



Appeal Decision

Site visit made on 26 June 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/C1435/W/22/3311393

Land to the east of Park Lane (known as Upper Vert Wood), Laughton, East Sussex BN8 6RD

- 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 Laughton Greenwood Ltd against the decision of Wealden District Council.
 - The application Ref WD/2021/2795/FR, dated 7 December 2021, was refused by notice dated 23 May 2022.
 - The development proposed was originally described as 'part retrospective application for erection of welfare facilities including a single composting toilet, a tool storage shed, two tarpaulin shelters and a timber storage/open shelter for the purpose of woodland management.
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Decision

1. The appeal is allowed and planning permission is granted for welfare facilities including two composting toilets, a tool storage shed, two tarpaulin shelters and a timber storage/open shelter for the purpose of woodland management at land to the east of Park Lane (also known as Upper Vert Wood or Laughton Greenwood), Laughton, East Sussex BN8 6RD in accordance with the terms of the application, Ref WD/2021/2795/FR, dated 7 December 2021.

Preliminary Matters

2. The appellant has also been referred to as 'Laughton Greenwood Community Benefit Society' and 'Laughton Greenwood Community Interest Society'. I have written confirmation from the applicant that Laughton Greenwood Ltd is the appellant and have reflected this in the banner above.
3. The description of development in the banner is taken from the application form and mentions five buildings. The Council made its decision on this basis, albeit that the officer report referred to another composting toilet, so six buildings. With the appeal, which has been given appropriate notification by the Council, the appellant's proposed block plan¹ includes the second composting toilet and reflects the development that has been carried out on the site. In the submitted plans the timber storage/open shelter has also been labelled as 'meeting hut' or 'workshop'. The Council agrees that the proposed block plan more accurately depicts the location of this development and it has considered all six buildings in its appeal statement. I have, therefore, determined the appeal on this basis and this does not cause prejudice to any party.

¹ Drawing number 03 Revision V3

4. In my decision above I have altered the description of development to reflect the second composting toilet. Upper Vert Wood is also known as 'Laughton Greenwood' so I have incorporated this in my decision and omitted wording that is not itself development and to reflect that it has been carried out.
5. The Government published a new National Planning Policy Framework on 5 September 2023 (the Framework). The changes to national policy are not relevant to this appeal.

Main Issues

6. The main issues in this appeal are:
 - whether the development has resulted in the loss or deterioration of irreplaceable habitat, in this case ancient woodland;
 - its effect on the Low Weald Landscape;
 - whether any harm to irreplaceable habitat by loss or deterioration is clearly outweighed by other considerations so as to amount to wholly exceptional reasons to justify the development; and
 - if there are wholly exceptional reasons to justify the development, whether a suitable compensation strategy exists.

Reasons

Irreplaceable habitat

7. The site is in approximately 177 acres of ancient woodland (the AW) which is part of a much larger swathe of ancient woodland. This irreplaceable habitat comprises semi-natural native deciduous trees and conifer plantations. The buildings are in three different parts of the site, approached initially from a woodland ride giving main access through the AW.
8. There is a hub of three buildings near a clearing. A reasonably large, mostly timber clad timber storage/open shelter has a bare earth floor and rests on small concrete pads near a stand of thinned, mostly pine trees. A short track leading to it has been compacted to bare earth by frequent use, as has the ground in and next to this building. Slightly further into the trees is a small mostly timber clad building on similar pads containing a composting toilet and a small sheet metal tool storage shed resting on loose paving slabs, accessed through bracken on less well-used tracks.
9. About 100m walking distance to the southwest, a tarpaulin shelter is accessed from the ride then a less well-used track through bracken and trees. The posts of this timber framed structure are secured to the ground by thin metal spikes and it is covered by a tarpaulin sheet. It is in a tighter knit stand of mainly deciduous trees and the ground under it is compacted to bare earth by use. About 470m walking distance along rides to the southeast of the hub is a second tarpaulin shelter, accessed the same way and positioned in a similar situation with similar ground conditions. Near it, a second composting toilet like the first is supported by timber posts in the ground.
10. There are some old tree stumps near the timber storage/open shelter building and it has been set into partially lowered, levelled ground at the back and sides. However, there is no evidence that the erection of this, or any of the

buildings required indiscriminate tree felling or ground clearance and works that cannot be reconciled with woodland management. From the details before me and what I saw, I am satisfied that sufficient care has been taken to erect the buildings diligently, with little physical ground intervention to mitigate potential adverse impact.

11. However, while the ground area covered by the buildings and the extent of ground compaction in the AW is individually and cumulatively relatively small, this limited intensification of buildings and activity is nevertheless near one or more trees and in, or near, areas of natural ground cover. The development therefore prevents or hinders existing tree growth or new trees being established by planting or natural regeneration, as well as native ground cover and associated wildlife and habitat at all three locations, including by worn tracks or ground that would not exist but for the development.
12. I therefore find that while there has been no apparent direct loss of AW due to the development, its presence has nonetheless and albeit to a limited extent resulted in deterioration of a small part of this irreplaceable habitat. Consequently, it conflicts with saved Policy EN13 of the Wealden Local Plan, December 1998 (the LP) and with Policies SPO1 and WCS12 of the Wealden Core Strategy Local Plan, February 2013 (the CS). These policies include that development should not prejudice the ecology of designated ancient woodlands and seek to protect biodiversity to prevent net loss.

Low Weald Landscape

13. The AW, thus the site, is in the Low Weald Landscape (LWL) which is distinctive including due to an open, mainly farmed countryside and a few large woods in attractive, mostly unspoilt countryside with a strong rural character. The site would therefore have made a positive contribution to the LWL. The buildings mostly have a functional, utilitarian aesthetic or are small and relatively innocuous in their immediate context and setting, with no appreciation in the wider landscape beyond enclosure by the AW. Nonetheless, these unnatural features are piecemeal and incremental in origin and not traditional forestry or farm buildings. Albeit limited and localised, the buildings can be appreciated by those who visit, work or volunteer in the AW and as such there is an innate adverse effect on this part of the countryside.
14. As a result, I find that the development has a small negative effect on the character of this part of the LWL and therefore the LWL overall. Consequently, it is contrary to LP saved Policy EN8 and CS Policies SPO1 and WCS14. These policies include that development should conserve or enhance the distinct character of the LWL having regard to areas of unspoilt, remote countryside and woods and improve the environment of the area.

Wholly exceptional reasons

15. The appellant is a responsible, environmental not-for-profit community benefit society. It collaborates with the land owner or lessee of the AW, the Forestry Commission and the Woodland Trust to implement a 10-year woodland management plan (WMP), consistent with Natural England and Forestry Commission standing advice for ancient woodland.
16. In essence it aims to restore, re-create, expand and manage the AW habitat and species and achieve biodiversity net gains. It also seeks to improve public

access, knowledge and training about stewardship of the AW including techniques, crafts and skills, including some supervised study visits and rural employment from timber removals. This gives opportunity to volunteer members of the public (including families), college and university students and other stakeholders such as the Sussex Wildlife Trust, Birdsong Academy and Butterfly Conservation (Sussex). These beneficial outcomes could not be achieved without the presence of associated people and vehicles in the AW.

17. The WMP does not refer to the buildings and not all woodland management is necessarily reliant on such buildings. However, in this case the functional reason for them is as ancillary to these initiatives. They are limited in number, simple in form (including using timber from the AW) and requisite in size and design to support these activities and purposes. The Woodland Trust surveyed the AW in 2016 and 2022 and made recommendations for planned thinning of trees and bracken control, including in the woodland zones where the buildings are sited. These factors influenced the appellant's decision about where to locate the buildings and they are not incompatible with future management objectives.
18. The Council has given previous approval for such buildings in the AW and those approved elsewhere in the wider ancient woodland are not, in my view, conveniently located to serve the AW near the site. The ancient woodland covers a very large area so buildings for these purposes are necessarily sporadic in siting. It would be unreasonable and a strong disincentive, if, and albeit seasonally or intermittent in duration, volunteers had to otherwise transport all equipment, machinery or tools to and from the site daily. Similarly, if they had to walk an inordinate distance, especially older persons or children, potentially in wet, muddy, snow or icy ground conditions to undertake activities, use a toilet or shelter from the sun, wind or rain. This would not be conducive to effective or efficient management of the AW so undermine what the appellant and the other stakeholders seek to achieve.
19. Considering the above, I find that the public benefits outlined above clearly outweigh the harm by deterioration of a small part of this irreplaceable habitat. Accordingly, the appellant has demonstrated wholly exceptional reasons to justify the development. Consequently, it complies with CS Policies SPO1, WCS12 and WCS14 which include that development should manage countryside resources, assist the rural economy and, with partners, maximise opportunities to ensure recognised habitats, biodiversity features or attributes and ecological networks are maintained, restored, enhanced or created to achieve net gain in biodiversity, sustain wildlife in rural areas and improve the environment of the area.

Compensation strategy

20. Detailed ecological information captured during the Woodland Trust surveys found that the AW had benefitted considerably from the appellant's actions to implement the WMP. The AW is as a result an appreciably more robust and biodiverse environment. The Woodland Trust recommended a significant scope of future active long-term management and enhancement work be continued across the AW, including continued planned thinning of trees and bracken control where the buildings are sited.
21. I therefore find that the WMP provides a suitable compensation strategy appropriate to the scale, nature, impact and siting of the development. As such

it complies with CS Policies SPO1 and WCS12 which include that development should maximise opportunities to ensure recognised habitats, biodiversity features or attributes and ecological networks are maintained, restored, enhanced or created to achieve net gain in biodiversity and sustain wildlife in rural areas.

Other Matters

22. The site is within a zone of influence of the Pevensey Levels Special Area of Conservation (SAC) and Ramsar site and the Lewes Downs SAC (the European protected sites). It is also within the impact risk zone for the Park Corner Site of Special Scientific Interest (the SSSI). The Council did not object to the development in these respects. As the competent authority in this appeal, I have received written advice from Natural England that the distance of the development from the European protected sites and the SSSI, together with its nature, mean that significant effects alone or in combination with other plans and projects are not likely and can be screened out. I have no reason to disagree. The development is also directly connected with, and necessary to, site management for nature conservation.
23. In its officer report the Council had regard to LP saved Policy DC3 which requires that farm buildings must be reasonably necessary for the purposes of an agricultural holding. The Council did not cite this policy in its decision notice but its reason for refusal and appeal statement refers to 'reasonably necessary'. The definition of agriculture² includes woodlands that are ancillary to the farming of land for other agricultural purposes. There is no evidence that this definition applies to the AW. Even if it did, there are wholly exceptional reasons for the buildings.

Conditions

24. The Council has suggested three conditions if planning permission were to be granted. I have had regard to the appellant's comments on these as well as the relevant tests in the Framework and in Planning Practice Guidance (PPG).
25. The development has been carried out so a standard time limit condition and an approved plans condition are not necessary. Removing the composting toilets, tool storage shed and tarpaulin shelters from the site after four more years would broadly coincide with the end of the current WMP period. However, the Woodland Trust states that future woodland management will be required 'over the coming decades'. Removing these (or any of the) buildings before the need for them ceases could incur avoidable costs or undermine future woodland management. None of the buildings are permanent and the description of development states that they are for woodland management. Replacement or additional buildings would require planning permission or could be permitted development subject to prior approval. The Council has planning enforcement powers to control the use of the buildings. In these circumstances a condition to remove buildings after four years is not reasonable or necessary.

Planning Balance

26. The development has caused some minor, very localised deterioration of a small part of the AW. Albeit limited harm, the adverse effect on this

² Town and Country Planning Act 1990 (as amended)

irreplaceable habitat carries significant weight. There is also a small adverse effect on the LWL and this consideration has limited weight.

27. On the other hand, there are wholly exceptional reasons for the development and there is a suitable compensation strategy. The primary objective of the development is to facilitate appropriate management of irreplaceable habitat (the AW) and conserve or enhance biodiversity; by these means, continue to secure net gains for biodiversity as well as enhanced public access. These outcomes are consistent with objectives of the Framework and PPG to protect and enhance sites of biodiversity value and recognise the intrinsic character and beauty of the countryside. As such, in my view, these considerations have substantial weight.
28. The benefits of the development therefore outweigh the individual and cumulative harms.

Conclusion

29. The development conflicts with the development plan taken as a whole. However, there are other material considerations, including relevant provisions of the Framework which override this finding and indicate that the decision should be taken other than in accordance with the development plan.
30. Consequently, for the reasons given above the development is acceptable and the appeal therefore succeeds.

Robin Buchanan

INSPECTOR