



Appeal Decision

Site visit made on 5 December 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/D1265/W/22/3298789

Coach House, Glenthorne, Bristol Road, Sherborne, Dorset DT9 4EF

- 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 David & Keith Chiplen against the decision of Dorset Council.
 - The application Ref P/FUL/2021/01081, dated 14 January 2021, was refused by notice dated 31 January 2022.
 - The development proposed is alterations & improvements to existing former coach house to form a single dwelling as a self-build project.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the integrity of the Somerset Levels and Moors Special Protection Area and Ramsar Site.

Reasons

3. The Ramsar Site is afforded special protection under the Ramsar Convention, due to its internationally important wetland features, including the floristic and invertebrate diversity and species of its ditches, which together help support numerous habitats and protected species. Natural England has advised that the Ramsar Site is now in an unfavourable condition, due to the effects of eutrophication caused by such excessive phosphate levels. Any additional phosphate load into the Ramsar Site could therefore exacerbate the site's unfavourable condition, thereby further undermining its integrity.
4. The appeal site is located within the hydrological catchment of the Ramsar Site. In this area, wastewater from new residential development risks increasing phosphate levels within the protected area. The proposal could therefore exacerbate the unfavourable effects of eutrophication caused by excessive phosphate levels. In turn, likely significant effects on the Ramsar Site cannot be ruled out without appropriate mitigation.
5. To rule out such effects, proposed mitigation would need to procure nutrient neutrality in connection with the development. Mitigation measures would therefore need to fully offset the potential additional phosphate load arising from the development into the Ramsar Site. In this instance, the appellant's evidence concludes that the proposal would lead to a total phosphate surplus of 0.21kg/year.

6. The appellant has proposed the planting of five apple trees along the western garden area of the proposal, as mitigation for the phosphate surplus arising from the development. It is suggested that the average apple tree requires 350g – 450g of phosphorus annually. Taken together, the appellant therefore concludes that the five apple trees would absorb approximately 1.75kg of phosphorus from the soil in which they're grown annually, thereby offsetting the phosphate surplus attributed to the development. It is proposed that such offset would be further supplemented by the avoidance of fertiliser use within the proposed planting scheme.
7. Notwithstanding this conclusion, no substantive evidence has been presented to demonstrate the existing soil condition of the appeal site, including whether there would be sufficient levels of phosphates within the soil to achieve this level of offset. Any such scheme would also need to demonstrate the longevity of the mitigation, a factor which is also lacking in the submitted evidence. Moreover, the trees would invariably take some time to establish, yet little evidence has been presented to demonstrate the levels of phosphate absorption during the intervening period when the trees are yet to reach full maturity. This means I cannot be certain that the mitigation would be immediately effective.
8. On this basis, I am left with no option but to conclude as competent authority that the proposal would have significant adverse effects on the integrity of the Ramsar Site. The development would therefore fail to pass the appropriate assessment required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitat Regulations). The proposal would also conflict with the provisions of the National Planning Policy Framework (2021), which affords stringent protections to Ramsar sites.

Other Matters

9. Advice from both Natural England and the Environment Agency is clear that new development should connect to a public foul sewer rather than a Package Treatment Plant (PTP), where it is reasonable to do so. This is because private non-mains foul drainage systems are not considered to be environmentally acceptable within publicly sewered areas. Given that the site is within a town centre location, connection to a PTP is therefore unlikely to be an appropriate mitigation response to the additional phosphate load.
10. Whilst the proposal would lead to some benefits in terms of other biodiversity enhancements, sustainable construction methods and architectural improvements to the existing structure, these would not be sufficient to outweigh the significant harm to the integrity of the Ramsar Site.

Conclusion

11. The proposal would fail to pass the appropriate assessment required under Regulation 63 of the Habitat Regulations, and it would also conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR