



Appeal Decision

Site visit made on 25 October 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2023

Appeal Ref: APP/C1435/W/22/3308200

Benington, The Twitten, Southview Road, Crowborough, East Sussex TN6 1HF

- 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 Stuart Booth against the decision of Wealden District Council.
 - The application Ref WD/2022/0447/F, dated 21 February 2022, was refused by notice dated 9 September 2022.
 - The development proposed is erection of detached dwelling with associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the Ashdown Forest Special Protection Area (SPA) and highway safety.

Reasons

Ashdown Forest SPA

3. The Ashdown Forest SPA is a habitats site that has a high level of protection. It is designated due to the concentration of Dartford warbler and European Nightjar. Increased recreational pressure would be harmful to these populations, and the Council has identified that residents living within 7km of Ashdown Forest are likely to visit it. Consequently, new residential development within 7km of the SPA may harm the protected bird populations. Although the effect from 1 new dwelling would be small, when combined with other plans and projects there would be likely to be a significant effect on the protected site.
4. The Conservation of Habitats and Species Regulations 2017 therefore require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects. I am therefore required to undertake an AA.
5. In this regard I am provided with a draft UU which seeks to provide contributions towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring. These are intended to mitigate the effects on the SPA.
6. However, the evidence before me, including the land registry title document and correspondence from the Local Planning Authority shows that only part of

the site is owned by the appellant. I am not provided with the ownership details of the other part, although I understand that possessory title has been applied for. Nevertheless, I have no evidence that the parties that are listed to sign and execute the deed includes all parties with an interest in the land. Notwithstanding this, the UU submitted to me is not signed and executed and as such it cannot hold any weight. Therefore there is no mechanism that would secure any mitigation of the effects on the SPA.

7. The appeal is for a single dwelling and therefore there are alternative solutions, for example provision outside the 7km Zone of influence or securing appropriate mitigation, which would have a lesser effect on the integrity of the site. Consequently, there would be a significant effect on the interest features of the site, and I cannot be certain that there would be no adverse effect on the integrity of the SPA.
8. Consequently, there would be an adverse effect on the Ashdown Forest SPA. This would be contrary to policies EN1 and EN15 of the Wealden Local Plan (1998) (LP) and Policy WCS12 of the Core Strategy Local Plan (2013) (CS). Together these seek to avoid an adverse effect on biodiversity particularly including protected sites, and sets out that for an increase in dwellings within 7km of the SPA provision of SANG and on site visitor management measures will be sought. As well as pursuing sustainable development.

Highway Safety

9. The Twitten is a narrow single lane road which extends from South View Road to the appeal site. At the junction with South View Road the visibility, in particular to the south is somewhat limited. It is part of the public highway as far as the junction close to the entrance to Old Grange House. Beyond this it is a private road which serves 2 dwellings, Benington and Woodspring, a public footpath also joins the road at this point. The road is narrow, with few places to pass and no pavements. Also, at the bends in the road visibility of oncoming road users is limited.
10. The road serves 7 dwellings, which the main parties agree results in around 35 movements per day. Representations suggest that occupiers are aware of the features of this road and adjust their driving habits accordingly. I also have detailed evidence in the form of accident data which suggests that the road operates effectively at present with no recorded accidents.
11. The proposed development would introduce one additional dwelling to this road. The appellant's detailed Highway Overview calculates that this would result in around 5 trips along the road per day, and this is agreed by the highway authority.
12. I have considered the highways matters put to me, including access from the private driveway to the Twitten, the junction with South View Road and the width, gradient and alignment of The Twitten. These all operate effectively for the existing 7 dwellings. The proposed development would result in a very minimal increase in vehicle movements along this lightly trafficked access road. Therefore, the very limited increase in trips along this road and turns at these junctions are unlikely to lead to significant conflict between road users nor an unacceptable impact on highway safety.

13. Consequently, the proposed development would not be harmful to highway safety. As such it would be in accordance with Policy TR3 of the LP and Policy SPO12 of the CS. Together these require satisfactory access to new development and road safety.

Other Matters

14. The Council cannot demonstrate a 5 year supply of deliverable housing sites, therefore paragraph 11(d) of the Framework is engaged. However, as set out above, the application of policies relating to habitats sites provides a clear reason for refusing the development proposed, as set out in footnote 7. Consequently, the presumption in favour of sustainable development does not apply in this case.
15. The proposed development would provide one new home in an accessible location and could also lead to enhancements to biodiversity which could be secured by condition. Taking into account the scale of the development and the lack of certainty as to the degree of any biodiversity benefit at this stage, the benefits in this regard are minor. I have also found that the development would not be harmful to highway safety, however the lack of harm in this regard is a neutral factor that does not weigh in favour of the development. Therefore, these minor benefits do not outweigh the unacceptable harm to the important habitats sites identified above.

Conclusion

16. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR