



Appeal Decision

Site visit made on 24 August 2023

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/C1435/W/22/3301369

1 Westrow House, Rocks Lane, High Hurstwood, Buxted, TN22 4BN

- 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 & Mrs R Brazier against the decision of Wealden District Council.
 - The application Ref WD/2022/0542/FR, dated 28 February 2022, was refused by notice dated 17 May 2022.
 - The development proposed is described as '4No. Replacement Floodlights for Equestrian Sand School in Replacement of Previous Lighting System (Retrospective)'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning application. It does not raise any new considerations in relation to this appeal.

Main Issue

3. The main issue is whether or not the proposed development would have an adverse effect on the wider area, including protected species.

Reasons

4. The existing floodlights are described as being replacement floodlights. On my site visit I saw what appeared to be the remains of previous lights serving the sand school. The appellant has provided some information to substantiate their overall position in this regard although this has been queried by an interested party.
5. Whilst I am mindful that there may have been lighting to the sand school in the past, and there are suggestions that it was immune from enforcement action, there is no lawful development certificate to confirm this to be the case. It is not within the remit of this appeal, nor do I have sufficient evidence before me, to settle the debate on the lawfulness of the previous floodlights.
6. The four floodlights subject of this appeal are positioned along the southern side of the sand school. The poles to which the lights are attached are relatively lightweight and slender. They are set against the trees and planting along the site's boundary with Rock's Road. Although the site is set above road level, the Council has not objected to these physical structures per se and I have no reason to conclude otherwise.

7. The lights are directed towards the school but have no mechanism to control light spill. It therefore seems to me that given their position, and in order to illuminate the full extent of the sand school when it is dark, the effect of the lights would be experienced beyond the confines of the site itself. The likely degree of visual intrusion would be somewhat at odds with the rural landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB). The area is generally characteristic of the tranquil open countryside found in the AONB. There are some sporadic buildings or groups of buildings in the area but generally it is characterised by gently undulating open countryside, with fields generally bound by hedges linking to small tracts of woodland. Thus, at night, the sky will generally be expected to be dark.
8. The lighting is said to only be required during the winter months. The appellant is willing to accept a condition that the floodlights be turned off by 1930 hours. This would certainly help to limit the times when there would be light intrusion but not minimise the effect whilst the lights are on. I am also aware that in the colder months there is a greater chance of high levels of water vapour in the atmosphere, either from the horses or through rain, fog or mist. This could emphasise the activities of the sand school through reflection and refraction, thereby possibly increasing the harm.
9. It is further suggested that baffles be fitted to the lights to help avoid light spill. However, I have no information to demonstrate that this is possible for the current lights. Even if I were to accept that they could be fitted, it is not clear if this would achieve an appropriate outcome given both the area to be lit and the current height of the lights.
10. I have not been provided with any sort of Lighting Impact Study or Assessment. This might usefully have demonstrated lighting levels and the extent to which the use of different luminaires and cowling might provide lighting to the sand school but also help to minimise light spill, thereby leading to reduced sky glow, from the site. Furthermore, a more clearly defined and detailed lighting scheme which limited the extent of any sky glow would have a much lesser chance of adversely affecting any protected species in the area.
11. Based on the information which is before me, I do not have sufficient certainty to conclude that even if I were to permit the scheme subject to conditions, the effect on the wider area, including protected species, would be acceptable. Accordingly, I am unable to find that the proposal accords with Saved Policies GD2, EN1, EN6 and EN29 of the Wealden Local Plan 1998 and Spatial Planning Objective SPO1 and Policies WCS12 and WCS14 of the Core Strategy Local Plan 2013 which, amongst other things, require development in the countryside and AONB in particular to conserve and where possible enhance the natural beauty of the High Weald AONB, protecting it from harmful development. They also seek to ensure that light spillage is minimised and that sensitive habitats are protected.
12. For similar reasons, the current proposal would not comply with the Wealden Design Guide 2008 and National Planning Policy Framework 2023.

Other Matters

13. It is said that there are animal welfare issues around having the lighting and thereby ensuring the horses are exercised. It appears that there is no one available to exercise the horses before 5pm. Whilst I am sympathetic to this

situation, the timing is principally a question of personal circumstance rather than being directly an animal welfare issue.

14. Planning Practice Guidance (Paragraph: 015 Reference ID: 21a-015-20140306) advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission but there are not sufficient grounds in this case to justify such an approach.
15. Other sites have been presented to me where sand schools or similar have floodlights. However, I do not have the full details of those cases before me so cannot be sure they represent a direct parallel. Furthermore, each case must be considered on its own merits.

Conclusion

16. Given all of the above, I must conclude that the proposal would harm the wider area and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR