



Appeal Decision

Site visit made on 18 April 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th May 2023

Appeal Ref: APP/K3415/W/22/3310009

The Cottage, Haunton Road, Harlaston, Tamworth, Staffordshire B79 9HS

- 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 Oliver Sargent against the decision of Lichfield District Council.
 - The application Ref 22/01050/COU, dated 12 July 2022, was refused by notice dated 12 October 2022.
 - The development proposed is the erection of a 5 bedroom, one and a half storey dwelling including change of use and surrounding works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issues are:
 - Whether the appeal site is an appropriate location for housing having regard to the settlement strategy;
 - The effect of the development on the River Mease Special Area of Conservation (SAC); and
 - The effect of the development on the ecology of the site.

Reasons

Location

4. The appeal site is a parcel of land lying to the north of Haunton Road located near to the settlement of Harlaston. The site is in equestrian use with a stable block immediately alongside together with fields in the appellant's ownership extending up to the River Mease. The immediate area is characterised by open fields with a strong rural character and several isolated farms and dwellings.

5. Core Policies 1 and 6 and Policy Rural 1 of the Lichfield District Local Plan Strategy 2015 (LPS) set out the strategic objectives for the delivery of new development in the District. LPS Core Policy 1 seeks to direct growth to the most accessible and sustainable locations in accordance with the Settlement Hierarchy. LPS Core Policy 6 sets out that in rural areas not listed within the policy, only residential development which falls into one of the defined categories will be permitted. The proposed development is outside any recognised village settlement boundary, and it has not been demonstrated that it meets any of the defined categories in LPS Core Policy 6.
6. LPS Policy Rural 1 supplements Core Policy 6 and relates to rural areas. This establishes that Harlaston is not a Key Rural Settlement and smaller villages will only deliver housing to accommodate local needs within village boundaries, through the conversion of existing buildings and on rural exception sites. Policy Rural 1 is therefore not directly relevant to the circumstances of this appeal.
7. The National Planning Policy Framework (the Framework) recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. However, there is no evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-build housing, or that it would meet a currently identified Council need. These factors greatly diminish the positive weight which I afford to the potential provision of a self-build house.
8. I recognise that the appellant seeks a larger property to accommodate a growing family, and this would be a more affordable means to achieve this. A dwelling in this location would also reduce the number of journeys to visit the animals, manage the site and allow for recreational activities. However, these alongside the improvements in living arrangements, are all largely personal benefits which do not outweigh the harm caused by permitting new housing in unsustainable locations and the requirement to make decisions in accordance with the development plan. The proposals to make the dwelling energy efficient, use renewable energy, to plant trees and improve the ecological habitat around the site carry a modest degree of weight in favour of the development. However, in these respects the proposal lacks detail, and in any event, these would not outweigh my findings in respect of the effect of the proposed development on the settlement strategy.
9. The proposal would deliver one dwelling which would add to the District's housing stock and meet with the Government's aims to boost the supply of housing, but this would be a limited benefit given the small scale of the proposal and the Council's stated ability to demonstrate more than a five year supply of deliverable housing land, which is not disputed by the appellant. The Council's policies concerning the strategy for delivering housing are also up to date. There would be some economic and social benefits through the construction of the dwelling, and from subsequent activities of the future residents in the local area. However, these benefits would be limited.
10. Despite the proximity to Harlaston, the access would be via a rural road which is unlit and without pavements and therefore there is likely to be a reliance on motor vehicles for most journeys. The settlement also only has limited facilities which would be unlikely to cater for the everyday needs of the proposed residents.

11. I have taken account of the surrounding settlement pattern and recent residential development in the area. However, I have not been provided with sufficient details to demonstrate that these new developments are comparable with the appeal scheme before me. I have therefore determined the proposal on its own merits in accordance with the development plan and on the evidence before me. I have also taken account of the degree of enclosure to the site and the potential for additional screening.
12. The proposal would constitute a new dwelling in the open countryside and for the reasons given, the appeal site would not be an appropriate location for housing having regard to the settlement strategy. I consider that the harm identified significantly and demonstrably outweighs the benefits that the proposal would generate. As well as the Framework, the proposal would be contrary to LPS Core Policies 1, 3 and 6 and Policy Rural 1.

Special Area of Conservation

13. The site is within the catchment area of the River Mease, which comprises part of the River Mease Special Area of Conservation (SAC). The SAC is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the Habitats Regulations), due to its international importance for its aquatic flora and fauna.
14. It is understood that the River Mease is experiencing significant pressure from nutrient pollution where increased levels of nutrients, particularly phosphates, can speed up the growth of certain plants, impacting wildlife and damaging protected sites. Natural England has advised that development can only proceed if it is 'nutrient neutral'. The Habitat Regulations require Councils to ensure that new development does not cause adverse impacts on the integrity of protected habitats before granting planning permission.
15. LPS Policy NR8, as per The Habitats Regulations, requires that permission may only be granted after having ascertained that it would not adversely affect the integrity of the River Mease SAC. Effective avoidance and/or mitigation of any identified adverse effects must be demonstrated and secured prior to approval of development and on-going monitoring of impact on the SAC will be required. Natural England advises that there are no adopted mitigation schemes to resolve the impacts to the River Mease and suggests a precautionary approach when addressing uncertainty.
16. The proposed development of a single dwelling, although limited in scale, has the potential to significantly impact on the integrity of the SAC, through increasing pollution within the watercourses within the catchment area. Although the appellant is willing to meet the requirements of nutrient neutrality, there are limited mitigation or avoidance measures put forward for the development. The appellant's submitted drainage information, including details of the treatment tank, are not adequately specified or detailed nor is their efficacy evidenced to conclude that the proposal would be nutrient neutral. In addition, whilst the results of the calculator supplied by Natural England are also provided, they again do not provide adequate data or the evidence to explain this result.
17. Overall, I cannot be satisfied, beyond reasonable scientific doubt, that the proposal would not have an adverse effect on the SAC. Consequently, I must conclude that the proposal is likely to have a harmful effect on a European site.

As I am dismissing the appeal on other matters, I have not gone on to do an Appropriate Assessment. The development proposed therefore conflicts with LPS Core Policy 13 and Policy NR8. The proposal would also not conform with the provisions of the Framework in respect of conserving or enhancing the natural environment, nor would it accord with the Habitat Regulations.

Ecology

18. Both LPS Core Policy 13 and Policy NR3 require, amongst other things, the safeguarding of ecological networks and development which protects, enhances and restores the biodiversity of land, including a requirement that all development delivers a net gain for biodiversity. Although the appellant indicates that the development would cause no harm to current habitats and will create new habitats, evidencing those created alongside the erection of the stables, the proposal is not accompanied by an ecological appraisal for the site. In the absence of details of the site ecology, it is not possible to establish what natural habitats/protected species are present and what impact the development would have on them. This is particularly important given the proximity to the River Mease and its associated protected species. Furthermore, with a lack of an understanding of the ecological value of the site it is unclear how a net gain for biodiversity could be achieved.
19. The development would therefore fail to comply with LPS Core Policy 13 and Policy NR3 and the Biodiversity and Development Supplementary Planning Document, together with the Framework, which seek to protect and enhance an area's biodiversity and protect natural features of importance.

Other Matters

20. I recognise that the appellant tried to work with the Council in all aspects of the application and suggested an extension of time for determination of the application to allow for a SAC mitigation scheme to be available. However, I am not aware of a timeframe for the strategic approach to mitigation and the Council understandably determined the application as it considered it contrary in principle to the development plan. Also, the absence of local objections does not justify the approval of an unacceptable development.

Conclusion

21. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal is dismissed.

G Bayliss

INSPECTOR