
Appeal Decisions

Hearing Held on 13 June 2023

Site visit made on 13 June 2023

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

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal A Ref: APP/R3650/W/23/3316737

Woodmans, Hyde Lane, Churt, Farnham, Surrey GU10 2LP

- 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 John Morris against the decision of Waverley Borough Council.
 - The application Ref WA/2022/00734, dated 17 February 2022, was refused by notice dated 31 October 2022.
 - The proposed development is an agro-forestry building to serve woodland.
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Appeal B Ref: APP/R3650/W/23/3316774

Woodmans, Hyde Lane, Churt, Farnham, Surrey GU10 2LP

- 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 John Morris against the decision of Waverley Borough Council.
 - The application Ref WA/2022/01308, dated 21 April 2022, was refused by notice dated 31 October 2022.
 - The development is an agro-forestry building including ancillary workers dwelling to serve woodland.
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Decisions

1. Appeal A is dismissed. Appeal B is dismissed.

Procedural Matters

2. Appeal A relates to a proposed agro-forestry building whilst Appeal B relates to an existing building on the site, similarly described as an agro-forestry building, which also includes a worker's dwelling. Both schemes are similar in size, form, design and siting, but in Appeal A, the building would be smaller by reason of a reduction in the size of a rear projecting wing. The Appeal B scheme has been built and occupied, and has been assessed on that basis. Each scheme has been considered on its individual merits, but to avoid duplication, they have been dealt with together, except where otherwise indicated.
3. Following the hearing, further comments were received and considered under each appeal on an updated Ecological Assessment (EA)¹, aerial view shots of the site over time, Wealden Heaths Special Protection Area (WHSPA) and

¹ Ecological Assessment, Woodmans, Churt, The Ecology Co-op, Project No: P5008, 12 June 2023.

Special Area of Conservation (SAC), conditions and Human Rights. A location plan, showing the full extent of appellant's ownership, was also submitted.

4. Since the Council's decisions, the Waverley Local Plan 2002 has been superseded by the Waverley Borough Local Plan Part 2 (LPP2) and the full context of relevant policies was submitted at and following the hearing. The EA has clarified that both appeals do not relate to Ancient Woodland. Both main parties have now agreed no adverse botanical effects by virtue of the dense tree cover on site, and no need for bird, bat, reptile, and Great Crested Newt Surveys. Having inspected the site, there is no reason to dispute these conclusions. However, the overall effect on biodiversity is assessed within these decisions.

Main Issues

5. The site is within the Green Belt and so the main issues for each appeal, are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - Openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area, having regard to the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV);
 - The effect of the proposal on Protected Species and biodiversity; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. Paragraph 149 of the Framework establishes that new buildings or development are inappropriate unless they fall within listed exceptions. The exception at dispute is buildings for agriculture and forestry.
7. The appeal site lies centrally within a wider holding of around 8.1 hectares (ha), mainly Sweet Chestnut woodland. The appellant's Forestry Statement (FS)² holding comprises approximately 5.3 ha of Sweet Chestnut coppice, approximately 2.2 ha of permanent agricultural grazing heathland and approximately 0.7 ha of tracks and previously developed land (site of former historic cottage and barn). The existing and proposed building is/would be served by a track off a lane accessed off Hyde Lane.
8. There is a dispute as to whether the building under each appeal meet/would meet the paragraph 149 exception for forestry of agriculture and in the absence of a definition of forestry within the Framework, objective analysis is

² Arboricultural (Forestry) Statement, Ago-Forestry Unit at Woodmans Coppice, Hyde Lane, Prism Agriculture, February 2020.

required. In areas of planning legislation regarding forestry permitted development, there are no limiting criteria requiring the enterprises/operation to be in a trade or business. However, the legislation does specify that development should be reasonably necessary for the purposes of forestry. Such a test provides a qualitative and sound way of assessing forestry use especially in the absence of any other criteria before me.

9. The appellant has owned the holding since 2002 and it has always been his intention to restore and manage the woodland but due to previous professional commitments, he has not been able to. The Small Woodland Management Plan (SWMP)³ indicated that Sweet Chestnut woodland has had no significant management during the past 20 years and it is predominantly even age, overstood, closed canopy with virtually no understorey. The FS estimates the 5.3ha of sweet chestnut coppice has some 5,200 trees, that would produce some 15,600 timber cores for use. The 2020 SWMP was commissioned to focus attention and resources on the restoration and management of the woodland, principally the Sweet Chestnut woodland.
10. The SWMP details a number of objectives over a 10 year period from 2020. Work carried out has involved re-coppicing existing coppice stools, an area equating to 1/10th of the total chestnut coppice area, deadwood being left, non-intervention areas being established, deer management and invasive species control undertaken. A felling licence (FL)⁴ was granted 1 June 2020 for a period of 5 years details thinning/felling and restocking within specified blocks of the woodland. The thinning/felling of trees has taken place within areas in and around the siting of the existing forestry building and an area between it and the lane. Although the licence expires in 2025, the appellant will be seeking to renew/extend it following a recent meeting with the Forestry Commission. Under the FL, restocking would take place within the dormant season, November to April.
11. On the site, there were several piles of tree trunks left for drying, which are intended to eventually be used for wood products. The appellant has an agreement with a worker who comes onto the site every two weeks to collect timber and make fencing. Within the building on the site, the barn part has extensive machinery including chainsaws, brash cutters, tractor whilst there was router (for fence construction) in its workshop. Taking all these factors into account, a forestry use has been established and therefore, it is a question of whether the building in each appeal is reasonably necessary taking into account its form and size.
12. In Appeal A, the building contains a barn for the storage of equipment (with an airing cupboard containing a boiler) and a workshop. The remainder of the building would have space for a changing/WC/shower room, ancillary staff welfare, kitchen, and cloak/boot room. The Council's forestry building assessment⁵ accepts justification for the barn. There would also be justification for the changing/WC/shower room, ancillary welfare room and cloak/boot room given the nature of the work involved, especially during inclement or hot weather.

³ Small Woodland Management Plan, Assured Trees, Arboricultural Consultancy, April 2020.

⁴ Felling Licence (Forestry Act 1967, Forestry Commission England, application ref:019/0797/2020, dated 1 June 2020.

⁵ Letter dated 5 March 2021, Reference RAC 9109, Reading Agricultural Consultants.

13. However, the kitchen duplicates the ancillary staff welfare space and the workshop/storage area duplicates much of the barn area. On my site visit, the workshop area of the existing building largely matches that proposed in the Appeal A proposal. The need for workbenches here was undermined by an extensive work bench within the barn area. There is a need for certain wood cutting and making processes to be isolated from machinery because of dust, and in undertaking such processes, health and safety considerations must prevail in terms of space. Nevertheless, the workshop area is large and unduly spacious for its needs, roughly two thirds of the size of the large barn of approximately 61 sqm (inclusive of the boiler and airing area).
14. The appellant has plans for marketing and production of wood products, including charcoal, fencing, firewood, sticks as well as a wood craft centre. At the hearing, the appellant displayed extensive knowledge of forestry management and products, including charcoal production and the making of fences, and there is as clear intention to progress the marketing and wood products. However, it was explained that due to personal circumstances, this has not happened, and there is no evidence that the personal reasons for the delay have been addressed which further weakens the justification for the size of the forestry building, with regard to the workshop area. Taking all these considerations into account, the proposed building in Appeal A would not be reasonably necessary for forestry, due to the lack of necessity for the kitchen area and the workshop area as a whole.
15. In Appeal B, the justification for the workshop/storage area has similarly not been demonstrated. Additionally, the building contains a dwelling, and its purported ancillary nature was questioned at the appeal. The dwelling is intended to be occupied by a worker employed in forestry and hence discussion at the hearing regarding an occupancy condition. However, a residential use is materially different to the forestry uses carried out in the rest of the building and holding. It is primarily characterised by its ability to afford to those who use it, the facilities required for day to day private domestic existence. As such, it does not fall within the definition of a building for forestry.
16. Notwithstanding this, Policy DM16 of the LPP2 provides criteria for determining whether a forestry dwelling is justified and reasonably necessary for forestry use. Amongst various criteria, it indicates a functional need for a rural worker to live permanently at or near their place of work, to ensure the effective operation of the forestry enterprise, and also a financially sound means to have been established, where it has been established for a period of 3 years.
17. Trees do not require 24 hour attention, care and husbandry. A heightened risk of fire has not been proven in this location and no public fire authority has provided advice/recommendation to suggest a dwelling is required here due to fire risk. There is equipment and machinery stored on the site, but alternative means of safeguarding them from theft, through for example CCTV, has not been explored. No financial justification for a dwelling based on the forestry use has been put forward. On this basis, the dwelling does not meet the policy criteria and is not reasonably necessary for forestry use in any case.
18. For all these reasons, the proposed and retrospective forestry building in Appeals A and B would not meet the forestry exception in paragraph 149 of the Framework. No other relevant exceptions under this paragraph or Framework

paragraph 150 have been put forward. In each appeal, the building would be/is inappropriate development.

Openness of Green Belt

19. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The existing site has mainly a forested and undeveloped appearance. The trees would screen development from surrounding roads, including the lane with a public right of way, limiting public views.
20. However, the loss of openness has a visual as well as spatial aspect. In both appeals, the buildings do not replace a previous building. The previous building located within the holding has been demolished a long time ago and within a different location. In Appeal A, the building would be single storey, with a low-pitched roof and would be approximately 170 sqm. In Appeal B, the building is similarly constructed and would be approximately 185 sqm. Taking the Green Belt into account, there would be a small loss of openness in both appeals.

Character and appearance

21. Both schemes lie within AONB and AGLV. LPP1 Policy DM15 states that development in rural areas should recognise the natural beauty and undeveloped character which is intrinsic to the open countryside, together with the distinctive character and pattern of development in areas of urban-rural transition and rural settlements, while making efficient use of land.
22. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs which have the highest status of protection. Under Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (as amended), there is a statutory purpose of AONB to conserve and enhance the natural beauty of the area and with Surrey Hills AONB Board, increasing the public understanding and enjoyment of the special qualities of the area.
23. The County Council Landscape Character Assessment 2015 indicates that the site falls within the Greensand Plateau: Witley and Churt, running through the western part of the AONB between Farnham and Haslemere and comprises open heathland, common land, a small-scale farmed landscape and scattered settlements. The Surrey Hills Management Plan 2020–2025 identifies key landscape features of the AONB varying from irregular woods to old coppice and saws of the wooded Weald, conifer plantations of large estates on the Greensand Hills, to ancient yew and box woodlands on the North Downs. The rural patchwork of wooded and open space areas, in a gently undulating topography, are key qualities of the AONB and AGLV.
24. Based on the photographic evidence from time, the construction of the building on the site necessitated the felling of mainly Sweet Chestnut trees. The appeal site is within a secluded location surrounded by trees and the building in each appeal has/would have a rustic appearance due to its timber clad construction. Public views of a building would be limited, even in winter and with the forestry management of the woodland, including the thinning out of trees. Nevertheless, the lack of public visibility is not the sole measure of acceptability of development impact, especially as character encompasses less visually

defined qualities, including seclusion, sense of remoteness and quietness relevant to a rural area.

25. In Appeal A, the building would have activity solely associated with the forestry operations during the day. Such activity, including the use of machinery, would be that normally associated with a rural-based enterprise whilst vehicular movements would be limited. Consequently, there would be limited impact on character and appearance from the forestry building in Appeal A and no conflict with Policies RE3 and TD1 of the LPP1 and Policies DM1, DM4, DM11 and DM15 of the LPP2, which collectively and amongst other matters, requires high quality design, responding effectively to its surroundings, reinforcing local distinctiveness and landscape character, including the AONB and AGLV, and to recognise the natural beauty and undeveloped character which is intrinsic to the open countryside, together with distinctive character and pattern of development in areas of rural settlements.
26. In Appeal B, there would be activity associated with forestry use, as well as a permanent residential use. A residential use introduces activity, noise and intrusion throughout the day and around the building by occupants by virtue of necessary lighting, vehicular traffic and paraphernalia, including parked vehicles, bins, etc. During the evening, there would be light intrusion from the building and vehicles. In isolation, these adverse effects would be small, but they would be of importance within the AONB and within the AGLV, although less so with the latter due to its local designation. Accordingly, the scheme conflicts with Policies RE3 and TD1 of the LPP1 and Policies DM1, DM4, DM11 and DM15 of the LPP2, which collectively and amongst other matters, requires the above considerations to be satisfied as described above.

Protected Species and Biodiversity

27. The EA acknowledges that the clearance of woodland to accommodate the buildings under both appeals has resulted in the permanent loss of breeding bird habitat, foraging and commuting habitat for bats. Detrimental effects on Hazel Dormice habitat could have resulted because the woodland is well connected to an extensive network of suitable habitat for this species. They have been recorded on adjacent woodland.
28. However, the implementation of a management plan would secure the thinning of canopy layer, the sensitive removal of some leaf litter and the encouragement of the spread of bramble and honeysuckle. Bat boxes, bird boxes, dormouse boxes and hibernacula would also be installed for the benefit of amphibians and reptiles. Non-native invasive species would also be removed from the holding. For the important acid grassland on the holding, acceptable management, including grass mowing at appropriate times of year, with material taken away for composting, would be carried out. Such measures would result in an overall improvement and enhancement to the biodiversity of the site. Accordingly, both Appeal A and B schemes would comply with Policy NE1 of the LPP1 and DM1 of the LPP2 (in respect of Protected Species and biodiversity).

Other considerations

29. Forestry products, made on the site, prevent the necessity for imported forestry products with their greater carbon emission footprint and if

unsustainably harvested, environmental destruction. Thus, this represents an environmental benefit, albeit small given the size of the enterprise.

30. Due to financial troubles, the appellant was forced to sell the family home and owing to the difficulty of finding alternative accommodation, the appellant took the decision to live on the site. If alternative accommodation needs to be found, the woodland needs to be sold to fund another property. The appellant has lived and worked on the land for some considerable amount of time. Both appellant and his partner are elderly, with one of them and an offspring, suffering from long term illness that compromises their health. This would be further impacted upon if the family needed to find alternative accommodation due to the dismissal of Appeal B.
31. At the hearing, the appellant indicated that there is difficulty in finding alternative accommodation due to a housing shortage but accommodation searches and their needs have not been detailed to evidence these comments. Refusal of the scheme could lead to a loss of a home if the Council undertook enforcement proceedings in the future. This raises matters under the Human Rights Act 1998 (HRA98) which will be discussed further in coming to a decision in Appeal B.
32. In both appeals, there would be moderate biodiversity gain with the implementation of a management plan because it would secure the thinning, coppicing and enhancement of the woodland, and the management of acid grassland. There would be a very small boost to local housing supply arising from the addition of a dwelling.

Greenbelt and Planning Balance, and Human Rights

33. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although localised, there would be harm to the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt. The Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
34. For Appeal A, moderate weight is attached to the biodiversity enhancement and small weight is attached to the environmental benefit of the sustainable wood production. However, there is harm to the Green Belt which attracts substantial weight. For this reason, 'Very special circumstances' do not exist as the harm to the Green Belt by reason of inappropriateness is not clearly outweighed by other considerations for this scheme.
35. In Appeal B, cumulatively, the weight to be given to biodiversity enhancements, environmental benefit, boost to housing supply and personal circumstances would be significant. However, in addition to the substantial Green Belt harm, there would be harm to the character and appearance of the area, including the Surrey Hills AONB and AGLV. For all these reasons, 'Very special circumstances' do not exist as the harm to the Green Belt by reason of inappropriateness and other harms are not clearly outweighed by other considerations for this scheme.

36. Policy RE2 of the LPP1 states the Green Belt will be protected against inappropriate development in accordance with the Framework. In Appeal A, there is conflict with this policy. Given the importance attached to Green Belts by national policy, such a conflict would be overriding and there would be conflict with the development plan taken as a whole. In Appeal B, the harm to the Green Belt and AONB, having regard to the dwelling, results in conflict with the Policies RE2, RE3 and TD1 of the LPP1, and Policies DM1, DM4, DM11, DM15 and DM16 of LPP2 and conflict with the development plan taken as a whole.
37. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In both schemes, the collective weight to be given to the benefits of the schemes would not be strong enough to outweigh the development plan conflict. For the reasons discussed previously, in Appeal B scheme, the evidence does not convincingly prove on-site accommodation is required. National policy attaches great importance to protecting Green Belt land. Therefore, there are no material considerations of sufficient weight or importance that determine that the decision should be taken in accordance with the development plan. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, the decision should be taken in accordance with the development plan and permission refused.
38. In Appeal B, having regard to rights under Article 8 and Article 1 of the First Protocol of HRA98, there would be interference with the occupier's rights in respect of private and family life, and the peaceful enjoyment of possessions respectively. Refusal of the Appeal B scheme could lead to the appellant's home ceasing on the site. However, there is a legitimate aim in protecting the Green Belt and the landscape and scenic beauty of the AONB. The Article 8 and First Protocol rights are qualified and, in this instance, interference with them would be in accordance with law and in pursuant of well-established and legitimate aims necessary in a democratic society.
39. The identified Green Belt and AONB harms would be less with a temporary planning permission, but they would collectively be of greater than substantial significance. The protection of the public interest cannot be achieved by means that are less interfering with these rights and the decision is the minimum necessary action in this instance. Such conclusions are necessary and proportionate in the circumstances.

Conclusion

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

Jonathon Parsons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs J Long	Planit Consultancy
Mr D Ardeshirian	Planit Consultancy
Mr T Warren	Prism Agriculture
Mr & Mrs J Morris	Appellant and partner

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Wallis	Waverley Borough Council
Mrs K Corps	Waverley Borough Council
Mr I Brewster	Waverley Borough Council
Mr J Bennett	Waverley Borough Council

DOCUMENTS SUBMITTED AT AND AFTER HEARING

1. Ecological Assessment, Woodmans, Churt, Project No: P5008, The Ecology Co-op, 13 June 2023.
2. Magic Map extract showing the location of nearest Ancient Woodland, 13 June 2023.
3. Full extracts, Policies DM16 and DM14 of Waverley Borough Local Plan Part 2, 13 June 2023.
4. Appellant's Personal circumstances, 13 June 2023.
5. Plan showing extent of appellant's land holding, drawing number 20/5400, 13 June 2023.
6. Appellant's Aerial Photograph Montage over time, received 13 June 2023.
7. Ecological Assessment (EA), Woodmans, Churt, the Ecology Co-op, Project No P5008, version 3, 15 June 2023.
8. Full extracts, Policies DM1, DM4 and DM11 of the Waverley Borough Local Plan, 20 June 2023.
9. Council's Aerial Photograph Montage over time, received 20 June 2023.
10. Detailed Council's Wealden Heaths SPA and SAC 'likely significant effect' assessment, 20 June 2023.
11. Council's Human Rights Position statement, having regard to Article 8 and Article 1 of the First Protocol, 20 June 2023.
12. Appellant's Human Rights Position statement, having regard to Article 8 and Article 1 of the First Protocol, 6 July 2023
13. Surrey Wildlife Trust (SWT) comments, submitted by Council, 10 July 2023.
14. Appellant's comments on SWT comments, 12 July 2023.