



Appeal Decision

Site visit made on 15 January 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/J1535/W/23/3329233

The Stables, Stapleford Road, Stapleford Abbots, Romford RM4 1ER

- 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 Terry Welley against the decision of Epping Forest District Council.
 - The application Ref is EPF/0933/23.
 - The development proposed is New dwelling in place of the existing stable block.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged the National Planning Policy Framework (2024) (the Framework) was revised and the 2023 Housing Delivery Test measurement (HDT) results were published. I have allowed the Council and appellant the opportunity to comment upon these, and I have taken any submissions into account in determining this appeal.
3. In commenting upon the revised Framework, the Council considers the changes mean the scheme is no longer inappropriate development, so it cannot sustain its objection to the proposal upon Green Belt grounds, so the reason for refusal is overcome. I was unable to access the site at my visit. However, based upon the substantive evidence before me, I see no reason to take a different view to that set out by the Council. Therefore, I have proceeded on the basis the proposed development is not regarded as inappropriate development in the Green Belt.

Main Issue

4. The main issue is the effect of the proposed development upon the Epping Forest Special Area of Conservation (the SAC) as a designated habitats site.

Reasons

5. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a likely significant effect (LSE) upon a European site (in this case the SAC), a competent authority is required to make an appropriate assessment of its implications on the integrity of the European site, in view of its conservation objectives. Any LSEs arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
6. The SAC is a large ancient wood-pasture with habitats and species of high nature conservation value. It has three qualifying habitats (Atlantic acidophilous beech

forests with Ilex and sometimes Taxus in the shrub layer, European dry heaths, Northern Atlantic wet heaths with Erica tetralix) and one species (the Stag Beetle). The SAC conservation objectives are to achieve a favourable conservation status of the qualifying features by maintaining or restoring the extent, distribution, structure and function of the qualifying features, the population and distribution of the qualifying species, the supporting processes on which the qualifying habitats and species rely, and the structure and function of the qualifying species' habitats.

7. The SAC is a popular destination for recreation. The Epping Forest Strategic Access Management and Monitoring Strategy (2021) (the EFS) identifies that 75% of visitors to the SAC originate from within a 6.2km zone of influence (Zoi) of the SAC. It explains that recreational pressure is adversely affecting the SAC's qualifying features through impacts such as eutrophication from dog fouling, trampling/wear, soil compaction, erosion, damage to tree roots, and interactions between visitors and livestock causing difficulty in best grazing management.
8. New developments resulting in increased occupiers within the Zoi, are likely to have LSEs upon the SAC qualifying features through increased visits and recreational disturbance. The appeal scheme lies within the 6.2km Zoi and would increase occupiers and potential visitors. The appellant's Habitat Regulations Assessment (HRA) disputes there would be any significant effects, due to its size and the former stable use and associated visitors. However, having been consulted upon this appeal scheme, Natural England (NE) disagrees. It is unclear to me, the stable would have generated any recreational visits to the SAC. In my view this appeal scheme alone and in combination with other development, would overall, result in LSEs from recreational disturbance at the SAC.
9. The EFS sets out costed measures to avoid harm arising from current and future visitor growth in a Strategic Access Management and Monitoring (RSAMM) programme. These include physically managing additional wear and tear, access enhancement and management, monitoring ecological conditions, on-going visitor engagement activities and rangering. The cost of the RSAMMs mitigation is met by a per dwelling financial contribution by each new development. Subject to a contribution being secured towards the RSAMMs, LSEs would be mitigated.
10. The Epping Forest Interim Air Pollution Mitigation Strategy (2020) (the APMS) explains that detailed traffic modelling has found that new housing and employment development within the district is likely to result in increased traffic on certain highways¹ through and close to the SAC. Increased atmospheric pollution from nitrous oxides (NOx), ammonia (NH3) and sulphur dioxide (SO2) from vehicles adversely affects the SAC. Emissions can be directly toxic to vegetation, acidify water and soils, increase soil fertility and affect the quality of semi-natural, nitrogen-limited terrestrial habitats². Therefore, development resulting in increased traffic generation upon identified highways would have LSEs upon the SAC.
11. The appellant's HRA estimates future appeal scheme occupiers may have 2 cars, which compared to the stable use would not intensify traffic. However, NE disagrees, and the appellant has not subsequently sought to dispute this. The number of movements generated by the stable use is not put to me, and it is unclear whether or not those movements would have taken place on affected routes around the SAC. While there is not full certainty of the routes occupiers

¹ Figure 1 of the APS.

² Natural England Overarching Standard Advice for Development Applications within Epping Forest District of 10 August 2021.

would use, given their potential to visit the SAC for recreational purposes, adopting the precautionary principle, I cannot rule out that future occupiers would not travel on roads which result in increased atmospheric pollution at the SAC.

12. The APMS sets out a strategic approach to mitigating air quality impacts through planning conditions (such as for broadband and electric vehicle charging) and securing a per dwelling financial contribution for the implementation of strategic mitigation measures and monitoring activities (ASAMMs). Mitigation measures include funding electric vehicle charging points, introducing a clean air zone and traffic management measures. I see no reason why this scheme could not be the subject of planning conditions in respect of broadband and EVCP. However, a financial contribution is required to be secured against the scheme for the ASAMMs.
13. I understand that application EPF/1774/18 for a single dwelling on the appeal site was approved subject to a planning obligation that secured contributions to SAC mitigation measures. I have not been informed that scheme was implemented by 2 July 2024 and contributions were paid against it. Securing mitigation against that scheme does not secure the delivery mitigation against this appeal proposal, so it would not address LSEs and the need for mitigation for this appeal scheme.
14. NE's consultation response to this appeal scheme expresses the view that LSEs cannot be ruled out and that it would impact upon the integrity of the SAC, if unmitigated. While the appellant has stated they are willing to pay contributions, I am not aware that any have been made and there is no planning obligation before me securing such contributions. A condition to propose a planning obligation does not secure mitigation as required by the Regulations, and I am not satisfied it would meet the requirements of the Planning Practice Guidance³. This scheme makes inadequate provision to mitigate recreational disturbance and atmospheric pollution impacts, and thus maintain the integrity of the SAC. In the absence of appropriate mitigation, the scheme would have LSEs on the integrity of the SAC.
15. The appellant has not suggested that there are no alternative solutions to providing unmitigated housing at the appeal site. Imperative reasons of overriding public interest do not exist and there are no other considerations that clearly outweigh the harm to the SAC. Section 63(5) of the Regulations states the competent authority may agree to a plan or project, only after having ascertained that it will not adversely affect the integrity of Habitats sites. Therefore, it precludes the proposed development from proceeding.
16. The appeal scheme would have LSEs upon the SAC as a designated habitats site. This conflicts with the Policies DM2 and DM22 of the Epping Forest District Local Plan (2023), which seek to protect the district from the impacts of air pollution and ensure development secures appropriate mitigation to ensure it has no adverse effect upon the integrity of the SAC. It would also conflict with paragraph 187a) of the Framework which states that development should protect sites of biodiversity importance commensurate to their status.

Planning Balance

17. The appeal scheme would result in a limited temporary economic benefit during construction and once complete a small on-going spend in the local economy with support to local services and facilities. As it appears the previously approved

³ Paragraph: 010 Reference ID: 21a-010-20190723.

dwelling is not commenced, this proposed single dwelling would result in a minor net benefit to supply. Notwithstanding the Council's previously reported housing land supply position, the latest HDT measurement result of 66% is indicative of recent significant under delivery in the area. Therefore, the provision of a single additional dwelling attracts limited weight in favour of the scheme.

18. Based upon the scheme not being inappropriate development and the appellant's indication of a minor volumetric reduction, there might be an improvement in Green Belt openness, which of the order suggested, would attract limited weight in favour of the scheme. Subject to the imposition of suitably worded conditions to secure high-quality materials and new landscaping, the appeal scheme might result in a minor overall benefit to the character and appearance of the area. It could secure biodiversity enhancements and possibly a net drainage betterment. Having regard to the scope, and the measures indicated, these would be likely to be limited overall benefits, attracting limited weight in favour of the scheme.
19. Were I to agree the proposal would be or subject to conditions could be made compliant with policies in respect of matters such as the living conditions of future occupiers, contamination, protected species, arboricultural protection, electric vehicle charging, superfast broadband, accessibility measures, parking and highway safety, these would be neutral matters in the balance. The sustainability checklist suggests the integration of measures to attain a future net-zero dwelling. However, it does not demonstrate an overall net benefit in respect of renewable energy, so this would be more of a neutral matter.
20. Overall, the benefits of the development attract limited weight in favour of the scheme. However, the proposal would result in LSEs upon the SAC. In accordance with paragraph 11d) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which Framework policies are not met. The harm from the LSEs to the SAC is of such a high order that it significantly outweighs the benefits of the development, and section 63(5) of the Regulations precludes the proposal from proceeding. Therefore, the appeal should not succeed.

Conclusion

21. The proposal conflicts with the development plan read as a whole and the Framework. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR