
Appeal Decision

Site visit made on 4 October 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/N1730/W/21/3272184

**Goldeneye Wood, Street End Copse, Cowfold lane, Rotherwick, Hook
RG27 9BP**

- 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 and Mrs A Addinall against the decision of Hart District Council.
 - The application Ref 20/02941/FUL, dated 27 November 2020, was refused by notice dated 3 February 2021.
 - The development is a new access road and turning area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The new access road and turning area has been constructed. The application form detailed the retention of this area and the siting of a timber shed used for storage. The shed has been removed from the site and the appellants have withdrawn it from the scheme. The word retention does not describe the development and has been omitted from the above description, along with the reference to the shed. The appeal has been considered on this basis.

Main Issues

3. The main issues are the effects of the development on biodiversity, having regard to ancient woodland, and (b) whether the development preserves or enhances the character and appearance of the Rotherwick Conservation Area.

Reasons

Biodiversity

4. The appeal site comprises a plot within a woodland known as Street End Copse which is on Cowfold Lane near the settlement of Rotherwick. The plot is enclosed by a post and wire fence, and a metal gate at its entrance point. The newly laid access surface extends from the gate into the plot where it terminates with a turning circle area. The hard surfacing has been laid over an existing unsurfaced track and comprises a gravel surface inlaid between timber edging. The plot is one of a number within the woodland accessed off internal access tracks which are in separate ownership.

5. Under Hampshire Biological Information Centre (HBIC) records, Street End Copse contains ancient woodland, other woodland where there is a significant element of semi-ancient woodland still surviving, other woodland with a restricted distribution, such as Yew and Alder swamp woods, and pasture woodland and commons. Although a 2008 HBIC survey indicated ground flora of the copse was not especially rich, it identified several woodland indicator species present within the woodland.
6. Under the HBIC records, the woodland habitat types within the Street End Copse vary and the appellant's Preliminary Ecological Appraisal (PEA) does not provide definitive clarity as to whether the plot comprises ancient woodland. However, the PEA does detail the woodland is characteristic of the copse and despite its limitations, the presence of some ancient woodland indicator species. The appellants have also not provided any evidence to dispute the Council's view that the appeal plot comprises ancient woodland. On this basis, the plot has been treated as comprising ancient woodland.
7. Ancient woodland is a UK Biodiversity Action Plan habitat, as well as being defined as irreplaceable habitat under the National Planning Policy Framework (the Framework). The plot and surrounding woodland form part of a Site of Importance for Nature Conservation (SINC). Although non-statutory, these locally designated sites are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery.
8. The PEA indicates that the new hard surfacing would have a limited impact on the ecological value of the woodland block and the Council has confirmed that the ancient woodland seedbank beneath the new track will have been preserved. The appellants have undertaken management of the land to improve its biodiversity, including some vegetation thinning, including the felling of Ash Dieback affected and dangerous trees, and the removal of invasive species such as rhododendron. Cut wood has been retained as habitat piles, existing pathways cleared, Owl nesting boxes put up and blocked drainage areas repaired. Through a planning condition, the appellants have offered a management plan, to be agreed with the Council to improve the management and biodiversity value of the land. This would be intended to allow better control of invasive species, reverse a decline in the health and quality of the woodland habitat, and landscaping, including planting new native trees.
9. Policy NBE4 of the Hart Local Plan (LP) 2032, adopted 2020, states that to conserve and enhance biodiversity, new development will be permitted provided that it does not result in the loss or deterioration of irreplaceable habitats, including ancient woodland, unless the need for and benefits of the development in that location clearly outweigh the loss. Policy NE03 of the Rotherwick Neighbourhood Plan (NP) states that development proposals will be expected, where appropriate, to conserve or enhance biodiversity, by protecting or enhancing wildlife habitats, including SINCS. Furthermore, the loss of or harm to an existing area of natural habitat will not be supported, unless proposed mitigation measures would result in an effective solution to ensure that the integrity of the habitat continued after the implementation of the development.
10. The access and turning area have extended a considerable distance back into the wooded site and as a result, it is significant in size. Parts of the hard

surfacing are located adjacent to trees, and it is unclear whether the health of trees have been adversely affected through proximity, ground level changes, soil compaction or root damage during construction. Harm to trees would result in loss or deterioration of ancient woodland. The new hard surfacing replaces an existing unmade track, but its replacement materials and construction are far more substantive and engineered. Furthermore, the conclusions of PEA, citing lack of harm, are limited by the site visit for the PEA being undertaken at a sub-optimal time of the year in November and its acknowledgment that further additional surveys were required to assess ecological significance.

11. There is no substantive detail provided to prove that the management plan would be of overriding benefit. In this regard, the extent of ecological issues on the site are unclear, especially given that the PEA was not carried out at a suitable time of year. Without an appropriate ecological baseline assessment, it is unclear what repair and enhancement of habitat is necessary, and what the value and importance of any ecological improvements would be. Any management plan would also need to show compatibility with the recreational use of the plot and how the fencing of the plot fits in with nature conservation aims. Therefore, it has not been demonstrated that the implementation of any management plan would be a benefit in biodiversity terms and deserving of weight in the decision-making process for the scheme.
12. In 2019, a prior approval has been granted for tracks through the woodland. Within the woodland, there are restrictive covenants that prevent the obstruction of the main trackways and so it is necessary for the appellants to park within the site. There is debate as to whether the new tracks have fulfilled their purpose in assisting with the management of the woodland. Nevertheless, such matters would not justify the loss or deterioration of irreplaceable habitats and the extent of hard surfacing that has been constructed.
13. For all these reasons, the development harms biodiversity in conflict with Policies NBE4 and NBE8 of the LP, Policy CON8 of Hart District Local Plan (Replacement) (RLP) 1996-2006, adopted 2009, and Policies NE02 and NE03 of the NP, which amongst other matters and collectively, require the protection and where appropriate, the enhancement of the characteristic rural features of the landscape, biodiversity protection and enhancement, and the safeguarding of irreplaceable habitats, such as ancient woodland.

Character and appearance

14. Rotherwick Conservation Area covers the appeal site and the village. Within the Conservation Area, village buildings are traditional designed, with many being listed and historic in age. They are sporadically located along roads and set in generous sized plots. There are gaps between the buildings providing long views across the surrounding fields and woodland. Under the Rotherwick Conservation Area Character Appraisal and Management Proposals (August 2011), a key feature is the attractive rural context, comprising mixed farmland and scattered blocks of woodland, within its boundaries.
15. These historic and architectural qualities are of importance and contribute to the Conservation Areas significance and special interest. The appeal site contributes positively to the character and appearance of the Conservation Area by reason of its wooded nature.

16. The development has resulted in significant hard surfaced track and turning area in place of a previous unmade track. By its nature and extent, such an area of hard surfacing has an urbanising visual impact. The scheme has also provided no assurances that damage has not occurred to adjacent trees and the ancient woodland, that contribute to the Conservation Area's context. The hard surfacing is heavily screened by surrounding woodland and would not be visible from public rights of way. However, Conservation Areas are protected for their inherent architectural and historic significance irrespective of whether or not public views of the development can be gained.
17. For all these reasons, the development fails to preserve the character and appearance of the Conservation Area conflicting with Policies NBE1, NBE2, NBE4 and NBE8 of the LP, Policies GEN1 and CON8 of the RLP and Policy NE02 of the NP, which collectively and amongst other matters, restricts development in the countryside, requires development to respect, and wherever possible, enhance special characteristics, value and amenity of landscapes, the conservation or enhancement of heritage assets, protection of trees and the enhancement of the characteristic rural features of the landscape and protection of irreplaceable habitats, such as ancient woodland.

Other matters

18. Planning schemes are normally considered on their planning merits. Nevertheless, Street End Copse has been subdivided into separate plots and there is consent for access tracks through the woodland. Therefore, I can appreciate the Council's concern that approval of this scheme could be used in support of such similar schemes. This is not a generalised fear of precedent, but a realistic and specific concern. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would exacerbate the harm that I have described above.

Heritage and Planning Balance

19. The impact of the development is localised and isolated, but nevertheless, there would be less than substantial harm in accordance with heritage policies of the Framework for all the reasons indicated. Therefore, it is necessary that this identified harm is weighed against the public benefits of the proposal.
20. Restrictive covenants prevent the obstruction of the main trackways and so it is necessary to park within the site. The former track was unsuitable, particularly during periods of inclement weather, and the appellants indicate that the new access would enable better management of the land for biodiversity. However, the value of biodiversity enhancements has not been proven due to the lack of persuasive evidence. The case for such an extensive track and turning area has also not been proven. Considerable importance and weight are attached to the desirability of preserving the character and appearance of the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Therefore, the harm to the significance of the Conservation Area would outweigh the scheme's benefits.
21. The development harms biodiversity and the character and appearance of the Conservation Area in conflict with biodiversity, design and heritage policies of

LP, RLP and NP, and the development plan taken as a whole. There are no material considerations to outweigh that finding.

Conclusion

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

Jonathon Parsons

INSPECTOR