



Appeal Decision

Site visit made on 10 January 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/C1435/W/22/3293565

Grove Farm, Howbourn Lane, Buxted TN22 4QD

- 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 R Marten against the decision of Wealden District Council.
 - The application Ref WD/2021/0104/F, dated 11 January 2021, was refused by notice dated 3 September 2021.
 - The development proposed is part conversion of existing agricultural building into 2no. holiday lets.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As part of the appeal the appellant has provided an additional plan which shows the provision of a communal garden, cycle, refuse and parking areas within the site. As this provides additional clarity, and as the main parties have had the opportunity to comment on the plan, I have included this plan in my consideration of the appeal.

Main Issues

3. The main issues are:
 - the effects of the proposal on the Ashdown Forest Special Protection Area (SPA), and;
 - whether the development would provide a suitable standard of accommodation for future visitors.

Reasons

Ashdown Forest SPA

4. The site is close to the Ashdown Forest SPA, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the regulations). The qualifying feature underpinning the SPA designation is the concentration of Dartford warbler and European nightjar. The conservation objectives for the SPA include ensuring that the integrity of the site is maintained or restored as appropriate so that it continues to support the population and distribution of these species.
5. Recreational disturbance has been identified as one of the principal threats to ground nesting birds through trampling and erosion of bird habitats and

- disturbance during breeding season. The Council reports evidence that people living or staying within 7km of the Ashdown Forest are likely to visit it, thereby providing a pathway of effect for recreational disturbance.
6. The site is within 7km of the Ashdown Forest SPA. While the appellant states the site is approximately 10.2km from the nearest Ashdown Forest car park, this is, nonetheless, not necessarily a determining factor of the effects on the SPA, as visitors may park elsewhere, closer to the SPA boundaries. The Council's position was informed by evidence from visitor surveys and I do not have substantive reasons to doubt that approach.
 7. There are facilities near the appeal site that would be utilised by future occupants of the development, including extensive land, nearby lake and woodlands, as well as links to a wider network of public footpaths and recreational spaces. Despite this, it cannot be concluded with certainty that future occupants would use only those facilities and would not visit the SPA, even if their stays were short. As such it cannot be established with certainty that those facilities would provide adequate mitigation for the potential effects on the SPA. In addition, and in any event, the regulations require that where decisions are taken on likely significant and/or adverse effects on the integrity of a European site, decisions should adopt the precautionary principle where it must be assumed that such an effect would be significant, unless there is objective evidence to the contrary.
 8. As such, and adopting a precautionary approach, the proposed development would increase the number of visitors in the area and likely to visit the SPA. It would be likely to have a significant effect on the features of interest in the SPA and the Habitat Regulations require an appropriate assessment to be carried out.
 9. The Council report a strategic mitigation approach through Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Greenspace (SANG), and the Council seek financial contributions to these incentives. The Council confirm the financial contributions would be used to improve visitor experience at the nearby SANG, to displace recreational trips away from the SPA, and the Council state this SANG has capacity to accommodate the additional recreational trips arising from the appeal scheme. The contribution to the SAMM would be used to monitor and limit recreational disturbance at the SPA. Such a contribution, or other mitigation, does not form part of the appeal scheme before me.
 10. In respect of this main issue, and in the absence of objective evidence to the contrary, it cannot be ascertained that the proposal would not adversely affect the integrity of the Ashdown Forest SPA.
 11. The proposal would conflict with saved policies EN1, EN7 and EN15 of the Wealden Local Plan 1998 (the WLP) and WCS12 of the Wealden District Core Strategy Local Plan 2013 (the WCS) which together relate to the effects of development on the environment and designated nature conservation sites including Ashdown Forest.

Standard of Accommodation

12. The appeal relates to part of an existing barn which sits among a cluster of residential properties set around this part of Howbourne Lane. The surrounding

area is rural in character, defined by its gently undulating landscape and open fields interspersed with mature trees and hedgerows.

13. The existing barn is served by two access points from Howbourne Lane which lead to a large area of hard surfacing to the rear of the site. One access runs immediately along the northern side of the barn, the other extends from the south from between the nearby residential properties. The appeal scheme proposes to use the latter to serve the proposed holiday lets and the use of a separate access would prevent the potential for conflict between vehicles of future occupants and farming machinery.
14. While this is a single track and runs in part along side a ditch, the frequency of its use would be limited due to the number of units proposed and I do not have substantive evidence that the use of the track would be unsafe or cause harm to highway safety.
15. While I appreciate it was a snap-shot in time, at the time of my site visit the barn was largely empty but used for storage of various items, including some vehicles, and there were no works being undertaken from the barn. The yard behind the barn was similarly not in active use. The barn and the yard could, however, be used more intensively at different times of year when the machinery is relocated. Despite this, given the scale of the building and the extent of the yard to the rear, there would be adequate space for the proposed use to be physically separated and demarcated from the use of the barn.
16. The supporting plan shows that outdoor space for the holiday lets could similarly be accommodated within an area contained close to the building and the site boundary, and close to the parking areas. As a consequence there would be little need for future occupiers to engage with the use of the remaining barn. While some noise disturbance could be experienced from the use of the barn, I do not have evidence that suitable noise insulation could not be secured and I note the proximity of other residential properties which exist close to the appeal site.
17. For the reasons given, I have no substantive reason to find the proposed accommodation to be inappropriate or potentially unsafe for its future users. In respect of this main issue, I conclude that the proposal would be capable of providing a satisfactory standard of accommodation for its future occupiers.
18. In turn, the proposal would comply with policies TM1, DC7, EN27 and TR3 of the WLP and strategic objective SPO13 of the WCS insofar as they relate to the provision of tourist accommodation and securing a satisfactory access and environment for future occupants. The proposals would also comply with the objectives of the Framework relating to living conditions.

Other Matters

19. The site is also close to the Ashdown Forest, Lewes Downs and Pevensey Levels Special Areas of Conservation (SACs). The Ashdown Forest SAC is designated for the presence of European dry heath, North Atlantic wet heath and great crested newts. This area is sensitive to changes in air quality. Increased traffic flows through the SAC arising from the proposed development could therefore have a significant effect on the integrity of that SAC. The Council report that additional mitigation is not necessary for these effects due to evidence supporting its emerging local plan, which demonstrates that a specified

quantum of development can be accommodated without adverse effects on the SACs. Based on the evidence, I have no reason to disagree with this approach.

20. The Council in its appeal statement raise a number of other concerns relating to the structural stability of the existing barn and poor connectivity to services and facilities. As the appeal is dismissed for other substantive matters, these issues do not need to be considered further.
21. The proposal would support the rural economy, in line with paragraph 84 of the Framework, and there would be an economic benefit arising from the expenditure of future occupants. While these are acknowledged as benefits, given the scale of the development, they attract moderate weight and would not outweigh the harm identified above in respect of the SPA, to which I give substantial weight.
22. While the proposal has been found to be policy compliant in other respects, for example relating to the highway network and SAC effects, these matters are neutral and do not weigh in favour of the development.
23. The proposal may assist in funding the maintenance of natural features in the surrounding area, for example the lake and woodlands. However, this is not proposed to be secured as part of the appeal and there is little evidence of the benefit which would be received by those features. This therefore attracts little weight.

Conclusion

24. For the reasons given, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore be dismissed.

C Shearing

INSPECTOR