto the southern hedgerow. At the time of my site visit, I noticed that these lights had been angled downwards.

7. The Council requested a follow up survey to check the effects of the angling down of the lights after dusk. The statement of Greenspace Environmental Ltd. dated 5 April 2017 confirms that the angled down lights much reduce the illumination of the southern boundary, to the extent that its illumination is inline with that of a full moon.
8. It is proposed that the lights would only be used during the hours of 1500 to 2100 November to March and not used at all during the remaining part of the year when bats are more active. Given this limitation of use, it is unlikely that any limited light spill onto the hedgerow for a relatively short period of time during the day would have a significantly harmful effect on bats. Whilst an unseasonably warm November or March may result in bats going into hibernation later/coming out of hibernation earlier, any harm to these bats as a result of any light spill would only likely be for a short period.
9. Notwithstanding the above, were I minded to allow the appeal it would be necessary to secure accurate lighting details indicating that the proposed lighting would be in accordance with the findings of the Greenspace Environmental Ltd. report. Without such details, the angle of the lights could be changed, and subsequent illumination levels increased, which the Council would unlikely be able to enforce against if they considered it necessary to do so. Whilst lighting details have been submitted, the most recent being prepared by Relux, dated 6 November 2018, these conflict with the findings of the Greenspace Environmental Ltd report as they indicate that the southern boundary would be illuminated to a similar extent as the manege itself, which would likely have a significantly harmful affect on biodiversity, in particular bats. The Relux details do not appear to show the lights angled down as recommended in the Greenspace Environmental Ltd. report. Therefore, a condition ensuring that the development is carried out in accordance with these lighting details would allow the unacceptable illumination of the southern boundary.
10. Furthermore, there is no evidence from the appellant regarding the effect of the lighting on bat boxes that were allegedly required to be erected via a condition on a previous planning permission, ref 13/04270/FUL. This also raises doubt over the adequacy of the assessment of the effect of the proposed lighting.
11. Given the above, due to the inconsistency of the details provided, it has not been sufficiently demonstrated that the development would not unacceptably harm biodiversity. As such, the proposal is contrary to Policy CS17 of the Shropshire Council Core Strategy and Policy MD12 of the Shropshire Council Allocations and Management of Development Plan 2015, which, amongst other things, seek to ensure that development protects and enhances the diversity, high quality and local character of the natural environmental and protects priority species.

Other Matters

12. My assessment of the appeal has been based on the merits of the proposal before me. It is not for me to assess the validity of permissions on the site or the suitability of an alternative site for the manège.

Conclusion

13. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR