
Appeal Decision

Site Visit made on 2 August 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/H1705/W/20/3265765

Land Adjacent The Old Hall, Popham Lane, North Waltham RG25 2BD

- 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 KC Build Projects Ltd against Basingstoke and Deane Borough Council.
 - The application Ref 19/03232/FUL, is dated 29 November 2019.
 - The development proposed was originally described as: 'Erection of 6No. dwellings, together with provision of associated parking and landscaping and creation of new access onto Popham Lane.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal originally sought permission for six dwellings, but this was subsequently reduced to four during the assessment of the planning application. Despite failing to determine the application, the Council's assessment of the scheme was based on the revised proposal for four dwellings, and I have assessed the appeal on the same basis despite the description of development in the banner above.

Main Issues

3. The appeal results from the Council failing to determine the application within the prescribed period of time. However, based on the evidence before me, I consider the main issues to be the effect of the proposal on:
 - i) the Solent and Southampton Water Special Protection Area (SPA) and the Solent Maritime Special Area of Conservation (SAC);
 - ii) the character and appearance of the area; and
 - iii) local biodiversity.

Reasons

SPA and SAC

4. The appeal site is situated within the River Test catchment which ultimately drains to the Solent. Based on the evidence before me, there are high levels of nitrogen and phosphorus in the Solent water environment, with evidence of eutrophication at some designated sites. Accordingly, despite the proximity of the site from the Solent and Southampton Water Special Protection Area (SPA)

and the Solent Maritime Special Area of Conservation (SAC), the drainage of the proposal and its effect on the integrity of the SPA and SAC is fundamental in my consideration of the appeal.

5. Consequently, due to the location of the appeal site, the requirements of the Conservation of Habitat and Species Regulations 2017 apply (the Regulations). The Regulations require that I, as the competent authority, must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SAC and SPA.
6. I note in the evidence before me from Natural England, that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on these sites. However, the Regulations require a precautionary approach to be taken. In addition, they also require other development within the area to be taken into account. Taking such an approach, I am satisfied that the proposal could harm water quality which would lead to a likely significant effect on the integrity of the SAC and SPA.
7. The appellant has brought my attention to future plans regarding off-site mitigation and the use of nitrate 'credits', but on the basis of the evidence before me, this approach has yet to be adopted by the Council. In addition, I have no timescale in front of me to suggest that this is a likely outcome in the short term. Accordingly, there can be no certainty that such mitigation could be delivered within the lifetime of any planning permission. As a consequence, despite the appellant's reference to the use of a planning condition to secure the necessary off-site mitigation, it is highly plausible that such a condition could not be complied with. In light of such uncertainty, the use of a planning condition to secure off-site mitigation prior to the commencement of development would fail the test of reasonableness.
8. Due to the effect of the proposal, the Regulations place a duty on competent authorities to make an appropriate assessment of the implications of the development proposed in view of the site's conservation objectives. On this point however, in the absence of necessary mitigation, the implications of the proposal would go unchecked. As a consequence, I conclude that the proposal would be likely to result in a significant adverse effect on the integrity of the SAC and SPA. It would therefore fail to comply with the requirements of the Regulations as well as Policy EM6 of the Basingstoke and Dean Local Plan (2016) (LP) which seeks to protect water quality.

Character and appearance

9. The appeal site constitutes an undeveloped parcel of land located to the south west of The Old Hall. It is bounded by mature vegetation and gently slopes away from the existing house. The site is located outside of the existing settlement boundary and is primarily surrounded by open countryside. Due to the location of the appeal site, it is both visually and geographically removed from the principal settlement. Moreover, due to its undeveloped nature and landscaped boundaries, the site is entirely consistent with its immediate rural location.
10. The proposal would introduce four detached dwellings onto the site. Updated drawings show that these would be accessed via a single access point.

However, the introduction of such substantial properties along with a generous vehicular access would fundamentally alter the appearance of the appeal site. Accordingly, rather than being experienced as an undeveloped parcel of land situated within the open countryside, the development would appear prominent and at odds with the immediate rural surroundings. This would serve to highlight the visual and geographical separation between the appeal site and the nearby settlement and would be harmful to the character and appearance of the area.

11. The site also lies adjacent to the boundary of the North Waltham Conservation Area (CA) and I note from the evidence that the Council consider it to make a positive contribution to the setting of the CA. Due to the rural nature of the site and its prominence on a key route into the CA, I agree with the Council on this point, albeit in my judgement, the positive contribution is of a limited degree. Nevertheless, as identified above, the proposal would demonstrably change the contribution that the site makes to the setting of the CA. Accordingly, by diluting its rural setting, the proposal would cause harm to the designated heritage asset.
12. Due to the scale of the proposal and the scale of the impact, the harm that would be caused would be less than substantial, and in my judgement, towards the lower end of the less than substantial spectrum. Accordingly, Paragraph 202 of the National Planning Policy Framework (the Framework) requires such harm to be weighed against the public benefits of the proposal. In this regard, the proposal would make a small but important contribution to local housing supply which would also bring with it economic benefits through the creation of construction jobs as well as ongoing additional expenditure within the local economy. Due to the limited impact on the setting of the CA, I am satisfied that these public benefits would outweigh the harm from a heritage perspective.
13. However, despite the heritage impact being overcome, for the reasons identified above, my overall conclusion on this main issue is that the proposal would harm the character and appearance of the surrounding area. Accordingly, it would fail to comply with Policies EM1 and EM10 of the LP, which taken together seek amongst other things, high quality development proposals that are sympathetic to the character and visual quality of the surrounding landscape.

Local Biodiversity

14. The proposal has been supported by an ecological survey which identifies habitats within the appeal site as well as those surrounding it. Due to the undeveloped, countryside location, such habitats primarily consist of amenity grassland, hedgerows, and scattered broadleaved trees. Other than the field boundaries, the survey suggests that the habitats are of limited ecological value being common, widespread, and easily replaceable.
15. However, whilst the survey is a helpful and informative document, Paragraph 174(d) of the Framework states that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. In addition, Policy EM4 of the LP states that development proposals will only be permitted if significant harm to biodiversity resulting from a development can be avoided, or adequately mitigated. On this basis, having regard to the evidence before me, there would be a substantial

loss in biodiversity as demonstrated through the submitted biodiversity metric calculation.

16. The evidence also suggests that a net gain would not be possible on the site. However, no compelling evidence has been provided to demonstrate that the matter has been fully considered through careful landscaping and habitat replacement. Consequently, due to the lack of evidence regarding this matter, in my judgement, the requirements of the Framework would not be achieved by the proposal. Accordingly, I conclude that the proposal would have a harmful effect on local biodiversity. It would therefore fail to comply with Policy EM4 of the LP, as well as the requirements of the Framework. Taken together, these establish the requirements for development and biodiversity.

Other Matters

17. The Council cannot demonstrate a five-year supply of deliverable housing sites. Accordingly, the provisions of Paragraph 11 are applicable to the proposal. This is the presumption in favour of sustainable development which states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
18. Footnote 7 to Paragraph 11 confirms that habitat sites form part of this assessment, and for the reasons identified above, the effect of the proposal on the SAC and SPA provide a clear reason for refusing the development proposed. Consequently, I am satisfied that the presumption in favour of sustainable development does not apply to this proposal.

Conclusion

19. For the reasons identified above, the appeal should be dismissed, and planning permission be refused.

Martin Chandler

INSPECTOR