
Appeal Decision

Site visit made on 20 June 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2023

Appeal Ref: APP/W4705/W/23/3320282

6 Wheatley Rise, Ilkley, Bradford LS29 8SQ

- 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 Mrs S Towler against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 22/03435/FUL, dated 4 August 2022, was refused by notice dated 19 October 2022.
 - The development proposed is erection of new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the integrity of the South Pennine Moors Special Protection Area (SPA) & South Pennine Moors Special Area of Conservation (SAC).

Reasons

3. The appeal site falls within 400m of the SPA/SAC, being located in the south-eastern fringes of Ilkley, a short distance from Ilkley Moor. The SPA and SPA include qualifying features such as dry heaths and blanket bogs and a range of bird life including golden plover, common sandpiper and common snipe.
4. The proposal would involve new residential accommodation within close proximity to the sites and could therefore result in impacts on the designated sites arising from increased recreational disturbance. An impact pathway is therefore present.
5. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out.
6. I am therefore required to carry out an Appropriate Assessment. The SPD¹ identifies differing impact zones dependant on distance from the designations. The appeal site falls within 400m (Zone A).
7. The SPD suggests that impacts tend to be more severe from development within close proximity to the designated areas as residents would amongst other things use the areas for recreation on a more regular basis than those living in excess of 400m away. It is likely to be very difficult to mitigate this impact.

¹ City of Bradford Metropolitan District Council, South Pennine Moors SPA/SAC Supplementary Planning Document.

8. I cannot therefore rule out that further increases in recreational pressure would not have a detrimental impact on the bird populations present as a result of disturbance to habitat. As such, the favourable conservation status of the species would not be likely to be maintained. The development would be likely to have a detrimental impact on the delivery of the sites objectives adversely affecting their integrity when taking into account the evidence including the Screening Report².
9. Within the 400m zone, the provision of a new dwelling is not one of the types of development that might be permitted. The SPD states that the presumption is that there will be no net increase in dwellings. There is therefore conflict with the guidance within the SPD.
10. The proposal would conflict with Policy SC8 of the Bradford Core Strategy (2017) which amongst other things states that development will not be permitted where it would be likely to lead to an adverse effect which cannot be effectively mitigated upon the integrity or the SPA or SAC.

Other Matters

11. I note that there have been circumstances which appear to have resulted in three previous permissions for a residential dwelling at the site not going ahead. However, there is nothing to indicate that any of those permissions are implementable and I therefore only afford the matter limited weight. In any event, I have afforded the harm associated with SPA/SAC impacts significant weight.
12. There is a suggestion that taking an alternative view to the limits of the SPA/SAC that the site could be considered in excess of 400m away. However, there is nothing within the evidence to suggest that the site is more than 400m away from the officially designated boundaries of the SPA/SAC. The appellants own HRA states that the site lies approximately 300m from the SPA. I therefore afford this matter very limited weight.
13. A unilateral undertaking has been submitted alongside the application, relating to the provision of a habitats mitigation contribution. However, given the proximity of the appeal site to the designations such mitigation would be unlikely to resolve the issues arising from the close proximity, within 400m.
14. There is an indication within the evidence that the Council cannot demonstrate a five-year housing land supply. However, Paragraph 182 of the Framework³ states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. Therefore, paragraph 11 (d) of the Framework is not engaged in terms of supporting the proposal.

Planning Balance and Conclusion

15. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

² Rhodes Ecology Habitats Regulations Assessment – Stage 1 Screening Report (HRA).

³ National Planning Policy Framework 2021.