
Appeal Decision

Site visit made on 22 October 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/M2270/W/24/3339369

Hemsted Forest Equestrian Centre, Golford Road, Benenden, Cranbrook, Kent TN17 4AJ

- 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 Mrs K Garwood against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 23/03032/FULL.
 - The development proposed is the installation of 8 flood lights to the outdoor sand school and their use between 4pm and 7.30pm, October to April, during time term only.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 8 flood lights to the outdoor sand school and their use between 4pm and 7.30pm, October to April, during time term only at Hemsted Forest Equestrian Centre, Golford Road, Benenden, Cranbrook, Kent TN17 4AJ in accordance with the terms of the application, Ref 23/03032/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. In 2023, designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes'. The appeal site falls within the High Weald Area of Outstanding Natural Beauty (the AONB) which has become the High Weald National Landscape. However, the National Planning Policy Framework (the Framework) continues to refer to them as AONBs. In this decision I have used the term AONB, consistent with the development plan and the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area, with particular regard to whether it would conserve and enhance the natural beauty of the High Weald AONB; and
 - protected species, with particular regard to bats.

Reasons

Character and appearance

4. AONBs are defined as 'valued landscapes' by the Framework, which states that AONBs have the highest status of protection in relation to conserving and enhancing their landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to the purpose of AONBs to conserve and enhance the natural beauty of the area. The Framework requires that great weight be given to these matters in decision making.
5. The High Weald AONB in this area is characterised by historic farmsteads, routeways and field boundaries set in a mosaic of irregular fields interspersed by woodlands and hedges. The High Weald AONB Management Plan finds that its special qualities include its intrinsically dark landscapes with a sense of naturalness, and range of nocturnal species which are dependent on dark skies for feeding.
6. The Tunbridge Wells Borough Landscape Character Assessment Supplementary Planning Document 2017 (SPD) identifies the increasing artificial light pollution which results in the loss of dark skies, the loss of the sense of remoteness and adverse effects on wildlife as a detractor in the landscape. The SPD seeks to resist the introduction of artificial light pollution in remote areas.
7. Golford Road does not have any street lighting and is largely bound by trees and hedges. Development along the road is sporadic and comprises of occasional dwellings interspersed with agricultural fields and woodlands. Given the low density of built form, the character of the street scene is dictated by the field parcels, hedges and trees which ensure that the natural and scenic beauty of the AONB predominates. This provides the area with a notably peaceful, remote and tranquil quality.
8. The appeal site comprises an outdoor riding arena, which forms part of the wider equestrian centre, together with other structures including stable buildings, barns and an indoor riding arena. There is also a residential dwelling. As such, the light associated with the existing buildings on the equestrian centre reduces the contribution that it makes to the experience of dark skies within the AONB.
9. Policy EN8 of the Tunbridge Wells Borough Local Plan 2006 (LP) states that proposals for outdoor lighting schemes will only be permitted where all of the criteria listed are satisfied. Policy BD5 of the Benenden Neighbourhood Development Plan 2020-2038 (NP) says that all external lighting included in any proposal must be carefully designed, strictly limited and should address the criteria listed.
10. The proposal seeks to install eight floodlights, for the purpose of illuminating the outdoor riding arena between the hours of 16:00 and 19:30, October to April, during time term only. The appellant explained that while the indoor arena allows riders to exercise their horses or have lessons in the early hours of darkness, but this is not sufficient to exercise the thirty horses on site in the autumn and winter months when daylight is lost earlier, particularly when considering the constraints associated with safety and insurance.

11. The proposal would allow both arenas to be used in the evening, which in turn would improve horse welfare, by providing sufficient space to ensure that all horses would be exercised in a regular manner throughout the year. Further, the proposal would support a local business, by improving the use of the existing facilities. As such, while the reason for constructing the indoor arena is not clear from the evidence, I am satisfied that the need for the scheme before me has been adequately justified.
12. The Exterior Lighting Design and Visual Impact Assessment (the Lighting Report) sets out that the proposed floodlights are accredited by the International Dark sky Association. The Lighting Report advises that the proposal would meet the standards for natural surroundings recommended for AONBs, as set out in the Guidance Notes for the Reduction of Obtrusive Light GN01:2011, because there would be no light emitted upwards.
13. The proposal would meet the recommended levels of illumination for horse riding and jumping contained in the Society of Light and Lighting LG4, Sports Lighting. The Planning Statement advises this would provide the minimum amount of light necessary to light the arena in terms of lighting power, number of floodlights and amount of time that the lighting would be used.
14. The floodlights would be low energy, minimise glare and have tightly controlled beams, as well as deep sides and rear shields which would minimise light spill. Indeed, the Lighting Report provides a plan showing that the rear spill would be contained within a limited distance behind the columns.
15. The Lighting Report confirms that the proposed lights would have different settings, so the output could be adjusted in accordance with the riding activity taking place within the arena. Further, the lights would have movement sensors so that any inactivity in the arena would mean that they would switch to a low level and then turn off.
16. Despite this, at the times when they are in operation, the lights would likely be perceived from the surrounding area, which is largely dark and unlit at night. However, there is existing illumination on site and public views would be largely screened by the existing bunds, buildings and vegetation. Further, the flood lights would be used during time term only for a limited number of hours in the evening.
17. Drawing all the above together, the proposal's siting, design and hours of operation would minimise light pollution, so it is unlikely that the proposal would result in a noticeable impact on any existing dark skies. Therefore, the scheme would conserve the special qualities of the AONB.
18. As such, the proposal would not be harmful to the character and appearance of the area and would conserve the natural beauty of the High Weald AONB, in accordance with Policies LBD1, EN1, EN8 and EN25 of the LP, and Core Policies 4, 5 and 14 of the Tunbridge Wells Borough Core Strategy Development Plan Document 2010. These policies, amongst other things, support development of an appropriate design that respects its surroundings, minimises obtrusive light, conserves the rural landscapes of the Borough including the AONB and maintains the quality of the countryside. The proposal would further accord with Policies LE1, BD5 and BE6 of the NP, which seek to conserve the dark skies of the AONB and encourage existing businesses to grow.

Protected species

19. The Council's reason for refusal also relates to harm to protected species around the site such as bats. The Preliminary Ecological Appraisal (PEA) provided found that the appeal site, comprising a sand arena, does not offer suitable roosting or foraging habitat for bats. The earth bund with ruderal vegetation and areas of horse paddock near the site provide low suitability for foraging and commuting bats.
20. The proposal would be utilised for approximately 3.5 hours a day, between October and April. Therefore, the floodlights would not be in use between May and September, which encompasses the peak activity season for bats. The PEA concludes that the use of floodlighting between November and February is unlikely to impact bats, as it is their hibernation season. Although bats may be present on site in March, April and October, the PEA advises that the potential impact of lighting on bats passing through the site would be minimised through the use of appropriate mitigation measures, including LEDs recommended by the Bat Conservation Trust. As such, the proposal would likely have a negligible impact on bat populations in the locality.
21. The Council has not provided robust evidence to justify its position regarding this issue and, as such, the weight of the evidence leans in the direction of the appellant. On this basis, I find that the proposal would safeguard protected species around the site.
22. As such, the proposal would not have a harmful effect on protected species, with particular regard to bats, in accordance with LP Policies LBD1 and EN1, CS Policies 4 and 14. These policies seek to protect habitats of importance and enhance biodiversity within the Borough, amongst other things.

Other Matters

23. My attention is drawn to a previous dismissed appeal decision¹ relating to the installation of external lighting on the outdoor riding arena. However, it appears from the evidence that the scheme before me would have a reduced light spill, a different type of flood lights and would only be in operation during term time. In addition, I have been provided with a PEA, which does not appear the case with the previous submission. On this basis, I afford the previous appeal decision limited weight in my consideration of this appeal.
24. Given the siting of the proposal and relationship with neighbouring dwellings, it is unlikely that the proposal would unduly harm the living conditions of nearby residents.

Conditions

25. I have considered the Council's suggested conditions in light of the advice contained within the Framework and the Planning Practice Guidance. I have undertaken some minor editing, in the interests of precision and clarity.
26. In addition to the standard time limit for implementation of the planning permission, it is necessary to impose a condition specifying the approved plans to provide certainty.

¹ Appeal Ref: APP/M2270/W/17/3182707.

27. In the interests of protecting the character of the area and the special qualities of the AONB, conditions requiring the proposal to be carried out in accordance with the submitted lighting details and restricting the hours of operation are necessary. A condition to ensure the implementation of the recommendations set out in the PEA is necessary in the interests of nature conservation.

Conclusion

28. For the reasons given above the appeal should be allowed.

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 010.B, 030.B, 070.A, 071.A and Exterior Lighting Design & Visual Impact Assessment.
- 3) The development hereby permitted shall be installed in strict accordance with the approved details, including luminaire type, maximum illumination levels, mounting height, use of side and rear shields to reduce overspill and aiming angles. The floodlights shall thereafter be maintained and operated in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 4) The development hereby permitted shall be carried out in strict accordance with the mitigation measures and biodiversity enhancements within the Preliminary Ecological Appraisal dated November 2022. The biodiversity enhancements shall thereafter be retained in accordance with the approved details unless otherwise agreed by the Local Planning Authority.
- 5) The floodlights hereby permitted shall only be used between the hours of 16:00 and 19:30, October to April, during school time term only, and shall be switched off earlier if not in use.