



Appeal Decision

Site visit made on 20 April 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2021

Appeal Ref: APP/U2235/W/20/3255802

Longton Wood, Stockbury Valley, Stockbury ME9 7QP

- 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 Apocalypse Ltd against the decision of Maidstone Borough Council.
 - The application 17/504923/FULL, dated 22 August 2018, was refused by notice dated 13 January 2020.
 - The development proposed is change of use of woodland to airsoft activity centre and erection of associated structures, camping, filming, re-enacting, woodcraft, Duke of Edinburgh and life skills.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of woodland to airsoft activity centre and erection of associated structures, camping, filming, re-enacting, woodcraft, Duke of Edinburgh and life skills at Longton Wood, Stockbury Valley, Stockbury ME9 7QP in accordance with the terms of the application, 17/504923/FULL, dated 22 August 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. The use of the woodland for airsoft activities is already taking place and permission is sought to continue the use. The Council considered the use of the site for camping, filming re-enacting, woodcraft, Duke of Edinburgh's Award activities and life skills as being proposed uses and assessed them as such, although the appellant has stated that the camping, filming and re-enacting activities already take place and are ancillary to the primary use of the site as an airsoft activity centre. I have considered the development on that basis.
3. Permission is also sought to retain 4 structures as shown on the submitted plans and photographs. However, there are other structures within the safe zone (which includes structures 2 and 3) and other structures, trenches, static vehicles and trailers in the 3 gaming zones I saw on my visit (one of which includes structure 1). I have considered the proposal to retain structures on the site based solely on those shown on the submitted plans. It is a matter for the Council to decide what action, if any, is expedient with respect to the remaining structures.
4. Structure 4 is the 'Apocalypse Ltd' banner at the entrance to the site, which is supported on a frame. I note that this has received advertisement consent¹. Paragraph 5(a) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 provides that consent for an advertisement

¹ 17/504924/ADV, consent granted December 2017.

includes the erection of any structure on which the advert is displayed. Irrespective of my decision, this banner and frame are therefore authorised under the advertisement consent.

5. The area surveyed in the appellant's ecological impact assessment² differs from the red edged application site. It includes an area that has been used for airsoft activities (denoted as G5 on Figure 3 of the assessment) but which falls outside the application site. I have not considered this area, other than in relation to the ecological management plan, as it does not form part of the application. If airsoft activity were to continue in this part of the woodland, it would be for the Council to decide whether it was expedient to take further action.

Main Issues

6. The main issues are the effect of the development on:
 - The ecological value of the ancient woodland
 - The landscape value of the Kent Downs Area of Outstanding Natural Beauty.

Reasons

Ecological value

7. The site lies within the Squirrel Wood, Stockbury Valley Local Wildlife Site and the majority of the site is also designated as Squirrel Farm Wood ancient replanted woodland. The woodland consists of sweet chestnut coppice, some coniferous plantation, and occasional oak, ash, silver birch and beech trees. Although much of the woodland has been replanted its ecological value lies in the rich mixture of flora that has developed as a result of the land being continuously wooded for many centuries.
8. Policy DM3 of the Maidstone Borough Local Plan 2017 seeks to protect and enhance the natural environment, including ancient woodland. Paragraph 175 of the National Planning Policy Framework (the 'Framework') advises that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
9. The ecological impact assessment submitted by the appellant acknowledges that airsoft gaming activities have impacted ground flora and developing acid grassland and heath mosaic habitat in some parts of the site through ground trampling and the excavation of trenches, and that erection of buildings³ and continued use of the site is likely to result in some continued impact to ground flora within the gaming zones. A mitigation strategy is recommended to reduce damage by limiting access to gaming zones, restricting the frequency of airsoft gaming and the number of participants. An ecological management plan has also been drafted to improve and diversify the ecological value of the site.
10. The Kent County Council Ecological Advice Service consider that if there are wholly exceptional reasons to allow the airsoft activity to continue, then the management strategy, subject to ongoing monitoring, can be considered a

² Native Ecology - Ecological Impact Assessment, Longton Woods, Stockbury, July 2019

³ Contrary to this statement, the application does not propose to erection any new buildings.

suitable compensation strategy. The Council's Arboricultural Officer considers the arboricultural impacts of the proposal to be relatively low, with harmful impacts being avoidable. Natural England raises no objection and refers to its standing advice on ancient woodland, as do the Forestry Commission. However, other parties, including the Kent Downs Area of Outstanding Natural Beauty Unit, raise concern at the conflict between the use, ancient woodland and transitional habitat.

11. From the submitted correspondence it is clear that considerable efforts have been made to explore whether the airsoft use can continue on the site while mitigating harm to the ecological value of the ancient woodland and improving future woodland management. The Council reached its decision to refuse in part because of the difficulties it experienced in gaining adequate information, inconsistency between submitted documents and uncertainty over the implementation of suggested mitigation and management measures. I have some sympathy with the Council on these points. Nevertheless, I consider there is sufficient information, in particular in the ecological impact assessment and management plan, that enable firm conclusions to be drawn.
12. The airsoft activities have caused some reduction to the ecological value of the site, but from what I have read and seen on site I consider this to be relatively limited. Given the extensive nature of the site, damage caused by trampling of ground flora does not appear significant other than around the game zones where the majority of airsoft activities are conducted. There is no appreciable harm caused to the trees, and the airsoft pellets are biodegradable. While there is some discrepancy in the submitted evidence on the frequency of use, it is generally confined to weekends with a maximum number of players at any one time. Vehicles are restricted to a parking area near the entrance to the site with access otherwise gained on foot. No new structures are proposed.
13. Of the main gaming zones, 2 lie outside the designated ancient woodland (denoted as G3 and G4 on figure 3 of the ecological impact assessment). Within the designated ancient woodland, the safe zone (G2) and a game zone (G6) occupy previously cleared areas. While they contain a number of structures these are mostly above ground, the areas with trenches being mainly confined to those game zones outside the designated ancient woodland. Access between the car park, safe zone and the game zones is along woodland tracks. This limits the degree to which the airsoft activity impacts on the wider woodland.
14. There does not appear to have been any management or maintenance of the woodland for many years. The submitted ecological management plan, if implemented, would not only mitigate potential future harm to the ancient woodland but would also result in an improvement to its ecological value by the creation of more diverse habitats and encouraging woodland fauna.
15. In addition to the airsoft activities, the proposal also includes the use of the site for camping, filming re-enacting, woodcraft, Duke of Edinburgh's Award activities and life skills.
16. Camping, filming, and re-enactment are carried out as ancillary activities by some of the participants engaged in the airsoft gaming activities. Subject to these activities remaining confined to participants in airsoft gaming on the site and subject to the other restrictions proposed, I consider that they would not have any appreciably greater impact on the woodland than current activities.

17. No details have been provided of what is entailed in woodcraft, Duke of Edinburgh's Award activities and life skills. However, the appellant confirms these would not result in the need for any further structures on the site, and would be carried out in the same areas occupied by the airsoft activities. The uses are compatible with outdoor recreation and subject to them being restricted in terms of access, frequency and number of participants on the site at any one time, I consider that they would also have no greater impact on the woodland than the current activities.
18. Airsoft gaming has been carried out on the site for a number of years, and the impact can therefore be assessed with some accuracy. I conclude that harm to the ecological value of the ancient woodland could be mitigated through restrictions on access, frequency and number of participants. Improvements to the ecological value of the site could also be secured through implementation of the ecological management plan. Taken together, these actions would avoid the loss or deterioration of the ancient woodland when considered as a whole. Consequently, the continued use of the site for airsoft gaming and related activities would accord with policy DM3 of the Maidstone Borough Local Plan 2017 and the advice in the Framework.
19. The Kent Downs Area of Outstanding Natural Beauty Management Plan does not form part of the development plan but is a material consideration for planning purposes. For the same reasons, continuation of the use subject to controls and future management of the woodland is considered to accord with policies WT1 and WT7, which oppose the loss of ancient woodland or activities and developments causing damage to woodlands.

Landscape value

20. The site lies within the Kent Downs Area of Outstanding Natural Beauty. The primary purpose of the designation is to conserve and enhance natural beauty. Policy SP17 of the Maidstone Borough Local Plan 2017 requires that great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty. This is supported by paragraph 172 of the Framework. Further advice on conserving the quality of the landscape is contained in the Kent Downs Area of Outstanding Natural Beauty Management Plan.
21. The airsoft gaming activity has a limited impact on the landscape quality of the area. It is visually contained within the woodland, and neither the activity nor associated structures can be readily seen from outside the site other than in glimpsed views from public rights of way. The use has not required the removal of trees and subject to controls on access, frequency and numbers of participants, I have found that it would not result in the deterioration of the ecological value of the site.
22. During airsoft game play I acknowledge that the tranquillity of the area is reduced but that only applies to certain areas within the woodland at certain times. The reduction of tranquillity is therefore limited in scope and time. The loss of tranquillity has to be balanced against the benefits of the use, which support secondary objectives of the Management Plan in providing opportunities for outdoor recreation and diversifying the rural economy.
23. Public bridleway KH99 traverses the site. I note the concerns of some interested parties, including horse riders, who may feel intimidated to use the

bridlepath when airsoft activities are going on nearby. However, Kent County Council's Public Rights of Way Officer raises no objection to the continued airsoft activities provided there is a 10m buffer around bridlepath KH99, and alongside bridlepaths KH89 and KH98 where they run adjacent to the site. I consider this to be a reasonable approach to mitigate any conflict between activities on the site and users of the bridlepaths. A buffer zone could be secured by condition.

24. The County Council is amenable to considering diverting the route of bridlepath KH99 around the perimeter of the wood but as I have been provided with no evidence that this suggestion is being actively progressed, I give it little weight.
25. I conclude that the use would conserve the wider landscape quality of the Kent Downs Area of Outstanding Natural Beauty. While there would be some loss of tranquillity at limited times this is outweighed by the benefits of the use in providing opportunities for outdoor recreation and rural employment. Continuation of the use would therefore accord with policies SS1, DM1, DM3 and DM30 of the Maidstone Borough Local Plan 2017, which seek to protect the natural environment and countryside.
26. For the same reasons the use would also accord with policies SD1, SD3, SD7, LLC1, WT1, WT7, VC6, AEU4 and AEU14 of the Kent Downs Area of Outstanding Natural Beauty Management Plan, which collectively seek to conserve and enhance the natural beauty of the designated area including its tranquillity, sustainable access and visitor facilities, and rights of way.

Conditions

27. I have considered the conditions suggested by the Council against the tests set out in paragraph 55 of the Framework. I have imposed the conditions where they meet those tests, reworded in the interests of clarity and precision. I have also considered a recommendation by the County Council for a buffer zone along the bridlepaths.
28. A condition listing approved plans is not necessary because the structures detailed in the plans have already been constructed.
29. Conditions to limit the number of people on the site at any one time and to limit the frequency of the uses are necessary in the interests of mitigating the impact on the ecological value of the ancient woodland and the tranquillity of the area.
30. A condition restricting the maximum number of people on site at any one time to 100 is based on the submitted evidence. Given the extensive nature of the site I consider this to be reasonable. So far as frequency of events is concerned, the appellant's agent suggests that airsoft activities are undertaken on 1 Saturday and 2 Sundays per month. From the evidence provided by the Council and the appellant's website that is plainly wrong as in 2019 scheduled dates included every Sunday as well as up to 3 Saturdays per month, and the current schedule is based largely on 1 Sunday per fortnight with up to 2 Saturdays per month. Those dates exclude more bespoke activities such as 'milsim' (military simulation) events. Having regard to the historic frequency of activities and in the interests of simplicity and ease of monitoring and enforcement, I consider limiting the permitted activities to Saturdays and Sundays to be an appropriate restriction on the frequency of use.

31. A condition limiting the area of the site used for the permitted activities is necessary to mitigate the impact on the ecological value of the ancient woodland. The areas are those currently used as game zones within the application site and the immediately surrounding woodland as denoted on the plan in appendix 2 of the ecological management plan. The plan requires the boundaries of these areas to be defined by fencing.
32. A condition limiting camping, filming and re-enacting to those already engaged in the primary activity of airsoft gaming is necessary to prevent such uses occurring separately on the site, with potentially greater impact on ecology and landscape values.
33. A condition is necessary to ensure implementation of the ecological management plan submitted as part of the application. While the Council has expressed concern about the plan in terms of details and implementation, I consider it to be a pragmatic approach to future management and enhancement of the ecological value of the site. Detail such as the exact position of nesting boxes is a matter that can be determined by the appellant within the guidance provided by the management plan.
34. A condition restricting external lighting is necessary to avoid light disturbance to native fauna and protect the dark landscape qualities of the area.
35. A condition preventing permitted uses within a 10m buffer zone of public bridlepaths on or adjacent to the site is necessary in the interests of the users of those public rights of way.
36. I do not consider a condition requiring an arboricultural method statement is necessary as the permitted structures have already been erected, and the permitted uses do not threaten the trees on the site.

Conclusion

37. Use of the site for airsoft gaming and associated activities would provide continued opportunities for outdoor recreation and employment (although I note the discrepancy in the appellant's evidence in the number of people employed). These are benefits in favour of the development.
38. I have concluded that, subject to controls on access, frequency and numbers, loss or deterioration of the ancient woodland can be avoided. The implementation of the submitted management plan would also improve the ecological value of the site. I have also concluded that continuation of the use would not harm the landscape qualities of the Kent Downs Area of Outstanding Natural Beauty and that the limited harm to the tranquillity of the site would be outweighed by the benefits described above.
39. The proposal therefore complies with the development plan when taken as a whole. There are no material considerations which indicate the decision should be taken otherwise. I therefore conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Schedule of conditions

- 1) The number of people on the site shall not exceed 100 at any one time.
- 2) The use of the site for airsoft gaming activities, camping, filming, re-enacting, woodcraft, Duke of Edinburgh Award activities and life skills, shall only be carried out on Saturdays and Sundays.
- 3) Airsoft gaming activities, camping, filming, re-enacting, woodcraft, Duke of Edinburgh Award activities and life skills shall only be carried out in the areas denoted as G1, G2, G3, G4 and G6 and associated land edged in black on drawing ref: 02326_DR02 in Appendix 2 of the Ecological Management Plan 0236_R03 dated 19 July 2019. Movement of people associated with these activities between the car park, safe zone and gaming areas shall be on foot and shall be by existing pathways.
- 4) Camping, filming and re-enacting activities shall only be carried out for purposes ancillary to the primary use of the site for airsoft gaming activities.
- 5) The Ecological Management Plan 0236_R03 dated 19 July 2019 shall be implemented in accordance with the Management Schedule in Section 9 of the Management Plan with 'Year 1' starting from the date of this decision. If the management actions/prescriptions for each of the habitat features listed in the Management Schedule have not been carried out by the end of the year in which it is indicated they should be completed, the use of the site for airsoft gaming activities, camping, filming, re-enacting, woodcraft, Duke of Edinburgh Award activities and life skills shall cease, and within 3 months all associated structures shall be demolished, and all resulting materials and associated static vehicles and trailers removed from the site.
- 6) No external lighting, either permanent or temporary, shall be installed at the site.
- 7) No airsoft gaming activities, camping, filming, re-enacting, woodcraft, Duke of Edinburgh Award activities or life skills activities shall be carried out within 10 metres of bridlepaths KH89, KH98 and KH99 where they traverse or run adjacent to the application site.

***** End of conditions *****