



Appeal Decision

Site visit made on 19 August 2024

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 28th August 2024

Appeal Ref: APP/D3830/W/24/3337022

Nailards Wood, Cross Colwood Lane, Bolney, West Sussex RH17 5RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Duke Harvey of Dorton Ltd against the decision of Mid Sussex District Council.
 - The application Ref is DM/23/2234.
 - The development is HGV parking area 55M X 5M for four rigid units and two trailers.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect that the development has on:
 - the character and appearance of the surrounding area, and
 - biodiversity and other interests in and near the ancient woodland

Reasons

Character and appearance

3. The appeal site is situated outside the built-up area of any settlement designated in the Mid Sussex District Plan 2014-2031 (LP), so it is, in policy terms, in the countryside. The site includes part of a track that winds through woodland from the roughly west side of the narrow rural Cross Colwood Lane, and a broadly rectangular area of land (parking area), which is situated by and under high voltage power lines. To roughly west lies the land to which Certificate of Lawful Use or Development (Existing) ref DM/15/2974 relates (reclamation site), but it is separated from the site by a strip of land including a bund and a hedge. Woodland lies roughly north, south and east. A public right of way (PRoW) runs roughly east west through the woodland near its boundary with agricultural fields to roughly south, and a vineyard lies beyond the woodland on the far west side of the reclamation site. The surrounding area has a mostly rural character and largely wooded appearance.
4. LP Policy DP12 aims to protect the countryside in recognition of its intrinsic character and beauty. The Policy seeks to permit development in the countryside provided it maintains or enhances the quality of the rural and landscape character of the District, and is necessary for agriculture, or is supported by a specific Development Plan policy. Provided it is not in conflict with LP Policy DP12, LP Policy DP14 aims to permit new small scale economic

- development provided it supports sustainable growth and the vitality of the rural economy, and where possible, uses previously developed sites.
5. The parking area has been broadly levelled, it is finished with hardstanding and the appellant says that the development has been used. As most of the parking area is woodland that had been cleared to make way for the power lines, it is not previously developed. The development is not necessary for agriculture, there is almost nothing to explain why the development needs to be located in the countryside, and as it is not related to the nearby reclamation site or any other local rural business, the development would not support sustainable growth and the vitality of the rural economy. So, it is contrary to LP Policies DP12 and DP14.
 6. Moreover, the east part of the site includes the nearby part of the track, which can be seen from the lane, but much of the site, including the rest of the track and the parking area, is largely screened by woodland. Due to the intervening vegetation and the bunds by most of the parking area, the hardstanding is not readily visible from the PRow. Even so, the parking area can be seen from the track near the reclamation site's gate by people arriving at and leaving that site, including the public, the reclamation site's staff, and delivery and despatch drivers. So, whilst the features by its boundary partly screens the reclamation site from the west part of the track, the parking area is visible from it.
 7. The land under the power lines does not and would not be likely to include substantial trees, but due to its siting within the wider woodland, it would reasonably be expected to include the low level vegetation that is generally found by woodland edges, such as grass and low scrub, as can be seen under the power lines to roughly north east and south west. Due to its engineered form and consistent dark coloured hardstanding finish, the sign and other paraphernalia related to it, and, because, at times, it has included and would include the parked vehicles, the development is unacceptably at odds with the local rural character and its mostly vegetated appearance. As security fencing within or by the parking area would emphasise the parking area's presence and erode the local mostly sylvan rural character, the appellant's suggested condition would not overcome the harm caused by the development.
 8. The land between the site and the reclamation site has been reshaped, but as there is almost no evidence to show that the Council has found that development acceptable, it provides little support for this damaging development. As the goods vehicle operator's licence and planning are subject to different legislation and assessed against different criteria, the appellant's licence attracts minimal weight. Whilst the National Planning Policy Framework (Framework) recognises the importance of providing adequate overnight lorry parking facilities, and the aims of LP Policy DP1 include to promote economic vitality, they were not concerns in the Council's reasons for refusal. I agree.
 9. Therefore, I consider that the development harms the character and appearance of the surrounding area. It is contrary to LP Policies DP12 and DP14, LP Policy DP26 and Policy BOLD1 of the Bolney Neighbourhood Plan 2015-2031 (NP) which seek high quality design and respect for context, NP Policy BOLBB1 which aims for development to be focussed within the Built-up Area Boundary and to maintain or enhance the local rural character, NP Policy BOLE2 which seeks to protect the landscape, and the Framework which recognises the intrinsic character and beauty of the countryside.

Biodiversity and other interests

10. Part of Nailards Wood is designated ancient woodland, and part of the site including parts of the track and the parking area are within the ancient woodland or within the minimum 15 m wide buffer zone that surrounds it. As ancient woodland takes hundreds of years to establish, it is an irreplaceable habitat. It is important for biodiversity and other interests including wildlife, soils, carbon capture and storage, contributing to the seed bank and genetic diversity, health and wellbeing, and its cultural, historical and landscape value.
11. Whilst the land under the power lines had been cleared, and the woodland includes plantation, as ancient woodland is any area that has been continuously wooded since at least 1600, it includes ancient semi-natural woodland, and plantations on ancient woodland sites, which have been replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi. Moreover, 'wooded continuously' does not mean that there has been continuous tree cover across the whole site, so open ground, both temporary and permanent, is an important component of ancient woodlands.
12. As the development uses the track, which is also used by the reclamation site, it increases the direct and indirect impacts, including increased levels of air and light pollution, noise and vibration, and disturbance to wildlife, on and by the part of that track that is within the ancient woodland and its buffer zone. Part of the hardstanding in the parking area has also been constructed within the ancient woodland and its buffer zone. However, no wholly exceptional reasons and no suitable compensation strategy have been put to me to explain why part of the development should be sited within the ancient woodland. Moreover, there is no arboricultural or ecological assessment to show that the part of the development within the ancient woodland and its buffer zone needs to be there, or that matters such as activity, compaction, noise, headlights after dark, and its surface water drainage and means of disposal, do not and would not adversely affect biodiversity and other interests in or near the ancient woodland.
13. The application form refers to a soakaway, but details of the surface water drainage of the hardstanding have not been put to me. So, there is insufficient evidence to show that the surface water drainage has not adversely affected matters such as soil structure and hydrology within the ancient woodland and its buffer zone. Whilst the parking area would not be used for refuelling or servicing vehicles, it would be wrong to rule out the possibility of unintended losses of vehicle-related fluids in and by the parking area due to their potential for polluting the underlying soil and consequent detrimental effects on the viability of the resources that it holds, including microorganisms and seeds.
14. Thus, I consider that the development does and is likely to harm biodiversity and other interests in and/or near the ancient woodland. It is contrary to LP Policy DP37 which states that development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 m maintained between ancient woodland and the development boundary, LP Policy DP38 and NP Policy BOLE1 which seek to protect and enhance biodiversity, LP Policy DP41 which aims to protect surface and ground water quality, the Framework which aims to conserve and enhance the natural environment, and Natural England's standing advice for ancient woodland.

Conclusion

15. I have found that the development is contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
16. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR