



Appeal Decision

Site visit made on 23 August 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2022.

Appeal Ref: APP/D1265/W/22/3293549

Lake Farm, Cheaters Lane, Alderholt SP6 3EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alfie Birch against the decision of Dorset Council.
 - The application Ref 3/20/1967/FUL, dated 14 October 2020, was refused by notice dated 19 November 2021.
 - The development proposed is erection of permanent dwelling as manager accommodation and polytunnel fish hatchery.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, a dwelling had been erected on site in the approximate location shown on the drawings. However, the drawings show a dwelling with a single pitch roof, whereas the dwelling as built has a dual pitch roof and a gabled front projection at one end. Notwithstanding what has been erected on site, the appeal has been determined on the submitted drawings and details. The proposed polytunnel fish hatchery had not been constructed.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the integrity of European and RAMSAR protected sites.
 - Whether there is an essential need for a dwelling to accommodate a rural worker.

Reasons

4. The appeal site is located in the countryside, surrounded predominantly by farmland. The wider site, of which the appeal site forms a part, contains a fishing lake and fishing ponds, holiday cabins and storage structures.

Protected sites

5. The site is within 5km of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Dorset Heathlands RAMSAR site. It is also within the hydrological catchment of the River Avon, which contains the River Avon SAC, the Avon Valley SPA and RAMSAR site.

6. These are Protected European and RAMSAR Sites subject to the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitats Regulations). The protected sites contain a significant range of habitat types and species and associated conservation objectives. The site is also close to a number of Sites of Special Scientific Interest (SSSIs). The proposal is not directly connected with or necessary to the management of any of these protected sites.
7. The proposal would result in an additional permanent dwelling with the associated increase in residents near to the protected sites. This is likely to lead to an increase in access to and recreational use of the Dorset Heathlands which are designated for their nature conservation importance. The new dwelling would also result in an increase in the amount of wastewater generated at the site and a possible increase in the release of nutrients into the River Avon catchment.
8. Adopting the precautionary principle, the proposal would have a likely significant effect on the important features of protected sites, alone and in combination with other plans and projects. Therefore, in accordance with section 63 of the Habitats Regulations, as the competent authority I am required to undertake an Appropriate Assessment. The qualifying features and conservation objectives of the relevant protected sites are summarised below.
9. The Dorset Heathlands protected sites cover an extensive complex of heaths that form one of the most significant tracts of heathland in the lowlands of the UK. There are fine transitions between dry heath, wet heath and acid mire vegetation types, including purple moor-grass meadows and calcareous fens. These habitats support a range of breeding and non-breeding birds, including the Dartford Warbler, Woodlark, Hen Harrier and Merlin, as well as damselfly and great crested newt.
10. Residents of the proposed dwelling are likely to access the Dorset Heathlands protected sites, potentially including dog walking. As set out in The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (SPD), various studies have found that public access to lowland heathland, from nearby development, has led to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets. All of these factors have an adverse effect on the heathland flora and fauna and increase with an increased local population.
11. The River Avon and Avon Valley protected sites are important for their fish and invertebrate population, the in-river and bankside habitats and the wet grasslands for wintering wildfowl. The area includes several nationally rare species. Pressures and threats include water pollution, including elevated levels of nutrients.
12. The detrimental impact of nutrients, particularly phosphates, on the River Avon has been identified for several years. The existing conservation status is considered to be unfavourable and the river is phosphate limited which means that any addition of phosphates, either directly or indirectly, should be deemed to have an adverse impact on integrity. On the basis of advice from Natural England, updated in March 2022, all new residential development in the River Avon catchment needs to demonstrate nutrient neutrality for phosphates.

13. If increased wastewater from occupants of the proposed dwelling were to enter the River Avon catchment it would add to the already raised nutrient levels. In particular, elevated phosphates in the river could lead to eutrophication. The consequent algal blooms decrease light penetration and deplete oxygen in the water, to the detriment of the habitat, leading to a loss of characteristic flora and fauna.
14. I cannot rule out the possibility that the occupation of the proposed dwelling would not have an adverse effect on the conservation objectives and integrity of the protected sites. Therefore, I must give regard to any measures that could be delivered which would avoid or mitigate any adverse effects. In this regard the Council's SPD provides advice on suitable mitigation including a financial contribution towards Strategic Access Management and Monitoring (SAMM) and Heathland Infrastructure Projects (HIPs). There is no mechanism before me which would secure contributions towards SAMM or HIPs, nor any alternative approach which would mitigate the effects of the increased recreational use of the Dorset Heathlands protected sites.
15. As the proposed dwelling replaces a storage building and the polytunnel is a light weight structure there would be a net decrease in the area of the site containing permanent built form and surface water drainage would not be an issue. In terms of foul drainage, the new dwelling would be served by a sewage treatment plant which also serves 3 existing holiday cabins. I have insufficient information to comment on the capacity of the treatment plant. Such equipment would reduce nutrients in water discharged to the soakaway, but I have no evidence to suggest that it would entirely eliminate nutrients to a point where phosphate neutrality would be achieved. I am informed that the fish hatchery would be a closed system with no discharge of water into the environment but have been provided with no evidence to substantiate this. Solid residue would also need to be emptied periodically, from the residential sewage treatment plant and potentially from the fish hatchery. I have no information on how this would take place so have no guarantee it would not be deposited within the River Avon catchment.
16. The appellant contends that existing landforms, including the established lakes and vegetation on the site are expected to maintain nutrient neutrality. However, I have not been presented with a phosphorus budget or other substantive evidence in support of this and no mitigatory measures have been proposed. Consequently, there is currently no mechanism to ensure that the proposal would be able to achieve phosphate neutrality in perpetuity or that adequate mitigation would be secured.
17. In conclusion, the proposal would have a likely significant effect on European and RAMSAR protected sites and no mitigation has been secured. I am therefore unable to rule out the possibility that the proposal, either alone or in combination with other development, would have an adverse effect on the integrity of the protected sites. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted. As such, the proposal conflicts with Policies ME1 and ME2 of the Christchurch and East Dorset Local Plan, Part 1 – Core Strategy (adopted 2014) (LP), which together, amongst other things, seek to ensure that the impact of development is avoided or mitigated so that there will not be adverse effects on the integrity of internationally designated sites.

18. The proposal would also be contrary to Paragraph 180 of the National Planning Policy Framework (the Framework). This indicates that planning permission should be refused if significant harm to biodiversity cannot be avoided, mitigated, or as a last resort, compensated for.

Need for a dwelling

19. The fishing and associated holiday cabins is an established year round business, with additional cabins added in recent years. The proposed addition of the polytunnel fish hatchery would enhance the viability of the existing business and support a prosperous rural economy, in line with Paragraph 84 of the Framework.
20. Paragraph 80 of the Framework allows for isolated dwellings in the countryside where there is an essential need for a rural worker to live permanently at or near their place of work. Planning Practice Guidance sets out considerations to take into account when assessing the need for isolated homes in the countryside for essential rural workers, including whether the need could be met through improvements to existing accommodation on the site.
21. There is sufficient evidence for me to conclude that it is necessary for a worker to live at or near the site to ensure the effective operation of the rural enterprise and it is noteworthy that the Council found similarly in this regard.
22. I note the Council's suggestion that one of the cabins should be used as accommodation for the rural worker. The appellant has presented information with this appeal which shows the loss of income from removing a cabin from rental and using it for manager's accommodation. This loss of income would have a substantial impact on the viability of the business in the long term.
23. On the basis of the evidence before me there is no suitable accommodation for the farm manager to live in nearby, including on the appeal site. I conclude that there is an essential need for a dwelling on the site to accommodate a rural worker. Accordingly, the proposal complies with Paragraph 80 of the Framework. If the proposal were acceptable in all other respects, a condition could be attached to tie occupancy of the dwelling to the management of the rural business.

Conclusion

24. For the reasons given above and taking into account the Habitats Regulations, the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR