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# Appeal Decision

Site visit made on 2 November 2022

**by A. Price BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2022**

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**Appeal Ref: APP/G2245/W/21/3284069**

**Fawkham Manor Farm, Valley Road, Fawkham DA3 8ND**

- 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 D Carpenter against the decision of Sevenoaks District Council.
  - The application Ref 21/01098/FUL, dated 7 April 2021, was refused by notice dated 20 July 2021.
  - The development proposed is described on the application form as the 'erection of woodland store and associated hardstanding'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The store and hardstanding have been constructed and therefore I am considering this appeal retrospectively.
3. The Council does not object to the design of the development. Based on the evidence before me and my observations on site, I have no reason to disagree with these findings.
4. Since the planning application was determined, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This does not materially change the planning policy context in respect of the main issue.

## Main Issue

5. The main issue is the effect of the development on ancient woodland.

## Reasons

6. The site comprises a woodland storage building with associated hardstanding within an area of woodland. This is classified as ancient and semi-natural woodland and is the subject of a tree preservation order<sup>1</sup>. There is no dispute between the main parties that the site falls within ancient woodland.
7. The Framework sets out, at paragraph 180 c) that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused. That is unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Ancient

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<sup>1</sup> Tree Preservation Order No. 6 (1960)

woodland is defined in the Framework as an area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites.

8. Footnote 63 of the Framework, whilst only setting out examples and not being an exhaustive list, helps to demonstrate the nature or type of developments that would be considered as wholly exceptional. This includes nationally significant infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat. I deal with this further below.
9. An arboricultural assessment was submitted in support of the appeal. This sets out that there is a high proportion of semi-mature and early mature trees next to the site but that no ancient or veteran trees were identified within 15 metres. It is also put forward that no trees were felled to allow for the construction of the storage building and hardstanding to take place. The assessment sets out that whilst construction work may have resulted in moderate incursion into the nearby rooting areas of several nearby trees of good condition, no damage is deemed to have destabilised them.
10. I have also had regard to the evidence relating to the nature of the woodland concerned in terms of flora and fauna, as set out within both the arboricultural assessment and the ecological walkover assessment. In this respect, I have carefully considered the appellant's claim, and associated evidence, that the site has a modest biodiversity value and the development has resulted in minimal loss to woodland habitat.
11. Nevertheless, the trees immediately adjacent to the site, irrespective of their age and nature, are positioned within ancient woodland. Natural England and Forestry Commission guidance<sup>2</sup> sets out that for ancient woodland there should be a development buffer zone of at least 15 metres to avoid root damage. As such, and mindful that the arboricultural assessment sets out that information was not provided in respect of construction methods or the extent of excavation, there remains a risk to the health of those trees within the ancient woodland, such as root damage. I have insufficient substantive evidence before me to indicate to the contrary. Moreover, from my observations on site, it would appear that trees are clearly within the 15m buffer zone.
12. Having regard to paragraph 180 c) of the Framework, the development has involved the loss of a small parcel of woodland to make way for the storage building and hardstanding. Although it represents only a small proportion of the woodland as a whole, a loss has nevertheless occurred. On this basis the development should be refused, unless there are wholly exceptional reasons.
13. In respect of that matter, the provision of a small store is contended to be for the management and maintenance of the surrounding woodland and land (over 20 acres). However, I have received no substantive evidence that there are no suitable alternative positions for the store and consider the public benefits of the scheme to be limited.
14. Whilst I note the suggested compensatory and enhancement measures put forward, wholly exceptional reasons do not exist for the loss of ancient woodland in any event.

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<sup>2</sup> Ancient woodland, ancient trees and veteran trees: advice for making planning decisions

15. For the above reasons, I conclude that the development has resulted in the loss or deterioration of part of an ancient woodland through the creation of a storage building and hardstanding. There are no wholly exceptional reasons for the development. It therefore conflicts with the Framework, which seeks to protect ancient woodland from loss or deterioration. In this respect, I also note that the proposal conflicts with the relevant provisions of Policy EN1 of the Allocations and Development Management Plan (2015) in which parts b) and e) seek that development proposals respect the character of the site and opportunities for increasing biodiversity potential.

### **Other Matters**

16. The Council considers that the development is used for forestry and thus that it is not inappropriate development in the Green Belt with reference to paragraphs 149 and 150 of the Framework. I have no reason to disagree with these findings. Nevertheless, this does not outweigh the development's conflict with the Framework in respect of ancient woodland, reasoned above.

### **Conclusion**

17. I conclude that the appeal should be dismissed.

*A. Price*

INSPECTOR