



Appeal Decision

Site visit made on 16 February 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/D3505/W/22/3298910

Higham Park, Upper Street, Higham, Suffolk CO7 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mrs Nicole Bisson against the decision of Babergh District Council.
 - The application Ref DC/21/03551, dated 21 June 2021, sought approval of details pursuant to condition No 6 of a planning permission Ref DC/18/02449, granted on 15 October 2018.
 - The application was refused by notice dated 22 December 2021.
 - The development proposed is described as 'DC/21/03551 | Discharge of Conditions Application for DC/18/02449 - Condition 6 (Details of Illumination)'.
 - The details for which approval is sought are: Prior to the erection/installation of any floodlighting or other means of external lighting at the site, details to include position, height, aiming points, lighting levels and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved. There shall be no other means of external lighting installed and/or operated on/at the site.
 - The reason given for the conditions was 'In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has referred to the emerging Joint Babergh Mid Suffolk Council Local Plan and that the formal examination has commenced. I have not been provided with details of the stage of the examination or any unresolved objections to any policies relevant to this appeal. I therefore attach limited weight to this.

Main Issue

3. The main issue is the effect of the proposed lighting scheme on the character and natural beauty of the Dedham Vale Area of Outstanding Natural Beauty (AONB).

Reasons

4. The site falls within the AONB which is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 (CROW) places a duty on me to have regard to

these purposes. This duty is reflected in the policies of the National Planning Policy Framework (the Framework). Paragraph 176 confirms that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB, and that the scale and extent of development should be limited. I have had regard to these in reaching my decision.

5. I visited the site in daylight and the surrounding area in daylight and in darkness. It is in a rural location with limited surrounding development. The adjacent road is not lit. From my observations and the evidence before me, the site is within a naturally dark area due to the limited levels of development and lighting. This contributes to the natural beauty of the AONB and the introduction of inappropriate lighting within this area would have an adverse effect on this.
6. An Environmental Lighting Impact Assessment Report (lighting report) was submitted during the application process. Section 3 as a whole sets out the assessment methodology against which the scheme would be considered. This relies on 'Guidance Notes for the Reduction of Obtrusive Light; GN01/21 (2021)' produced by the Institution of Lighting Professionals.
7. Table 3.2 of the lighting report sets out limits for obtrusive light with respect to a number of factors, and in different time periods. This includes standards specifically for AONBs. However, it does not go on to specifically demonstrate how the submitted scheme performs against the criteria in this table. Nor does it identify the AONB as a sensitive receptor or address the effect of the proposed lighting scheme on the AONB. It therefore has not been demonstrated that the proposed lighting scheme would meet the criteria set out in Table 3.2 to ensure that the lighting scheme would not have an adverse effect.
8. The parties are in dispute as to how tranquillity should be defined and assessed in the context of this appeal. Irrespective of the precise definition, there has been a dwelling on the appeal site for some time and this has included exterior lighting. It is implicit within the condition that it is acceptable for there to be lighting around the property and it is only logical that this would allow for the safe and reasonable use of the property by the appellant and their family.
9. The Council, in the evidence from the AONB team, disputes the use of GN01/21, typifying it as broad generic zoning which does not consider the differences between different AONBs and highlighting the ambition to secure a dark sky designation for the AONB. However, this does not contain any technical evidence to demonstrate that compliance with GN01/21 with respect to the criteria for the AONB would not be appropriate, or that it would adversely affect the ambitions to acquire Dark Sky status. I therefore have no reason to dispute its use in providing an objective metric for assessing the effect of the lighting scheme. However, this would not overcome the issues I have identified above.
10. I therefore conclude that there would be an adverse effect from the proposed lighting scheme on the character and natural beauty of the AONB. It would therefore be contrary to Babergh Local Plan Alteration no. 2 adopted 2006 Saved Policy CR02 which seeks to protect the landscape of the AONB, safeguard it through the strict control of development and not allow development that would have a significant effect. In reaching this conclusion, I have had regard to the duties placed on me by the CRow and the associated

requirements of the Framework at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

Other Matters

11. It is beyond the scope of this appeal to consider if condition 6 meets the tests set out in Paragraph 56 of the Framework. Matters related to the time taken by the Council to determine the application and the manner in which they dealt with the appellant do not alter my decision.
12. Notwithstanding the content of subsequent correspondence between the appellant and the Council, the reasons for the imposition of the condition are those set out in the decision notice. This is clear that there were two reasons for the imposition of the condition. While there was no objection to allowing the proposed lighting scheme on ecological grounds, this does not remove the need to consider its effect on the character of the AONB.
13. I acknowledge that an amended scheme was submitted by the appellant, which the Council would prefer in the event I was minded to allow the appeal. However, I do not have any evidence before me as to the effect of that lighting scheme that would allow me to conclude that it would not have an adverse effect on the natural beauty of the AONB.
14. I do not have the full details of other sites, applications and the conditions imposed referred to by both parties before me. In any event, each appeal must be determined on its own merits.

Conclusion

15. For the reasons given above, the appeal proposal would conflict with the development plan. There are no material considerations of sufficient weight to indicate that a decision should be taken otherwise. Therefore, the appeal is dismissed.

J Downs

INSPECTOR