



Appeal Decision

Site visit made on 12 November 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2024

Appeal Ref: APP/W1905/W/23/3334946

Lee Valley Car Park, Narrow Boat, Windmill Lane, Cheshunt, Hertfordshire EN8 9AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ali Mando Sis against the decision of Broxbourne Borough Council.
 - The application Ref is 07/23/0796/F.
 - The development proposed is the placement of a boat to provide hot food and drinks.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposal on the safety of towpath users;
 - whether adequate provision for waste management would be made; and
 - the effect of the proposed development on ecology.

Reasons

Towpath user safety

3. The appeal site lies in the River Lee Country Park within the wider Lee Valley Regional Park. It is adjacent to a towpath which runs alongside the Lee Navigation waterway. Forming part of the Lea Valley Walk, the narrow towpath is a busy public right of way used by pedestrians and cyclists.
4. The proposal is to moor a boat alongside the towpath to provide hot food and drinks. Customers waiting to be served and for hot food to be prepared and cooked would block the narrow footpath, creating conflict between those using the premises and other users of the public right of way. Thus, the mooring of the boat in this location would obstruct the safe and free flow of pedestrians and cyclists along this part of the towpath.
5. The food business currently operates from a different location on the River Lea, but limited details have been provided so I am not able to compare its current position with the proposed site.
6. Therefore, I conclude that the proposal would harm the safety of towpath users. This would be contrary to Policies TM1 and TM2 of the Broxbourne Local Plan 2020 (BLP) which require development to ensure the safety of all

movement corridor users and not detrimentally impact upon public rights of way, amongst other things.

Waste management

7. There is a vehicle height restriction barrier at the entrance to the nearby Pindar Car Park which provides access to the appeal site. There are no bins along this part of the Lee Navigation nor in the car park.
8. The Council's Waste Supplementary Planning Guidance 2019 requires commercial developments to have sufficient bin storage space for the likely waste needs arising from the use, located close to the entrance and out of view from public rights of way. Bin storage areas need to be close to the proposed waste collection point, as close as possible to the highway.
9. The Lee Valley Regional Park Authority does not provide bins within the country park. Further, the Council would not provide any waste bins nor offer a waste collection from this development as the land is not accessible to the waste collection vehicle or collecting teams.
10. Hot food takeaways generate waste such as food, cooking oils, packaging, and disposable containers, and businesses have a responsibility to ensure that their commercial waste is contained securely and disposed of correctly. The appellant has been supplied with trade waste sacks, but there is no waste management plan or other information indicating how the refuse produced by the proposed premises would be stored and removed from the site. In the absence of such details, there is the potential for littering and harm to the aquatic environment of this part of the regional and country park.
11. Consequently, I conclude that inadequate provision for waste management would be made. This would be contrary to Policies LV1, EQ1, RTC3 and RTC4 of the BLP. Amongst other things, these recognise the litter issues arising from hot food takeaways, seek adequate refuse storage facility provision which is accessible by waste management vehicles, and aim to improve the Lee Valley Regional Park.

Ecology

12. Houseboats are moored on one side of the Lee Navigation, adjacent to the towpath, whilst the other side of the waterway provides a natural, undeveloped environment. The appeal site lies around 20m from the Lee Valley Special Protection Area (SPA) and Ramsar site. The SPA has been designated for internationally important numbers of over-wintering wildfowl, especially gadwall, shoveller and bittern, and the Ramsar site is a wetland of international importance. There are marshland Local Wildlife Sites further away and river corridors are important foraging habitats for nocturnal species such as bats, a legally protected species.
13. The moored boat would accommodate a cooker, grill, freezer, and various fridges, amongst other things. It is proposed to operate from 10am to 8pm seven days a week, with no sale of alcohol.
14. For much of the year, the premises would be operating into hours of darkness. This would result in increased comings and goings of people alongside this part of the waterway at night, generating additional noise and use of artificial light, both of which have the potential to adversely affect important wildlife.

Therefore, due to the proposed nighttime operation of the premises and its proximity to designated wildlife sites and a river corridor, harm to protected habitats and species cannot be ruled out.

15. Further, in the absence of waste management information, I cannot be certain that there would not be a harmful impact on wildlife and habitats in the vicinity from waste inappropriately discarded into the waterway or surrounds.
16. Therefore, I conclude that the proposed development would have an adverse effect on ecology. This would be contrary to Policies NEB1 and NEB2 of the BLP where they seek to avoid harm to biodiversity, including internationally designated wildlife sites.

Conclusion

17. For the above reasons, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

A Wright

INSPECTOR