
Appeal Decision

Site visit made on 28 September 2020

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2020

Appeal Ref: APP/N0410/W/20/3252014

Lantern Cottage, Collinswood Road, Farnham Common, Bucks SL2 3LJ

- 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 outline planning permission.
 - The appeal is made by RAP Building and Developments Ltd against South Bucks District Council.
 - The application Ref PL/19/4108/OA, is dated 22 November 2019.
 - The development proposed is the erection of 3 pairs of semi-detached 2 storey semi-detached dwellings with access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an Outline proposal with all matters of detail reserved for future consideration, apart from the means of access.
3. The appeal is against the Council's failure to issue a decision within the relevant timeframe. The Council has indicated within its submitted statement that it would have refused the application due to the likely effects of the proposal on the nearby Burnham Beeches Special Area of Conservation.

Main Issue

4. Based on the above, the main issue in this appeal is the effects of the proposal on the Burnham Beeches Special Area of Conservation (SAC).

Reasons

5. The appeal site is within 500 meters of the Burnham Beeches SAC, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
6. Natural England and the Council have expressed the concern that new housing within a 5.6km radius of the SAC can give rise to an increase in the recreational pressure on the SAC. Natural England indicates that increasing recreational pressure has long been a concern and takes the form of: contamination (dog fouling, litter, plant pathogens); increased risk of fire; trampling and compaction; harvesting (fungi and wood); difficulties in managing sites; disturbances affecting the distribution of livestock and deer.

7. Natural England were consulted about the possible effects of the proposal on the SAC and stated that such new housing that is directly adjacent to the SAC will pose particular risks from the recreational use of the SAC. They indicate that those adverse impacts are unlikely to be mitigatable and a 'Likely Significant Effect' cannot be ruled out. As a result, Natural England stated that the proposal should not be permitted. I have taken account of the evidence submitted by the Council and the response of Natural England and I have found no reason to disagree with them. In these circumstances, the Habitats Regulations require that an Appropriate Assessment is carried out. I have taken account of the view of Natural England in undertaking the Assessment.
8. Having undertaken the Appropriate Assessment, the evidence indicates that there is a strong likelihood of recreational disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SAC. The Habitats Regulations require me to consider whether there are any alternative solutions. No form of possible mitigation has been suggested by the appellant although I am mindful that Natural England consider that none would be sufficient to make the proposal acceptable. No other solutions for the provision of the proposal have been put to me and I have found none myself.
9. I must also consider whether there are any imperative reasons of overriding public interest. The provision of a small number of additional dwellings is not sufficient to amount to such overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted. Therefore, the proposed development would result in unjustified harm to the integrity of the SAC, contrary to Core Policy 9 of the South Bucks Core Strategy.
10. The appellant is critical of the Council due to an alleged failure to make available evidence to support its position in relation to the likely effects on the SAC and also in relation to Natural England's reference to emerging policies. It seems to me that evidence has now been made available by the Council within the appeal documents and this supports its concerns. Natural England have expressed concerns and I have referred to these above. Although the evidence has itself been gathered to inform the, at present Emerging Local Plan, the evidence itself should not be set aside just because the Plan itself is yet to be adopted. The submitted evidence is relevant and there is policy support within the adopted Core Strategy and also within the NPPF.
11. I have also taken account of the planning history of the site and extant planning permission relating to this and adjacent sites. Although I do not have full details of the considerations of those schemes, they differ in scale and nature from the proposal that is before me. In addition, these would appear to pre-date the most recent evidence of the Council.

Conclusion

12. For the reason set out above, the appeal is dismissed.

ST Wood

INSPECTOR