



Appeal Decision

Site visit made on 9 November 2022

by S Edwards BA MA TCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/C1760/W/22/3293145

**Larchwood House Annex and Forestry Building, Gardeners Lane,
East Wellow SO51 6BB**

- 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 Ian Rymill against the decision of Test Valley Borough Council.
 - The application Ref 21/01768/FULLS, dated 11 June 2021, was refused by notice dated 2 November 2021.
 - The development proposed is "Replacement of a double garage with a forestry building and the conversion of a former agricultural building (pheasant hatchery) to a residential annexe and a home office to be used in association with Larchwood House".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The works have been largely completed, and I have therefore considered the appeal on the basis that planning permission is being sought retrospectively. The word 'retrospective' does not refer to an act of development, and I have as a result amended the description of development accordingly.
3. During the course of the appeal, my attention has been drawn to an application for a certificate of lawfulness in relation to the existing annexe/home office building and associated engineering works. However, I am required to determine the appeal on its individual merits, having regard to the development plan and other material considerations. Future enforcement action or otherwise is a matter for the Council, regardless of the decision made.

Main Issues

4. The main issues are:
 - Whether there is an essential need for the forestry building and the residential annexe/home office to be located in the countryside; and
 - The effect of the development on ancient woodland.

Reasons

Whether there is an essential need

5. Policy COM2 of the Test Valley Borough Revised Local Plan – January 2016 (LP) sets out the settlement hierarchy for the area administered by the Council, and

adopts a restrictive approach in respect of development outside the boundaries of settlements. In such locations, Policy COM2 only supports developments which are considered appropriate in the countryside, having regard to other LP policies, or where there is an essential need for the proposal to be located in the countryside.

6. The appeal site is located outside of any settlement boundary and therefore lies, for planning policy purposes, within the countryside. The development subject to this appeal relates to a forestry building, which has replaced a garage, and a residential annexe and home office, constructed using the floor slab and substructure of a former pheasant hatchery building. Both structures are sited within proximity to each other, but at considerable distance away from Larchwood House.
7. The forestry building is proposed to be used for the storage of a variety of equipment which would be used to manage the adjacent woodland. The appellant's submissions include a report comprising an Arboricultural assessment, method statement and woodland management proposals¹ which, amongst other things, set out broad management objectives and a general overview of the work that needs to be carried out over the first five years.
8. Whilst it may be convenient to store equipment on site, I have been presented with no substantive evidence which demonstrates that the building is necessary in this location for the management of the woodland. As detailed in the report, most of the work operations covered in the plan require a detailed knowledge of forestry and arboricultural practice to be implemented correctly. For these reasons, it is also emphasised that the contractor would therefore have to be appropriately qualified and experienced. In such circumstances, I see little justification for the forestry building, as contractors would be expected to bring the equipment and machinery required for the management of the woodland.
9. The appellant has referred to the existence of a fallback position, explaining that a forestry building could be erected using the permitted development rights afforded by Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). This permits the carrying out on land used for the purposes of forestry, including afforestation, of development reasonably necessary for those purposes consisting of works for the erection of a building.
10. There is no provision to grant prior approval retrospectively, and the appellant would therefore have to apply to the Local Planning Authority before beginning the development for a determination as to whether prior approval is required for the construction of a building. As there is no extant permission in place, I cannot be certain that a forestry building meeting the requirements of the Order could be erected in a similar location to the existing structure. Having regard to the available evidence, there is no real prospect that the presented fallback position would be implemented if planning permission for the existing structure was not forthcoming.
11. With regard to the annexe and home office, the photographic evidence submitted as part of the appeal clearly shows that a significant part of the former pheasant hatchery was demolished. Consequently, the appeal scheme

¹ Barrell Tree Consultancy (Arboricultural assessment, method statement and woodland management proposals dated 4th June 2021 (Reference 14106-AA-DC)).

cannot be regarded as the conversion of this building into an annexe and home office.

12. My attention has been drawn to LP Policy COM11, which supports the creation and extension of ancillary domestic buildings in the countryside, subject to a number of criteria. The supporting text to Policy COM11 also stresses that any domestic buildings should not be located or designed where they would be capable of severance from the original dwelling.
13. I note that the building falls within the same ownership as Larchwood House, and maintains some degree of visual subservience with the appellant's property, by reason of its siting on lower ground. However, and whilst there were no fencing or dividing hedgerows at the time of my site visit, the appeal structure would nevertheless be capable of severance from the original dwelling, notably due to the separation distance between the building and the existence of a separate access. The effect that such a severance would have on the value of the appellant's property is considered of limited relevance for the purposes of this appeal.
14. Furthermore, the layout of the building suggests that, as a matter of fact and degree, it is able to function as a separate, independent unit of residential accommodation. Given the reasonable likelihood that the building could be used as a separate dwelling, a planning condition requiring ancillary occupation of the annexe would not be effective or enforceable in this instance. Having regard to the particular circumstances of the case, it is my view that the annexe and home office cannot be regarded as an ancillary domestic building and does not therefore comply with the requirements of LP Policy COM11.
15. The appellant has referred to a number of applications within the area administered by the Council, for instance where such a condition was imposed as part of the decision to grant planning permission for a residential annexe². I do not however have the full details of this application and cannot therefore be sure, for example, that the context is comparable to the appeal proposal. Similarly, the application³ which has been approved by the Council for the erection of a forestry building elsewhere in the Borough is of very little relevance to the appeal proposal, as the circumstances of this particular case do not appear to represent a direct parallel to the proposal before me.
16. In the absence of substantive evidence to the contrary, I find that an essential need to justify the appeal development has not been adequately demonstrated. Consequently, the appeal scheme fails to accord with the requirements of LP Policy COM2.

Ancient woodland

17. The appeal site lies within the designated Halls Copse Ancient Woodland, and therefore forms part of an area designated as an irreplaceable habitat. Paragraph 180 of the National Planning Policy Framework (the Framework) makes it clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

² Local Planning Authority Reference 19/02757/FULLS and 20/00656/FULLS.

³ Local Planning Authority Reference 16/01742/FULLS.

18. Natural England's 'Standing advice' identifies a number of direct effects of development which can cause the loss or deterioration of ancient woodlands, notably by damaging or destroying all or part of them (including their soils, ground flora or fungi), damaging roots and understorey (all the vegetation under the taller trees), etc. There are also indirect effects, such as increasing disturbance to wildlife, increasing damage to habitat (for example trampling of plants and erosion of soil by people accessing the woodland or tree protection areas).
19. The appellant's submissions, which notably rely on aerial photographs, have sought to demonstrate that any vegetation that had been removed had grown from 2002 at the earliest and would not have constituted ancient woodland or even mature trees. I have had regard to the Statutory Declarations submitted as part of the appeal, one of which suggests that there were never trees or extensive vegetation in the vicinity of where the current hardstanding area is. It is also of note that these Statutory Declarations relate to the site's condition a number of years ago, prior to the construction of Larchwood House and the structures subject to this appeal.
20. However, Natural England's standing advice on ancient woodland stresses that not all trees in the woodland have to be old. Owing to the retrospective nature of the development, it is difficult to ascertain the extent of the harm which may have been caused to enable the construction of the buildings since the former use of the site as a game farm has ceased. Having regard to the available evidence, it is nevertheless clear that there was significant vegetation clearance as part of the development. There is also a reasonable likelihood that the engineering operations associated with the development would have caused soil compaction.
21. I note that the appeal structures have replaced former buildings, and the management and enhancement of the wider woodland through new planting and natural regeneration is welcomed. However, I cannot be certain that the vegetation clearance and construction of the development have not contributed to the degradation of the Ancient Woodland, and in doing so threatened the ecological diversity and resilience of this priority habitat. I also share the concerns raised by Natural England regarding the increased recreational disturbance resulting from the development, which could be used as primary living accommodation, and the effects that this could have on the Ancient Woodland.
22. In the absence of further substantive evidence to the contrary and taking a precautionary approach, I cannot therefore be satisfied that the appeal development has caused no loss or deterioration of irreplaceable habitats. No wholly exceptional reasons which would outweigh the harm caused to the ancient woodland have been presented. Accordingly, the appeal development conflicts with the requirements of paragraph 180 of the Framework and LP Policy E5, which sets out a presumption against development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or geological conservation interests, either directly or indirectly.

Other Matters

23. The appeal site forms part of Embley Park, which is listed at Grade II on the Register of Parks and Gardens. No concerns have been raised by the Council

regarding the effect of the development on the special interest of Embley Park, and there are no reasons for me to reach an alternative view.

24. The appeal site lies within proximity to the Solent Maritime Special Area of Conservation (SAC), the Solent and Southampton Water Special Protection Area (SPA), the New Forest SPA, SAC and Ramsar sites, and the Mottisfont Bats SAC. These areas are recognised under the Habitats Regulation as being of international importance for supporting significant numbers of overwintering bird species and Barbastelle bats.
25. Natural England is concerned that the annexe, which provides additional residential accommodation, may have a likely significant effect on the integrity of these sensitive areas (either individually or in combination with other plans or projects), notably by reason of additional recreational pressures. This is also due to the increase in wastewater associated with the development, which is having a detrimental effect on the water environment of the Solent.
26. As this appeal is being dismissed on other substantive grounds, these are not matters which I need to consider further here. However, had the development been considered acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment, to ensure the compliance of the development with Habitats Regulations.

Conclusion

27. The appellant has referred to a number of benefits associated with the appeal development, which would for example reduce the need to travel by car for commuting. I have however been presented with no substantive evidence to explain why a home office could not be accommodated within the existing dwelling, thus limiting the weight which can be afforded to this consideration. Other benefits have been presented, particularly in respect of the management and enhancement of the wider ancient woodland, though these measures could be carried out irrespective of the outcome of this appeal.
28. Overall, there are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR