



Appeal Decision

Site visit made on 12 November 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal Ref: APP/L1765/W/24/3338436

Telephone Exchange, Whiteley Way, Whiteley, Hampshire. Easting: 453090. Northing: 109215.

- 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 Frank Yung & Mr Huu Binh Le against the decision of Winchester City Council.
 - The application is Ref 23/01105/FUL.
 - The development proposed is construction of 3 no. commercial units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address in the banner heading above is taken from the decision notice. This omits the conflicting post codes contained within the application form and appeal form and includes site detail in respect of the Telephone Exchange, which is omitted from the application form but included within the appeal form.
3. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.

Main Issue

4. The main issue is the impact of the proposal on biodiversity, with particular regard to the natural asset of irreplaceable ancient woodland.

Reasons

5. The appeal site lies to the northwest of Whiteley Way and comprises a rectangular parcel of land in a quiet and secluded woodland setting positioned well back behind the road frontage. The site is surrounded by trees on all sides. Vehicular access is from Whiteley Way and runs between a treed area separating the site from the road. As such, the site is well-screened from the public realm. Surrounding built development, including the Solent Hotel to the west, residential development to the northwest and business units on the opposite side of the road are separated from the site by substantial areas of woodland. Moreover, areas of land immediately to the south, east and north of

the site are protected from development under the Council's adopted development plan.

6. Although comprising previously developed land, the existing built development is low key and occupies a limited part of the site. The current use is described on the planning application form as storage and parking. Built development includes a telecommunications company compound with associated apparatus and masts as well as a fenced yard. I saw during my site visit that the site has a quiet, verdant character. Much of it is overgrown and not laid to hardstanding. It is dominated by surrounding mature trees, the canopies and root spreads of some of which extend into the appeal site.
7. The proposal would introduce two 2-storey light industrial buildings, (Use Class B1(c)), one either side of the site, together with a parking and turning area to the front.
8. The treed land around the appeal site comprises important nature conservation designated sites. Round Coppice Site of Importance for Nature Conservation (SINC), Local Nature Reserve (LNR) and ancient woodland lies immediately north of the appeal site. Round Coppice Meadow 1 and Round Coppice Meadow plot 1727 SINCS lie to the west and east of the site respectively.
9. The proposed new built development would be sited within close proximity of the northern, western and eastern site boundaries. As such, it would be reasonably considered likely to impact upon the biodiversity of these designated sites, both as a result of the construction of the appeal scheme and thereafter during its occupation and use.
10. Such impacts would affect the adjacent Ancient Woodland to the north. This woodland, by definition, requires hundreds of years to establish and is an irreplaceable ecologically valuable habitat. Its significance is recognised in Paragraph 186 c) of the Framework. This states 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, (such as infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists.
11. Standing Advice from Natural England¹ is that, to ensure that it is adequately protected from impacts associated with new development, an appropriately landscaped buffer zone of a minimum of 15m should be provided between the new development and ancient woodland. The proposed proximity of the appeal scheme to the appeal site boundary would not allow for this.
12. Whilst comprising guidance rather than an adopted development plan policy, I find that there is no cogent evidence before me from the appellant to justify a departure from this advice, which reflects the view of Natural England as a statutory nature conservation body. Moreover, the appellant's supporting Ecological Assessment² also recognises the aforesaid buffer zone requirement.

¹ *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions.* (Natural England and the Forestry Commission – dated 14 January 2022)

² The Ecology Co-op dated 13 February 2023

13. Impacts arising from the construction works would be associated with noise, light, air, and soil pollution which would potentially harm the woodland wildlife, together with ground disturbance within tree root protection areas.
14. In addition, the existing built development on the appeal site occupies a small proportion of the site and given its nature, it generates a very low level of day-to-day activity in association with its use. The appeal scheme in contrast, comprises 3 separate commercial units with a total floor area amounting to around 878 sqm. As such, it would significantly intensify the amount of built development on site, both in terms of new buildings and on-site parking and turning space.
15. The use of the site as 3 independent 2-storey commercial units with the provision of 22 on-site parking spaces would result in a significant increase in vehicular and human traffic movements to and from, and within the site. This would have associated noise and light pollution impacts upon the adjacent woodland ecosystem.
16. Moreover, the above impacts would reduce the resilience of the ancient woodland to future change or development pressure.
17. The appellant's submitted Arboricultural Implications Assessment³ (the tree report) confirms the intention to retain most trees around the new development as well as introducing some new tree planting within and in front of the site. However, this would not overcome the aforesaid harmful impacts to the ancient woodland to the north of the site, having regard to the very close proximity of many of its trees to the proposed new buildings. Moreover, the tree report confirms that several of these trees would be removed.
18. For the above reasons, I therefore conclude that the proposal would result in material harm to biodiversity, with particular regard to the natural asset of irreplaceable ancient woodland. As such, the development would be contrary to Policy CP16 of the *Winchester District Local Plan Part 1 – Joint Core Strategy* (2013) and Policies DM23 and DM24 of the *Winchester District Local Plan Part 2 – Development Management and Site Allocations* (2017).
19. These policies, amongst other things, seek to ensure that new development maintains protects and enhances biodiversity, protects, and enhances the key characteristics of the landscape, avoids the loss of key features, and does not result in the loss or deterioration of irreplaceable habitats, including ancient woodlands.
20. For similar reasons, the proposal would also be contrary to Chapter 15 of the Framework, which seeks to conserve and enhance the natural environment.

Other Matters

21. I note that planning permission⁴ has previously been granted for a new two-storey commercial unit on the appeal site. However, this consent related to a single business unit sited at the northwestern corner of the site and, as such involved a notably smaller scheme which involved significantly less built site coverage than that of the current appeal scheme. As such, it is not directly comparable in terms of its impacts upon the ancient woodland.

³ CBA Trees Ref CBA11225 v2 dated April 2023

⁴ LPA Ref 19/01694/FUL granted 20 April 2020

22. Moreover, the permission was granted prior to the issue of the standing advice referred to in footnote 1 and was not implemented prior to the expiry of the planning consent. As such, the site planning history does not justify allowing the appeal scheme.
23. My attention has also been drawn to the existence of other built development including houses and roads close to the ancient woodland. I have not been provided with full details of these developments, including their planning history, precise location in relation to the ancient woodland, relevant planning policies in place at the time of their determination or wider material factors which influenced the decisions made. Moreover, the current appeal proposal has its own circumstances and I have determined it on its own merits taking into account the site-specific factors.
24. I acknowledge that, following Covid, the appellant seeks a more financially viable scheme than that which was previously approved. I also accept that there would be modest economic benefits because of the provision of 3 new commercial units of the size proposed. The appeal scheme would also make a more efficient use of the land.
25. However, these factors do not amount to 'wholly exception reasons' as defined within Paragraph 186 c) of the Framework which would justify allowing the proposal, having regard to the aforesaid harm that I have identified.
26. The council has raised no objection to the appeal scheme in respect of other matters including the principle of the proposed use in this location, the detailed design of the scheme and its wider visual impact, highway safety, parking, and impact upon neighbouring living conditions. However, such matters are requirements of other development plan policies and a lack of identified harm is a neutral factor that does not diminish the significant harm that I have identified in respect of the main issue.
27. The appellant refers to pre-application advice received from the Council. However, I have not been provided with specific details of such advice given specifically in respect of the appeal scheme. Notwithstanding this, I am not bound by advice given by the Council prior to the submission of the planning application, and it does not alter or outweigh my conclusion on the main issue.
28. The appellant also cites the Council's procedures during the determination of the planning application, including a lack of communication. This is not a matter for consideration as part of this appeal.

Conclusion

29. The proposed development would conflict with the adopted development plan when considered as a whole, and there are no material considerations, including the Framework, that indicate that the proposal should be determined other than in accordance with the development plan.
30. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR