



Appeal Decision

Site visit made on 25 April 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/W0340/W/21/3284334

Longcopse Farm, Vanners Lane, Enborne, Newbury RG20 0LD

- 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 Martin Burton of Zippo and Company against the decision of West Berkshire District Council.
 - The application Ref 20/02890/FUL, dated 3 December 2020, was refused by notice dated 2 July 2021.
 - The development is laying of hard base material in association with the temporary change of use of land for the stationing of caravans.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development had already taken place at the time of my site visit. I have dealt with the appeal on the basis that planning permission is being sought retrospectively for the laying of hard base material (crushed concrete) in association with the temporary change of use of land for the stationing of caravans. Although not mentioned on the application form, the site is also used for the parking of lorries and trailers in connection with the circus company.

Main Issue

3. The main issue is the effect of the development on habitats and biodiversity, having particular regard to the location of the site adjacent to ancient woodland and trees that are protected by a tree preservation order.

Reasons

4. The appeal site forms part of a larger parcel of land which is allocated for a Travelling Showpersons yard under Policy TS2 of the West Berkshire Housing Site Allocations Development Plan Document (2006-2026) (HSADPD). Planning permission was granted under reference 18/01427/FUL for temporary change of use of the land for the stationing of caravans. This was subsequently extended¹, with the permission having expired in February 2022. It is the appellant's intention to seek a further grant of permission, and I note that there has been correspondence with the Council in relation to this matter.
5. The above permissions were granted subject to the conditions that no hard standing area shall be constructed on the site and no caravans or associated

¹ Ref 20/01314/FUL

equipment positioned within 15 m of the east boundary of the site with Long Copse Woodland. This is designated as ancient woodland and a Local Wildlife Site and it is also covered by a tree preservation order². Protection of these assets in any future use of the site is secured by Policy TS2 of the HSADPD which requires proposals to provide a minimum of a 15 m landscaped buffer to Long Copse Wood. This must be in place before the occupation of the site.

6. Policy TS2 is consistent with the recommendations of Natural England and the Forestry Commission that are contained within the Planning Practice Guidance. This guidance states that proposals should have a buffer zone of at least 15 m from the boundary of the woodland to avoid root damage. In this particular case, the hard base material has been laid much closer to the woodland, in some cases beneath the tree canopies. The appellant contends that this is acceptable on the basis that the presence of a ditch along the boundary with the woodland will have greatly reduced the likelihood of significant root activity extending westwards into the site. Notwithstanding this, I cannot be certain that roots do not exist below the new hardstanding.
7. Furthermore, there is a realistic probability that the hardened surface will have increased surface run-off into the ditch. Such run-off may contain pollutants such as oils, heavy metals and particulate matter, all of which have the potential to adversely affect water quality in the ditch, with consequent harm to adjacent trees and the flora and fauna within the woodland. During my site visit I noted the existence of litter on the banks of the ditch. This serves to highlight the negative impacts of human activity and reinforces the argument for a fenced off buffer zone to protect biodiversity interests.
8. The evidence indicates that the new hard standing replaced an area of semi-improved grassland. Although not within the boundaries of the Local Wildlife Site, this land would have been functionally connected – for example in terms of providing important dispersal or feeding habitat for woodland species. The Preliminary Ecological Appraisal concedes that the development has resulted in the loss of habitat capable of supporting a range of plant species and potentially of value to invertebrates, reptiles, breeding and wintering birds, foraging and commuting bats, and foraging badger.
9. The proposal is to provide replacement grassland to compensate for the loss of habitat. According to the submitted Biodiversity Net Gain Assessment (BNGA), this would be to the west of the appeal site or on land elsewhere within the appellant's ownership. Notwithstanding the figures within the BNGA, I am not convinced that the replacement provision would have the same biodiversity value as the land lost as a result of the development; the latter directly adjoins the Local Wildlife Site and would have supported species within the designation.
10. In any event, Policy CS17 of the West Berkshire Core Strategy (2006-2026) (CS) makes clear that development which may cause harm to Local Wildlife Sites, either directly or indirectly, will only be permitted if there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance that outweigh the need to safeguard the site or species. The policy explains that adequate compensation and mitigation measures should be provided, but this is only where damage to biodiversity/geodiversity interests is unavoidable. The development does not

² TPO 201/21/577 – W1

meet this high bar as the impacts could be avoided by maintaining a buffer in line with the development plan and national policy.

11. Whilst I acknowledge that there is no clear evidence of harm to trees, damage may not be apparent for some years and deterioration may be gradual. Given the irreplaceability of ancient woodland, and its associated habitats, it is prudent to take a precautionary approach. The appellant's evidence does not give me confidence that adverse impacts could be successfully mitigated for.
12. The appellant points out that the development is only temporary. I am told that the land will be reinstated when the permission expires. However, the permission on the wider site has already expired. Although I have no reason to think that the use as a Travelling Showpersons yard will not continue, given the site allocation in the HSADPD, this would need to accord with the provisions of Policy TS2 which stipulates the provision of a buffer zone. It would not be appropriate to permit the hardstanding in its current form, even for a temporary period.
13. I conclude that the development risks causing unacceptable harm to habitats and biodiversity. There is conflict with HSADPD Policy TS2, and with CS Policies CS14, CS17, CS18 and CS19, insofar as these seek to conserve and enhance biodiversity and geodiversity assets and protect green infrastructure, which is defined to include woodland. The development is also contrary to policy in the National Planning Policy Framework relating to Habitats and Biodiversity, most notably paragraph 180 which states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons.
14. I have taken account of the reasons for installing the hard surfacing, which are set out in the application cover letter. However, these do not constitute wholly exceptional reasons and do not justify a decision otherwise than in accordance with the development plan.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR