



Appeal Decision

Site visit made on 21 May 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/B1740/W/23/3330886

Land at Woodpecker Wood, Court Hill, Damerham SP6 3HL

- 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 and Mrs French against the decision of New Forest District Council.
 - The application Ref 23/10345, dated 24 March 2023, was refused by notice dated 12 July 2023.
 - The development proposed is the conversion of the existing building to form a single residential dwelling with associated access, parking, landscaping, and package treatment plant (revised scheme).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A large part of the Council's area is designated as nationally and internationally important habitat sites, that include the New Forest Site of Special Scientific Interest, the New Forest Special Protection Area (SPA), Special Area of Conservation (SAC), and Ramsar; the River Avon Valley SAC, SPA, and Ramsar; the Solent and Southampton Waters SAC, SPA and Ramsar; and also the Dorset Heathlands SAC, SPA and Ramsar. One of the reasons for refusal of the original application was that it failed to demonstrate it would not have an adverse effect upon the New Forest habitat sites. To address these matters, during the appeal process the appellants submitted a signed and dated Unilateral Undertaking (UU) to provide contributions for avoidance, mitigation and monitoring measures. The Council have stated that the provision of the UU addresses the reason for refusal, and consequently the appeal turns on the main issues identified below. I shall return to the matter of the habitat sites later.
3. In November 2023, all designated Areas of Outstanding Natural Beauty in England became known as "National Landscapes", and I have referred to this new name in my decision.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon a protected ancient

woodland and the location of the dwelling in the Cranborne Chase National Landscape; and

- whether the site would be in a suitable location for residential development, including having regard to whether the existing building could be re-used.

Reasons

Character and Appearance

5. The appeal site comprises a single storey building within a woodland that is growing upon a ridge of land in the open countryside. The building is set back from the public highway at one end of a long gravel and grass track, utilising a shared access with a nearby residential property. The garden and woods of this house border part of the southern side of the appeal site, and there are agricultural fields beyond the woodland.
6. To either side of the access track there are a variety of tall trees, both those owned by the appellants and others that are within the neighbouring property. To one side of the building is an area of grass that is also surrounded by tall trees, and beyond the site area to the south is another area of grassland and a young ash plantation, both of which are also surrounded by woodland. The building has a concrete pillared frame with blockwork infill under a corrugated roof of a mix of materials. There are metal framed windows within each elevation, with those to the north and rear being infilled with blockwork. At the time of my site inspection there were three storage containers within the building, along with miscellaneous tools and equipment.
7. The site is within the Cranborne Chase National Landscape (NL), and the National Planning Policy Framework (the Framework) requires great weight to be given to conserving and enhancing the landscape and scenic beauty of NLs. The woodland forms a prominent feature within the area as it emphasises the ridge of high ground upon which it is growing, as well as being part of the attractive verdant tapestry of woodlands that are found within the area. This prominence, along with the age and variety of the trees, and their essentially unmanaged, natural canopy shapes, make a positive contribution to the landscape and scenic beauty of the NL. From what I saw during my site inspection little woodland management has occurred, neither to the trees nor the understory, and there were young self-seeded trees evident as well as several ash showing signs of dieback.
8. The proposed dwelling would convert the existing building, cladding the walls with timber and replacing the roof with natural slate. Unlike the functional, utilitarian appearance of the existing building, the dwelling would have a legibly residential appearance, with domestic style new doors and multiple windows. The provision of parking and turning areas, a garden and the appearance of the dwelling, would all serve to harmfully erode the natural character and appearance of the woodland.
9. The trees are protected by a woodland tree preservation order and are also part of the protected Higher Court Wood semi-natural ancient woodland Site of Importance for Nature Conservation (SINC). There is also a veteran tree near to the appeal site. Veteran trees and ancient woodlands are defined within the Framework as irreplaceable habitats. Very few of the existing windows in the

building would be retained, as new ones have been proposed in order to maximise natural daylight. However, much of the building is and would be under the composite crowns of the nearby trees, and when in leaf the presence of these trees would not only shade the dwelling, but would also restrict light levels to its future occupants. Although the appellants have pointed out that no trees would need to be removed, the presence of numerous tall, broad leaf trees very near to the house and garden would reduce the levels of direct light and sunlight experienced. Furthermore, limbs extend over the building, and how the replacement of the roof could be achieved without impacting upon these trees has not been demonstrated. The position of a dwelling within such a context would be likely in due course to result in pressure to remove the trees or at least undertake management works so as to improve living conditions, and particularly so in the case of those trees growing very close to and over the building.

10. Little detail of hard and soft landscaping has been provided, with much of the garden and parking areas being partly under the crowns of the nearby trees. Any hard surfacing would impact upon the roots of the trees. Even if not surfaced, frequent use by vehicles could cause compaction within root protection areas (RPAs), as well as discharges of oil and other contaminants into the ground, all of which would be to the detriment of the health and wellbeing of the trees.
11. The absence of boundary treatments along with the proposed materials for the building are considered choices of the appellants so as to preserve the character of the woodland and enhance the NL. Nevertheless, the elevated position of the dwelling upon a ridge of high land along with the presence of numerous new windows would result in the building being visible through the trees when lights were on in the rooms, especially when the trees were not in leaf, and this impact would be exaggerated with the presence of any external lighting. It might be the case that the appellants would be comfortable living in a small home amongst trees, but it does not follow that future occupiers would wish to live in such a context. The absence of any definition to the garden and parking areas could allow the creep of such uses and residential paraphernalia into the protected woodland to both the detriment of the trees and the understory vegetation, as well as eroding the landscape and scenic beauty of the NL.
12. Furthermore, the services required for the residential use would also impact upon the protected trees. The existing track would be re-dressed so as to be in keeping with the area, but in addition to these works a water main, a septic tank and also an above ground storage tank would be provided. Although the appellants consider only the water main would impact upon the trees, from the submitted drawings the septic and storage tanks would be very close to several trees. It might be the case that the tanks could be installed outside any RPAs, but given the constrained nature of the site and the requirement to maintain the health and vitality of the protected trees both during and after the works, where the tanks would be positioned would need to be resolved with certainty rather than left as a conditional matter.
13. As regards laying a water main along the existing access track, the use of a mole may minimise harm to nearby trees. However, the track is closely bounded to either side by tall trees. Canopies extend over much of the track, and there would be a network of tree roots beneath it. In addition, there is

also a substantial veteran oak near to the appeal site, the crown of which extends partly over the track. Whilst manual excavation for the mole could occur and there could be some degree of flexibility to the placement of the pits, detail of the impact of the works upon specific trees has not been provided. The proximity of so many trees so close to the track, including the imposing veteran oak, are significant constraints to works, and it cannot be assumed that even with the suggested measures, the water main could be installed without impacting upon the health and vitality of these important, protected trees. Given that the woods are an irreplaceable habitat, the ambiguity of the nature of the works and the consequential uncertainty regarding the tree protection is such that a pre-commencement condition to resolve this matter would be inappropriate.

14. An alternative route for the water main was proposed during the original application. Nevertheless, parts of this route would also be close to protected trees, including the veteran oak, and again details of tree protection have not been provided in any detail. Whilst noting that the appellants consider this alternative could be conditioned, the route is not within the red site line area and is mostly upon land owned by others. I have considered the possibility of imposing a negatively worded condition to secure the water main route. However, such a condition cannot be imposed where there is no prospect of delivery within the time-limit of any permission. The use of land outside the site area cannot be assumed and notice has not been served on any other landowners. In such circumstances a negatively worded condition would be unreasonable, thereby failing the condition tests of the Framework.
15. The Framework makes it clear that development that results in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. There would be unacceptable harm to the protected woodland and also to a veteran tree, both during implementation of the scheme and as a result of the ongoing residential use. The scheme would result in the deterioration of an irreplaceable habitat, and although an additional dwelling would be provided, such a public benefit would be modest and would not outweigh the significant adverse impact upon the woodland. Whilst the appellants would accept conditions for woodland and construction management plans, given the irreplaceable nature of the woodland and the numerous uncertainties that arise with this case as regards maintaining the health and vitality of the trees, conditioning such plans would conflict with the requirements of the Framework. It thereby follows that without details of the woodland management, the public benefits to accrue from any unspecified management works would not accord with the wholly exceptional reasons for development within such habitats that is required by the Framework.
16. For these reasons the scheme would have an adverse impact upon the character and appearance of the area, including upon a protected woodland and upon the landscape and scenic beauty of the NL. The suggested conditions of the parties would not mitigate these harms, and the scheme would fail to accord with the requirements of Policy ENV3 of the New Forest District Local Plan Planning Strategy (2020) (PS) and Policy DM2 of the New Forest District Local Plan Sites and Development Management (2014) (SDM). These policies seek, amongst other things, high quality development that contributes positively to local distinctiveness, being sympathetic to its context, and that which enhances the existing features of nature conservation value within a site,

as well as not resulting in damage to a SINC unless public benefits clearly outweigh the harm and can be mitigated to achieve a net gain in biodiversity.

Location

17. There is no disagreement between the main parties that the site is within the countryside. Housing in such locations is assessed under the requirements of SDM Policy DM20, which supports residential development in the countryside only where certain criteria would be met, one of which is that the proposal would be required as an agricultural or forestry worker's dwelling.
18. Several references have been made to the provision of a woodland management plan, and that a public benefit of the scheme would be the ongoing management of the ancient woodland. Whatever the intentions of the appellants are with regard to this management, neither such a plan nor any details of the need for an essential on-site residential presence have been provided. Furthermore, reference is made to any management works being undertaken by a suitably experienced and qualified person, as and when required. Neither of the appellants have been identified as the expert individuals that could manage the woods.
19. National policy makes it clear that isolated homes in the countryside should be avoided unless one or more of a list of circumstances apply. This includes that the home would be essential for a rural worker to live permanently at or near to their place of work. Having regard to the ambiguity and uncertainty surrounding the woodland management and who would undertake it, the scheme would fail to accord with the requirements of the above referenced SDM policy, nor with those of the Framework.
20. SDM Policy DM20 is silent on the matter of the conversion of buildings in the countryside to a dwelling, although the Framework's list of circumstances includes whether the development would re-use a redundant or disused building and enhance its immediate setting. Whilst the appellants point out the building had a former agricultural use, and that the scheme would make an efficient use of a redundant building, details of the former use have not been provided, and the building now has a storage use.
21. The existing building has a number of faults, including floor to roof vertical movement cracks, an associated cracked concrete floor, cracks and spalling of some of the concrete framework, and what the appellants' building surveyor assumes is an asbestos roof. In addition, multiple new windows and doors would be created rather than use of the existing ones. It might be that the movement cracks could be repaired, but this remains unsubstantiated with any specific detail, including whether the cracks are a result of foundation movement. These concerns, along with the removal of large areas of walling to provide new openings, plus the provision of a replacement roof are such that the totality of the works render it questionable as to whether the existing building would be re-used. Nor has it been demonstrated that any such works could occur without harming the nearby trees.
22. In addition, the Framework requires the re-use to enhance its immediate setting. For the reasons given above, the scheme would harmfully intrude residential development and paraphernalia into an ancient woodland. In doing so the attractive and intrinsically rural woodland character and appearance of

the area would be eroded, and such a loss would also be to the detriment of the landscape and scenic beauty of the NL.

23. For these reasons, the dwelling would not be in a suitable location for residential development, and the conditions suggested by the parties would not overcome the substantial harm arising from the proposal. The scheme would therefore be contrary to SDM Policy DM20 and also to objectives of the Framework.

Other Matters

24. The New Forest habitat site designations recognise the national and international importance of the habitats that include bogs, marshes, dry grassland, heaths and broad-leaved and coniferous woodlands that support a variety of birds and insects, and the Dorset Heathlands also host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes. The River Avon habitat sites comprise a bio-diverse lowland river system that supports nationally and internationally important species, such as aquatic ranunculus, snails, lamprey, wildfowl and wading birds. The New Forest and Dorset Heathlands are under significant pressure from public access and use, and a net increase in the number of dwellings and occupiers in the area would increase the pressure upon these important sites, as well as impacting upon air pollution. The River Avon is experiencing high levels of phosphates that includes from waste water resulting from development, and in addition to impacting upon the river it also causes eutrophication of the protected Solent and Southampton Waters.
25. Given the location of the appeal site, future occupiers would be likely to impact upon these habitat sites thereby having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. The appellant has provided a UU to secure the required mitigation measures for the New Forest habitat sites. The Council have confirmed the UU secures the required contributions for the habitat sites, and that a Grampian Style condition would address the phosphate levels in the River Avon Catchment. I will return to these matters below.

Planning Balance

26. The Council acknowledge that there is not a five year housing land supply of deliverable homes, and the appellants have referred to a variety of benefits arising from the scheme. These include the provision of an additional dwelling on a small site which would accord with objectives of the Framework for boosting the supply of housing. This, and the improved appearance of an existing building, and the woodland management, would result in social, economic and environmental benefits. Whilst noting these views, the social and economic benefits arising from a single dwelling would be modest. Rather than environmental benefits I have found there would be significant and unacceptable environmental harms arising from the scheme and they would not be outweighed by the modest benefits.
27. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should

happen at the expense of other considerations. The adverse impacts of granting permission for the scheme would significantly and demonstrably outweigh the benefits, and especially so in this case as policies within the Framework that protect areas and assets of particular importance, such as irreplaceable habitats and the NL, provide clear reasons for refusing the scheme.

28. If I had come to a different conclusion on the main issues, it would have been necessary for me to undertake Appropriate Assessments and give further consideration of the likely effectiveness of mitigation measures for the protected New Forest, Dorset Heathlands, River Avon and Solent and Southampton waters habitat sites. In doing so I would have had regard to the provisions of the UU and the Council's suggestion of the use of a condition as to whether there would be significant effects arising from the proposal, either alone or in combination with other schemes, as I would have to be certain that the integrity of the habitat sites would not be adversely affected. However, as I am dismissing the appeal for other reasons, these assessments have not been necessary.

Conclusion

29. For the above reasons the adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these substantial harms. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR