



Appeal Decision

Site visit made on 2 August 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

Appeal Ref: APP/B1740/W/21/3286844

Maple Field Farm, Martin Road, Martin, Fordingbridge, Hampshire, SP6 3LR

- 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 & Mrs Nicholas Snelgar against the decision of New Forest District Council.
 - The application Ref 20/11417, dated 15 December 2020, was refused by notice dated 14 May 2021.
 - The development proposed is convert redundant agricultural building into two holiday units, add pergolas and bay windows, demolish existing polytunnel.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) Whether there would be likely to be a significant effect on the internationally important features of the New Forest European Site¹ and the Avon Valley European Site², in combination with other plans and projects, and
 - b) Whether the site is suitably located for the development proposed, with regard to local planning policy.

Reasons

New Forest European Site

3. The appeal site is in close proximity to the New Forest European Site. The site is home to a number of very rare birds which nest on or near the ground, and its habitats provide suitable feeding for the birds. The site is also particularly important for the diversity of its habitats and the range of other rare and scarce species which it supports. The conservation objectives for the site are to ensure that the integrity of the site is maintained or restored as appropriate, and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features and the aims of the Wild Birds Directive.
4. The proposal is to convert the existing agricultural building into two units of self-catered holiday accommodation. It is highly likely that visitors would use

¹ Comprising the New Forest Special Area of Conservation, New Forest Special Protection Area and the New Forest Ramsar Site.

² Comprising the River Avon Special Area of Conservation, Avon Valley Special Protection Area and the River Avon Ramsar Site.

the area of the European site for recreation given its attractive characteristics. Those visiting the site for leisure purposes, including dog walkers, may lead to disturbance of the habitats, including those of nesting birds.

5. The Council suggest that there is potential for traffic related nitrogen air pollution to affect the internationally important habitats for which the New Forest Special Area of Conservation was designated. As a result of those residing at the appeal site visiting the protected site for leisure purposes, these effects could be increased.
6. There is no evidence before me to establish whether these effects would be significant. However, it is appropriate for me to adopt a precautionary principle. I must therefore assume that such an affect would be significant. As such the proposal is likely to have a significant effect upon the interest features of the European Site, either alone or in combination with other plans and projects. Therefore, in accordance with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), I need to make an appropriate assessment for the site in view of its conservation objectives. As the competent authority I can only agree to the plan or project after having ascertained that it would not adversely affect the integrity of the European site.
7. Natural England (NE) as the Statutory Nature Conservation Body was consulted during the appeal process. NE refer to the Council's adopted interim strategy to mitigate against adverse effects from recreational disturbance on European sites. Appropriate mitigation includes a financial contribution towards the delivery of alternative natural recreational green spaces and other projects to direct those occupying the application site away from protected habitats. The financial contribution would go towards access and visitor management and monitoring, which is delivered through the employment of a team of rangers to influence the way the site is used for recreational purposes.
8. A completed Unilateral Undertaking (UU) is before me. The Council has confirmed that the financial contribution set out in the UU is sufficient to mitigate the effects of the proposal. NE advises that it has no objection to this aspect of the proposal on the basis that the appellant complies with the Council's strategy and has mitigated against the potential effects of the proposal caused by recreational disturbance.
9. The UU also secures a contribution towards air quality monitoring. This accords with the Council's interim air quality monitoring statement (AQMS). NE refers to a lack of reference to air quality mitigation. The AQMS advises that, if monitoring demonstrates that development is giving rise to air quality issues that are having an adverse impact on the habitats of the European site, measures will need to be put in place to avoid or mitigate such impacts. At this stage however there is nothing before me to suggest that air quality mitigation is necessary. Accordingly, and with further reference to the comments of NE, I can be satisfied that there will be no adverse effects on the integrity of the site from the air quality impacts of the proposal.
10. On this basis, I can be satisfied that the measures above, that would be secured through the submitted UU, would avoid the adverse effects on the integrity of the site. Therefore, the proposal would not be likely to have a significant effect on the integrity of the European site having regard to its conservation objectives, either alone or in combination with other developments. It would therefore accord with the Habitats Regulations and

Policy ENV1 of the Local Plan 2016-2036 Part One: Planning Strategy (LP Part 1), insofar as it seeks to ensure that development will only be permitted where any necessary mitigation, management and monitoring is secured to ensure that there will not be adverse effects on the New Forest European Site.

Avon Valley European Site

11. The site is within the catchment of the River Avon. The catchment supports habitats and species of national and international importance. The Avon is considered to be one of the most bio-diverse river systems in lowland Britain and one of the richest chalk rivers in Europe, supporting rich flora, fish and invertebrate fauna. The conservation objectives for the site are to ensure that the integrity of the site is maintained or restored as appropriate, to ensure that the site contributes to achieving the favourable conservation status of its qualifying features, and to ensure that the site contributes to achieving the aims of the Wild Birds Directive.
12. The proposal would result in the residential occupation of the building and thus result in an increase of wastewater. Rising phosphorous levels in the river have been a cause of concern in terms of water quality for some years. This can result in eutrophication, which increases plant growth and consequently results in oxygen depletion. Algal blooms commonly result, which increases turbidity and causes further deoxygenation. In a freshwater environment phosphorus is usually a principal cause of eutrophication.
13. Waste water from the proposed development could pass through the foul water drainage network to a water treatment works which feeds into the River Avon. This could increase the levels of phosphorus in the river.
14. There is no evidence before me to establish whether this effect would be significant. However, it is appropriate for me to adopt a precautionary principle. I must therefore assume that such an effect would be significant. As such the proposal is likely to have a significant effect upon the interest features of the European Site, either alone or in combination with other plans and projects. Therefore, in accordance with the Habitats Regulations, I need to make an appropriate assessment for the site in view of its conservation objectives. As the competent authority I can only agree to the plan or project after having ascertained that it would not adversely affect the integrity of the European site.
15. The appellant is of the view that the agreed approach for the adjacent camp site is appropriate and suitable for the appeal proposal. As such, it is suggested that a Grampian style condition could be imposed to either require the re-wording of the legal agreement for the camp site to encompass the appeal site for the holiday lets, or prevent the commencement of development until an alternative district wide solution can be found. There is no evidence before me to suggest that such a district wide solution is available.
16. NE advises that the proposed septic tank storage and disposal to a sewage treatment works outside the catchment area would be difficult to secure and monitor in perpetuity. Whilst this was accepted for the adjacent camp site use, this was a temporary use allowed for by the General Permitted Development Order. The appeal proposal is for permanent development, and it is therefore essential that any mitigation to offset the likely significant effect is secured robustly and in perpetuity.

17. NE suggests that an alternative approach to mitigation is required, proportionate to the increase in overnight accommodation resulting from the proposal. It is suggested that a nutrient budget is completed to calculate the level of mitigation required. Potential mitigation strategies suggested by NE include on-site measures such as sustainable urban drainage systems, agricultural land use change, treatment wetlands, interceptor wetlands and replacement of inefficient septic tanks.
18. A nitrate budget has not been completed and no mitigation has been suggested. It is possible that a solution exists on the basis of the advice of NE; however, without more clarity I am not persuaded that a negatively worded condition would meet the test of precision and could deliver the mitigation in a timely manner.
19. On this basis, I cannot be satisfied that there is a robust mechanism before me that would avoid the adverse effects on the integrity of the site. Therefore, the proposal would be likely to have a significant effect on the integrity of the European site having regard to its conservation objectives, either alone or in combination with other developments. It would therefore not accord with the Habitats Regulations or Policy ENV1 of the LP Part 1, insofar as it seeks to ensure that development will only be permitted where any necessary mitigation, management and monitoring is secured to ensure that there will not be adverse effects on the River Avon Site.

Location

20. The appeal site is located at one end of Martin. Martin is a small rural settlement, largely linear in form and dominated by its rural setting. It is referred to as a small rural village and is without a settlement boundary. The proposal would see the existing building re-used and divided into two self-contained units of holiday accommodation.
21. Policy STR3 of the LP Part 1 sets out the Council's overarching strategy for locating new development with reference to its settlement hierarchy, setting out a preference for locating new development in accessible locations. Policy DM13 of the Local Plan Part 2: Sites and Development Management (LP Part 2) follows this approach by limiting tourism and visitor facilities outside the defined built-up areas unless it falls under one of the listed exceptions. One of these is for the conversion of existing buildings in accordance with Policy DM22 of the LP Part 2. There is no requirement for the building to be redundant, to be used for agriculture, for other uses to have been first considered, or for need to be demonstrated for the exception to apply.
22. Policy DM22 establishes that rural employment / business development will be permitted where it is, amongst other things, the re-use of existing permanent buildings which are structurally sound so that they can be re-occupied without major rebuilding or extension. The existing building at the site has a domestic scale and appearance, achieved by its modest width, height and domestic fenestration. It does not currently look like an agricultural building, but from the site entrance and adjacent footpath it presents itself as a domestic building. It appears structurally sound to the extent that only fairly minor alterations are necessary to facilitate the proposal.
23. Policy DM13 also requires new development in the countryside to be of an appropriate design and scale in keeping with the rural character of the area,

- and where the development involves the re-use of an existing building it must be one of an appropriate scale and appearance to its rural setting and structurally sound so that it can be re-occupied without major rebuilding.
24. I have already addressed the matter of the building's structural soundness. With regard to its design and scale, I do accept that the domestic characteristics of the building would be increased as a result of the proposal. In this respect I note the addition of the proposed pergolas to draw attention to the two entrances. However, I find that such a change would be modest taking into account the building's existing appearance.
25. The division of space for gardens would be at the rear. This would be contained by the mature vegetative boundaries of the site and would thus have little impact on the appearance of the area. Furthermore, in the event that the appeal is allowed, the appearance of the informal parking area at the front and the nature of the garden boundaries could be the subject of a landscaping scheme to ensure that alterations to its appearance do not harm the rural character of the area.
26. It is suggested that the proposal has all the attributes of residential development, which would ordinarily be resisted in such a location. In this respect the Council suggest that the proposal would be contrary to Policy DM20 of the LP Part 2. I am mindful of the views of local residents on this matter; however, the proposal is not put forward as a scheme for residential development and should not therefore be judged as such. It is not appropriate for me to consider what the building might be used for in the future. Instead, I must determine the appeal on the basis of the proposal that is before me. I am therefore of the view that Policy DM20 should not be determinative.
27. I note that the building currently serves the adjacent camp site by providing various facilities including toilets and showers. In the event that the appeal is allowed such facilities would need to be provided elsewhere if the adjacent use is to continue. I am not satisfied however that this is a matter that should cause me to conclude that the site is not suitably located for the proposal.
28. In summary, the site is suitably located for the development proposed. It accords with Policies ENV3, STR2 and STR3 of the LP Part 1 and Policies DM13 and DM22 of the LP Part 2, which together set out the Council's settlement hierarchy, restrict tourism development outside built up areas and ensure that development is of an appropriate design and scale for the area.

Conclusion

29. Although I have found that the site would be suitably located for the proposal this is not a matter that can outweigh my findings on the first main issue. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. Therefore, for the reasons above, I conclude that the appeal should be dismissed.

A Tucker

INSPECTOR