



Appeal Decision

Site visit made on 11 November 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/M2270/W/19/3234398

Land adjacent to Keepers Cottage, Burnt House Lane, Speldhurst, Kent

- 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 Hugh Davies of Tilhill Forestry against the decision of Tunbridge Wells Borough Council.
 - The application Ref 17/04294/FULL, dated 20 December 2017, was refused by notice dated 10 May 2019.
 - The development proposed is the construction of 4m wide by 25m long loading bay with a 10m bell mouth entrance to Shadwell and Sprouds Wood, including replanting hedgerow, replacement gate and erection of fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's name provided on the planning appeal form differs to that in the planning application form. However, it has subsequently been clarified that the appeal should run in the name of the applicant and I, accordingly, have used the applicant's name and company in the banner heading above.
3. The site address and description of development provided on the planning application form have been replaced by alternative versions in subsequent documents. I consider these to be usefully more comprehensive and have thus employed them here.
4. Notwithstanding the description of proposed development set out in the banner heading above, which is taken from the Council's decision letter and the planning appeal form, prior to the Council's determination of the application amended plans were submitted which amended the size of the bellmouth and loading bay. The Council explained within the officer report that its decision has been based upon the revised plans that show a 4.5m wide by 25m long loading bay with a 12m bell mouth entrance and the swept path analysis illustrated on drawing number 1507-001 Rev A. For the purposes of clarity, I have considered the appeal on the basis of the plans before the Council when it made its determination.
5. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any

relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

6. The main issues raised by the appeal are:

- (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and development plan policies and the effect of the proposal on the openness of the Green Belt;
- (b) The effect of the proposal on highway safety;
- (c) The effect of the proposal on the character and appearance of the area; and
- (d) Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

Reasons

Inappropriate Development, Green Belt, Openness and Purpose

- 7. The Framework sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts being their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 8. Paragraph 145 of the Framework provides for buildings for forestry and indicates these would not be inappropriate development within the Green Belt. Paragraph 146 sets out that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Whilst the proposal would not create a building, the Council has concluded that the proposal would fall within the exceptions outlined within paragraphs 145 and 146 of the Framework. My conclusion on the next issue, its effect on the openness and purpose, will determine whether or not the development is inappropriate.
- 9. The proposal would involve the removal of an agricultural field gate and approximately 8 to 9m of hedgerow. It would be replaced by a 12m wide bellmouth with a 4.5m wide by 25m long type 1 surface loading bay within an existing agricultural field. The appellant has outlined that only the existing gateway access would be hardened, and the loading bay would be surfaced to allow grass to grow back between visits. Notwithstanding this, Kent County Council Highways (KCC Highways) has advised that the loading area would be required to have a type 1 sub-base with tarmac finish in order to satisfactorily accommodate the HGVs visiting the site and to avoid mud being spread onto the highway.
- 10. The creation of a wide bellmouth entrance and surfaced loading bay (as would be required to accord with the requirements of KCC Highways) would not preserve the openness and would impact on the purpose of safeguarding the

Green Belt from encroachment. On the basis that the fundamental aim of Green Belt policy is to keep land permanently open, the proposed works relating to the upgrading of this access and creation of a loading bay would be sufficient to result in the development being inappropriate in the Green Belt.

11. For the above reasons, the proposal would conflict with Policies MGB1 and LBD1 of the Tunbridge Wells Borough Local Plan 2006 (the Local Plan), Core Policy 2 of the Tunbridge Wells Core Strategy 2010, (the Core Strategy) as well as the provisions of the Framework, that set out the presumption against inappropriate development in the Green Belt.

Highway safety

12. The Council advise in their officer report that a revised swept path analysis (drawing no 1507-001 Rev A) was submitted. That revised swept path analysis related to the manoeuvring of a 9m rigid vehicle and showed the loading bay and bellmouth measurements of 14m wide with a 5m wide by 25m long loading bay. The Council, in consultation with KCC Highways, considers this to be a very confined manoeuvre and that the tree and the hedge opposite may be vulnerable to damage. In liaison with KCC Highways the Council indicate that the plan does not demonstrate that the proposed vehicle can enter and exit the site with the spot measurements undertaken by that case officer that have informed the revised swept path analysis drawing (drawing no 1507-001 Rev A). For this reason, the proposal does not demonstrate that an acceptable safe highway access can be achieved.
13. I acknowledge that alternative locations for a loading bay to service Shadwell & Sprouds Wood have been explored and discounted by the appellant for what appear to be sound reasons. However, the lack of alternative access/loading bay options does not justify the creation of one that has not been demonstrated to be safe. This is so, whether or not haulage drivers that are chosen from an internally approved contractor database are aware of hazards and are used to negotiating country lanes and, whether or not, Considerate Constructors and industry best practice and/or Forestry Haulage Safety are deployed. Whilst the appellant suggests that it would ensure its haulage vehicles enter Burnt House Lane from the south avoiding Speldhurst, I have no compelling evidence before me that would indicate how that might be enforced.
14. For the above reasons, the proposal does not demonstrate that an acceptable safe highway access can be achieved. As such, this brings the proposal into conflict with Policy T4 of the Local Plan that requires, amongst other matters, safely located accesses with adequate visibility and for traffic generated by the proposal to not compromise the safe and free flow of traffic or the safe use of the road by others.
15. The Council highlights concern as to some of the information provided by the appellant as part of the appeal submission that, it says, casts some doubt over the visits/lorry movements anticipated. However, this matter does not alter my findings with regard to the acceptability of the proposed access in regard to highway safety.

Character and Appearance

16. The appeal site relates to an undeveloped agricultural field and existing countryside lane. The rural landscape in this area is designated an Area of Outstanding Natural Beauty (AONB). The Framework sets out that great weight should be given to the conservation and enhancement of the landscape and the scenic beauty of AONBs, which have the highest status of protection in relation to these issues.
17. The hedgerows either side of the lane, along with the existing field gate and small access leading into an arable field, all contribute to the rural character of this location, as well as the appearance of this countryside lane. Whilst I acknowledge that the proposal relates to an existing access, the widening of the bellmouth and creation of a hardsurfaced access and loading bay would have a substantially urbanising impact upon this rural location. The reduction in hedgerow would also have a detrimental visual impact upon the rural character of the lane. I consider that the proposal would have a significant harmful visual impact upon the rural character of this landscape and would diminish the scenic beauty of the AONB and the purposes of its designation. Furthermore, if the tree and the hedge opposite were lost to achieve safe access, this would cause further visual harm arising from the proposed development.
18. For these reasons, I consider the proposed development would have a harmful effect upon the character and appearance of the area. The proposal would, therefore, conflict with Policies LBD1, EN1 and EN25 of the Local Plan, Core Policies 4, 5 and 14 of the Core Strategy and the Framework that require, amongst other matters, development to conserve and enhance the Borough's rural landscape, including the designated High Weald AONB, and not to result in unsympathetic change to the character of a rural lane.
19. I accept the appellant's point that the High Weald has been shaped over the centuries by forestry and agricultural interventions, nonetheless, each proposal needs to be considered on its own merit and the change that it would bring about.

Other Considerations

20. I acknowledge that Tilhill Forestry is the largest forestry management and harvesting company within the UK and manage woodland within the south east of England and within Tunbridge Wells Borough Council's area. The woodland is subject of a Forestry Commission approved Woodland Management Plan. I accept that the proposed development is necessary to operate forestry activity of the woodland that are supported by Natural England and the Forestry Commission. The operations would enhance and manage woodland habitat that is currently identified as unmanaged Plantation on Ancient Woodland Site. The appellant advises that without bringing the timber to market by utilising a forestry loading bay, Shadwell & Sprouds Wood will continue to deteriorate.
21. I recognise that timber hauled from the loading bay will financially aid habitat enhancement plans for the woodland, alongside the Countryside Stewardship Grant. Removal of conifers and restoration of native broadleaf woodland,

- along with the thinning of the woodland floor allowing flora flooring, would bring about environmental benefits to this woodland and make the woodland safe for public use.
22. I consider these to be significant benefits of the proposal that would be advantageous to the management of the woodland and the public for years to come.
23. I note the appellant's comment that strong timber prices are lowering and, as a result, marginal parcels of woodland have become economically viable. With the advent of the Kent Renewables Energy Plan at Sandwich, there is a renewed focus on lower quality products having a market for biomass. The appellant indicates that the proposal would bring about work that would benefit the rural economy. However, no employment details have been submitted to support the application (as noted on the planning application form), therefore I cannot be certain that employment relating to the woodland's management would bring about any significant benefits to the rural economy. I therefore give this little weight.
24. The appellant indicates that loading bays that serve woodland within the AONB have been accepted by other Councils and I have been provided with photographs of a loading bay recently constructed by Tilhill Forestry at Forge Road under permitted development. It is advised that that loading bay is within the High Weald AONB and has been permitted by Wealden District Council. However, that proposal followed the permitted development route, which is not the case with this proposal. Furthermore, I cannot be certain from the details submitted that the gates at Forge Road would be as wide as the gates and fence proposed here at Burnt House Lane and it does not appear that the Forge Road access is tarmac surfaced. I, therefore, do not consider that proposal would be directly comparable, even though I accept there is similarity in respect of the nature of the developments. This proposal can and should be considered on its own merit having regard to highway safety and the character and appearance of the area. I, therefore, afford the example at Forge Road little weight.

Conclusions

25. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the harm arising to openness from the proposal would amount to inappropriate development, to which substantial weight should be given. Very special circumstances will need to exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
26. I give substantial weight to the visual harm to the character and appearance of the area and the designated AONB. I also give substantial weight to the potential harm arising in relation to highway safety. Nonetheless, the proposal would assist to conserve and enhance the woodland landscape and prevent its on-going deterioration and this holds significant weight in favour of the proposal. The economic and other considerations hold little weight. Whilst the benefits to the woodland hold significant weight, the substantial weight to be given to the Green Belt harm is not clearly outweighed by the

other considerations sufficient to demonstrate very special circumstances. Furthermore, the proposed development would conflict with the Council's adopted development plan and the advice in the Framework.

27. For these reasons, I conclude that the appeal should be dismissed.

Nicola Davies
INSPECTOR