



Appeal Decision

Site Visit made on 11 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2021

Appeal Ref: APP/R3650/W/21/3268228

Land at Hopkins Reed Woods, Hatch Lane, Wormley, Surrey

- 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 Denis O'Brien against the decision of Waverley Borough Council.
 - The application Ref WA/2020/0662, dated 3 April 2020, was refused by notice dated 5 August 2020.
 - The development proposed is retrospective application for the creation of a private way for forestry purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The private access way has already been constructed. I have proceeded to consider the appeal on that basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, with particular regard to the Surrey Hills Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposed development on a designated ancient woodland and its biodiversity; and
 - the effect of the proposed development on the safety of users of the adjoining highway and the public right of way (PROW).

Reasons

Character and appearance

4. Hopkins Reed Woods is an enclosed area of woodland, located off an unmade track and bridleway (PROW), some distance from the limited development along Hatch Lane from which it is separated by rural fields and paddocks. It lies within the Surrey Hills AONB. The area has a sylvan, tranquil and rural character.
5. The woodland has an undulating topography through which various tracks run. The private access is approximately 175 metres long. It is set some distance from the gated entrance to the site, spurring off an existing track within the woodland. It runs along the northern edge of the site, set in from the boundary

with the adjacent field from which it is separated by a line of retained boundary vegetation and trees.

6. An area of woodland has been cleared. This is occupied by the private access. Its track is substantial, wide enough to accommodate a large vehicle along much of its length, broadening out where it terminates and the land drops away into a small valley within the woodland. It has a light coloured surface material, indicated to be chalk.
7. The formation of a substantial private access through the woodland appears as a stark, man-made feature in an otherwise natural space. In combination with the loss of trees, it detracts from the sylvan and verdant character and appearance of the woodland. Public viewpoints of the proposed development itself are very limited, and if possible, would be confined to the winter months when the trees have lost their leaves. The scale of the track and the light colour of its surface, does however make it visually prominent within the site itself. This causes some localised harm to character. Furthermore, the track enables larger vehicles to access the site and potentially increase traffic movements to and from the site. This is detrimental to the tranquil character of the rural area.
8. The urbanised character of the private access causes some harm to the landscape character of the AONB, although the harm is localised by the limited visibility of the site. However, due to its construction and the importation of substantial amounts of chalk, it is likely to have caused harm to the long-term health of the woodland. This would harm the woodland and its character in the long term to the detriment of the area and the AONB. I return to this in the second main issue below. I attach great weight to that harm in accordance with paragraph 172 of the National Planning Policy Framework (the Framework).
9. I conclude that the proposed development causes harm to the character and appearance of the area, with particular regard to the Surrey Hills AONB. It therefore conflicts with Policy RE3 of the Waverley Borough Local Plan Part 1: Strategic Sites and Policies 2018 (LPP1) which requires new development to respect and enhance the distinctive character of the Surrey Hills AONB.
10. It also does not comply with the Framework which seeks development that contributes to and enhances the natural and local environment, recognising the intrinsic character and beauty of the countryside, protecting valued landscapes and requires great weight to be given to conserving the landscape and scenic beauty of the AONB.
11. It also does not accord with Policies P1 and P3 of the Surrey Hills AONB Management Plan 2020-2025 which together require development to respect local distinctiveness, to be complementary in form, setting and scale with their surroundings, taking the opportunity to enhance their setting and for great weight to be attached to any adverse impact that a development proposal would have on the amenity, landscape and scenic beauty of the AONB.

Ancient Woodland

12. The entirety of the site is designated as ancient woodland and semi-natural woodland. Ancient woodlands are defined in the Framework as an area that has been wooded continuously since 1600 AD. The soils within ancient woodlands as well as the trees form an important part of the makeup of the woodland.

- Ancient woodland is also important for wildlife, including rare and threatened species, recreational value and cultural, historical and landscape value.
13. The Framework sets out at paragraph 175(c) that development resulting in the deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
 14. A substantial area of woodland has been cleared where the private access is located. It has been constructed within the root protection area of a number of trees. Through compaction, it will have had a significant adverse effect on the rooting systems of the retained trees on the site, including those which form the boundary between the adjacent field and the appeal site. This will harm the long-term health of these trees.
 15. The soil within the woodland is described as brown clay. The importation of a substantial amount of chalk into this area is likely to have affected the soil structure, pH and chemistry of the clay soil. Additionally, it is likely to have destroyed the seedbank of the indigenous soil beneath the compacted chalk. Furthermore, the Forestry Commission (FC) has also advised that due to the position of the track at the top of a slope, runoff from the adjacent fields, as well as direct rainfall, will permeate the chalk and run down into the ancient woodland, washing chalk through and affecting soil quality more widely within the woodland. The quantum and composition of materials used to form the private access will therefore have adversely affected the soil within the ancient woodland.
 16. The damage to the soils and retained trees would be likely to have caused deterioration of the ancient woodland. The harm that arises from this would be likely to adversely affect the ecology and biodiversity of the woodland. The appellant has not provided any supporting ecological information and it cannot be demonstrated that the private access has not, and would not, cause ongoing harm and loss of the ancient woodland.
 17. The reasons for the removal of trees within this area of woodland and the requirement for the formation of the private access are disputed by the parties. The lawfulness of the tree felling is not a matter before me.
 18. The parties agree that the woodland requires management in order to deal with ash dieback. It is therefore possible that some of the trees would have been removed irrespective of the formation of the private access. However, this does not justify the harm to the ancient woodland that has occurred.
 19. The installation of a track may be appropriate to support the effective management of the woodland as part of a FC approved management plan. However, the FC considers the appellant's submitted Woodland Report¹ lacks scope and detailing to set out a reasonable approach for the future management of the woodland. In these circumstances, no exceptional reasons to justify the harm to the ancient woodland arising from the installation of the track have been demonstrated.
 20. The appellant has argued that the formation of the track focusses the impact of vehicular movements to the private access, thereby enabling flora and fauna to

¹ T Earls Countryside Limited, Woodland Report, undated

colonise and grow elsewhere. However, no firm evidence has been provided to confirm this.

21. The appellant has suggested that if it were considered that there would be a long-term impact on the health and biodiversity of the woodland, suitable conditions could be imposed requiring changes to the surface of the track or for the remediation and restocking of the woodland. No ecological information has been provided to establish whether the damage could be recovered. This therefore carries limited weight in favour of the proposed development.
22. I have been referred to Natural England advice² in respect of ancient woodlands where it advises that forest tracks will typically qualify for inclusion within a woodland polygon. However, it seems to me that this is an assessment based on the consideration of inclusion of land and any pre-existing paths within it under the ancient woodland designation. It does not, in my view, suggest that the formation of new forest tracks following the removal of a number of trees should not be considered a loss of ancient woodland.
23. I conclude that the proposed development adversely affects the designated ancient woodland and its biodiversity. It therefore conflicts with Policies NE1 and NE2 of the LPP1 and Saved Policies D1, D4, D7 and C7 of the Waverley Borough Local Plan 2002. These policies together require development to avoid adverse impacts to biodiversity and to pay particular regard to ancient woodland, to not result in the loss or damage to environmental assets and to maintain and enhance existing woodland. It also does not accord with the Framework as referred to above.

Highway safety

24. Hopkins Reed Woods is accessed via Hatch Lane and the unmade track, both of which are narrow and single track with limited passing places. A public bridleway and PROW passes down Hatch Lane and the unmade track parallel to the western boundary of the site. The junction of Hatch Lane and Brook Road has restricted visibility due to vegetation and development close to the junction.
25. The woodland is currently accessible by vehicles, both accessing a builder's yard in the south-east of the site and existing tracks within the woodland. Whilst there are some vehicle movements associated with this, the private access, due to its substantial size, is likely to facilitate a more intensive use of the woodland. In addition, its significant width enables larger vehicles to operate on the site. These have to access the site via Hatch Lane and the unmade track.
26. Whilst neither the unmade lane nor Hatch Lane appear busy, they are very narrow. Additionally, Hatch Lane includes dispersed residential development. With large vehicles using these lanes, there is limited space for other users of the lane which could include pedestrians, horse riders as well as other vehicles. This increases the risk of conflict between users along this route.
27. The Highways Authority has objected to the scheme as the proposal fails to demonstrate that sufficient visibility splays can be achieved between the access to the site and the existing bridleway as well as at the junction of Hatch Lane with Brook Road. No details of vehicle movements or visibility splays have been

² Ancient Woodland Inventory Handbook for England, May 2018, Natural England

provided. In the absence of this, it has not been demonstrated that safe and suitable access to the site could be provided.

28. I therefore conclude that the proposed development results in an intensification of the use of the track and Hatch Lane, both of which have restricted visibility, consequently increasing the risk of collisions between users of the highway. Thus the proposal harms highway safety. I have found no conflict with Policy ST1 of the LPP1 which is concerned with the provision of sustainable transport. However, the proposal conflicts with the Framework which requires safe and suitable access to the site to be achieved for all users and for development to be refused if it would have an unacceptable impact on highway safety.

Other Matter

29. The appellant has drawn my attention to correspondence with the Council declining to agree to accept further justification to expand on the submitted woodland management plan. Whilst I appreciate this may have been frustrating for the appellant, this is largely a procedural matter. Such expanded information could have been provided as part of the appeal.

Conclusion

30. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR