



Appeal Decision

Site visit made on 10 December 2024

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/C1435/W/24/3343754

Barn, Land north of Wild Cherry Orchard, Lewes Road, Forest Row RH18 5JS

- 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 Paget Aisling von Wedel against the decision of Wealden District Council.
 - The application Ref is WD/2021/3078/FR.
 - The development proposed is erection of a barn for woodland management.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The barn was in situ at time of my site visit. This weighs neither for nor against the proposal, which I have determined on the basis of the submitted plans.
3. On 12 December 2024, government published a revised National Planning Policy Framework (the Framework). The Framework's policies of relevance to the appeal proposal have not significantly changed and therefore, in this instance, it was not necessary to consult the parties on the revised Framework.

Main Issues

4. The main issues in this appeal are:
 - The effect of the development on the Ashdown Forest Site of Special Scientific Interest (SSSI), with particular regard to whether the benefits of the development in the location proposed clearly outweigh its likely impact on the special scientific interest features; and
 - The effect of the development on the landscape and scenic beauty of the High Weald National Landscape.

Reasons

Ashdown Forest SSSI

5. The appeal site comprises an area of woodland and an existing dwelling. The barn has been sited close to the dwelling, utilising its driveway access, and has been constructed for the purpose of woodland management. At time of my site visit, the barn was in use for storage of tools, machinery, and materials relevant to this use.
6. The appeal site is within the Ashdown Forest SSSI. Paragraph 193(b) of the Framework advises that development on land within a SSSI, and which is likely to

have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.

7. The barn is an open area which includes the appeal property, a gravelled access track, car parking area, and a grassed area with shrubs. To the side and rear of the barn is woodland.
8. The ground condition prior to construction of the barn is uncertain. However, the Habitats Regulations Assessment, Aecom 2023 (HRA) suggests it is likely the barn is located on the edge of an area of hardstanding, in an area which was dominated by bracken prior to the barn being constructed.
9. The area was cleared of non-native rhododendron and some small silver birch trees several years before the barn's construction. The appellant's Ecological Impact Assessment Report (EIAR) indicates the construction of the barn appears to have not involved the loss of any mature or semi mature trees. Therefore, the area in which the barn is sited was likely to have been an open area surrounded by woodland at time of its construction.
10. Natural England, government's adviser for the natural environment in England, indicates Ashdown Forest SSSI is notified for features including its 'lowland mixed deciduous woodland', which is a habitat present in immediate proximity to the development site and likely would naturally colonise other areas of the site in the absence of development.
11. The EIAR indicates the woodland around the barn is characterised by dense rhododendron, but includes species typical of the woodland habitat, namely silver birch, oak, and holly. The EIAR concludes the construction of the barn likely represents an overall loss of woodland habitat in that area.
12. The barn has a modest footprint. Nonetheless, siting of the barn within the SSSI prevents woodland trees from establishing in this area. Consequently, the developed footprint of the building represents a small but permanent and direct loss of the Ashdown Forest SSSI.
13. If the site were allowed to regenerate, the appellant suggests it would likely be colonised by invasive rhododendron. Natural England recognise rhododendron can adversely impact the condition of the SSSI. However, a decline in the condition of a SSSI is not justification for development or the reduction in the SSSI's extent.
14. At paragraph 193(a), the Framework provides a mitigation hierarchy. This requires significant harm to biodiversity be avoided, such as through locating the development on an alternative site with less harmful impacts, be adequately mitigated, or, as a last resort, compensated for.
15. The appellant does not own land outside the SSSI and near the woodland, and therefore is unable to locate the barn on an alternative site in the local area. Searches were undertaken for storage units of similar size to the barn within a 16km radius in January and April 2024 using a property marketing website, and no properties were available on the market.
16. However, the Forestry Commission standing advice suggests the size of the landholding and type of woodland it is not considered sufficient to warrant the construction of a barn for woodland management purposes. It is submitted that

development is not essential in this location within the SSSI. In addition, Natural England have set out that the justification for the building is not robust enough to consider that the avoidance test has been met.

17. The Framework is clear that development on land within or outside of the SSSI which is likely to have an adverse effect should not normally be permitted and, in this instance, there is insufficient evidence to justify the need for the development.
18. Paragraph 193(b) of the Framework indicates development may be permitted as an exception, where the benefits of development clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSI.
19. The barn would enable the continued restoration and management of the surrounding woodland through storage of tools, machinery, and equipment, drying and preparing plants, seeds and berries for planting and making natural fertilisers.
20. The benefits outlined by the appellant in terms of the environmental considerations associated with not having to travel by motor vehicle to collect equipment and materials and return to the site for use, with further vehicle trips to return such equipment and materials to the off-site storage location, are not sufficient to outweigh the impact arising from the development.
21. Whilst the appellant suggests the removal of the barn, without an alternative site, would not obviate the need for on-site storage, requiring items be covered with tarpaulin, and therefore it is not likely the area would be colonised by woodland. I can not be certain that this would be the outcome if the appeal were to be dismissed.
22. The appellant has restored and managed the woodland for an extensive period exceeding 40 years. Such activities include clearing invasive rhododendron and bracken; erection of deer fencing; tree-planting; opening up areas to allow foraging and for indigenous grasses and wild plants to establish; creation of a small pond, erection of bat boxes, and formation of rock, leaf, and wood piles to support wildlife; and, ongoing maintenance such as clearance of fallen trees and branches, hedge cutting, and fence repairs. However, the majority of these works took place prior to the construction of the barn and there is nothing before me to indicate that these works could not continue even if the appeal were to be dismissed.
23. In addition, Natural England confirms that the proposed objective of undertaking woodland management within the site does not adequately justify the proposed siting of the barn within the SSSI.
24. In conclusion, the proposed development will result in a permanent and direct loss of the Ashdown Forest SSSI and will therefore have an adverse impact upon the site. The proposed development does not give adequate consideration to the mitigation hierarchy contained within Paragraph 193 (a) of the Framework, and that the proposed intention of undertaking woodland management does not provide sufficient justification to warrant a permanent loss of a SSSI. Furthermore, the benefits set out by the appellant are insufficient to outweigh its likely impact, contrary to Paragraph 193(b) of the Framework.
25. The site was formerly a quarry and various quarry buildings have been removed from the site during the appellant's ownership. One former quarry building was previously used for storage and is believed to have been of similar or larger floor

area than the barn. The quarry building was located elsewhere in the appeal site, and a significant period of time has elapsed since it was demolished. The barn does not therefore represent a replacement of the former quarry building.

26. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Part 6, Class E allows, on land used for the purposes of forestry, development reasonably necessary for those purposes including (a) works for the erection, extension, or alteration of a building. However, since prior approval was not sought prior to works commencing, the development would not benefit from this permitted development right. Consequently, the rights afforded by the GPDO cannot apply to the development and does not represent a realistic fallback position.
27. As set out above, the development results in a permanent loss of deciduous woodland that is a feature of the SSSI. The proposal fails to demonstrate that this loss could not be avoided, or would be adequately mitigated or compensated, and thus does not comply with the mitigation hierarchy. The development would enable the continued management and restoration of the woodland. However, this benefit does not clearly outweigh the likely impacts on the SSSI's features. Consequently, the development harms the Ashdown Forest SSSI.
28. The proposal therefore fails to comply with Wealden Core Strategy Local Plan 2013 (CS) policies SP01, WCS12, and WCS13 which together protect and enhance recognised biodiversity attributes, ensure a comprehensive network of habitats, and protects the existing network of green infrastructure. In addition, the proposal would not comply with Wealden Local Plan 1998 (LP) Policy EN15 which safeguards designated nature conservation sites by resisting development.
29. Furthermore, the proposal would not satisfy Framework paragraph 187 which requires proposals protect and enhance valued landscapes and biodiversity sites.

High Weald National Landscape

30. The barn has a pitched, tiled roof and timber elevations on a brick plinth and concrete base. With a floorspace of approximately 75sqm, the barn is of modest scale. The barn is of single storey height, with a first-floor storey within the roof space. Through its simple form, modest scale, and traditional materials, the barn has the appearance of a vernacular agricultural building.
31. The appeal site is within the High Weald National Landscape. The Council consider the intensification of built form to be unjustified, as the items stored in the barn are capable of being brought to and from site as necessary. However, neither the development plan nor the Framework require development proposals within National Landscapes be subject to a test of necessity of the proposed use. Rather, WLP Policy EN6 requires development conserve or enhance the natural beauty and character of the landscape. This is reinforced by paragraph 189 of the Framework which indicates great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes and gives the highest status of protection in relation to these issues.
32. The area is characterised by dense, deciduous woodland which surrounds the appeal site. The building is located over 200m from the public highway and is substantially screened from public vantage points by woodland.

33. Public footpath 'Forest Row, no 58C' passes the site to the east of the location of the barn. The barn would generally be screened from the footpath by woodland. Any views would be limited to glimpses between trees and foliage within a short stretch of the footpath, and therefore the barn would not be visually prominent. Furthermore, the Council recognises buildings associated with the management of landholdings are not an inherently alien feature within the landscape.
34. The barn and appeal property are at the end of driveway on either side of the gravelled parking spaces for two cars. The barn would be viewed within the context of the appeal property, and therefore due to its proximity to existing development would not appear out of context with its surroundings.
35. As set out above, the barn is modest in scale and has a traditional form and appearance that would not appear out of context within the landscape. It is substantially screened from public vantage points, with any views limited to glimpses. The development would therefore conserve the landscape and scenic beauty of the High Weald National Landscape, even when the great weight is given to these issues.
36. The proposal would therefore comply with WLP Policies GD2, EN6, and EN7 conserves landscape characteristics outside development boundaries, permit development within the High Weald Natural Landscape where its natural beauty and character of the landscape would be conserved, and conserves the landscape and historic character of the Ashdown Forest area.

Other Matters

37. The site is within the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). The Ashdown Forest SAC is an extensive area of common land located between East Grinstead and Crowborough.
38. The qualifying features for the Ashdown Forest SPA are its breeding pairs of European nightjar and Dartford warbler. The habitats and species for which the Ashdown Forest SAC is designated include wet heathland with cross-leaved heath, European dry heaths, and great crested newt population. Its conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate, and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features.
39. Where minded to grant consent for development likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations) requires the competent authority make an appropriate assessment of the implications for the site in view of its conservation objectives and agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. Since I am dismissing the appeal, appropriate assessment is not necessary.
40. The HRA, commissioned by the Council, concluded no habitat for which the SAC is designated has been lost or negatively affected and no habitat used by Dartford warbler has been affected. Whilst the HRA found a small area of habitat potentially suitable for foraging nightjar has been lost, it concluded this is compensated by work the landowner has done to improve the quality of the woodland as foraging habitat. In addition, the HRA concluded the small extent of habitat lost through

construction of the barn, would not materially interfere with the ability of the SAC to achieve favourable conservation status for its great crested newt.

41. Consequently, the HRA concluded there would be no likely significant effects on the integrity of the Ashdown Forest SAC or SPA, alone or in combination with other plans and projects.

Conclusion

42. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR