



Appeal Decision

Site visit made on 11 March 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal Ref: APP/C1435/W/24/3350445

The Cedars, London Road, Uckfield, East Sussex TN22 1HY

- 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 C Macve against the decision of Wealden District Council.
 - The application Ref is WD/2024/0206/F.
 - The development proposed is the erection of dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although not a reason for refusal, the effect of the proposal on the integrity of the Ashdown Forest Special Protection Area (SPA) is potentially a determinative issue. Therefore, I have elevated this matter to a Main Issue.
3. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views, and the revised version has been taken into account in this decision.
4. My attention is drawn to a previous appeal decision¹ for the erection of a detached dwelling within the site. I have had regard to that decision only insofar as it is relevant to my assessment of the main issue in this case, but I have determined the appeal based on the evidence and details of the proposal before me.

Main Issues

5. The main issues are the effect of the proposed development on the:
 - integrity of the Ashdown Forest SPA; and
 - living conditions of the occupants of neighbouring properties, with particular regard to privacy and outlook.

Reasons

Habitats sites

6. The appeal site is within the zone of influence of the Ashdown Forest SPA which is afforded protection by the Conservation of Habitats and Species Regulations 2017

¹ Appeal Ref: APP/C1435/W/22/3301629

as amended (the Habitats Regulations). The Habitats Regulations require that permission may only be granted for a development where the competent authority has ascertained that it will not adversely affect the integrity of the European designated sites.

7. The qualifying features of the Ashford Forest SPA are its breeding populations of nightjar and Dartford warbler. The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive.
8. Through the addition of one dwelling, the proposal would generate a small increase in population which has the potential to increase recreational pressure on the Ashdown Forest SPA. Recreational use of the SPA can result in damage to habitats through trampling and erosion, as well as disturbance to ground nesting birds during their breeding season. Therefore, when considered either alone or in combination with new plans or projects, this development would have a likely significant effect on the integrity of the Ashdown Forest SPA, in the absence of avoidance and mitigation measures.
9. The parties agree that a financial contribution towards the Council's Strategic Access Management and Monitoring Strategy (SAMMS) for the Ashdown Forest SPA, and toward the Council's strategic sites of Suitable Alternative Natural Green Space (SANGS) to the Ashdown Forest would be necessary to mitigate the effects of the proposed development. The evidence indicates that this would be secured through a planning obligation.
10. Current guidance² advises that the appellant must ensure that an executed and certified copy of the planning obligation is submitted at the time of making their appeal. However, no planning obligation has been provided with the appeal. As such, I cannot be satisfied that appropriate mitigation measures have been secured to avoid an adverse impact to the integrity of the SPA and relevant features.
11. Accordingly, the proposal would conflict with Policy WCS12 of the Wealden Core Strategy Local Plan 2013 (CS) and with Policies EN1, EN7 and EN15 of the Wealden Local Plan 1998 (LP), which amongst other things seek to safeguard designated nature conservation sites.

Living conditions

12. The appeal site is part of the side garden of The Cedars, a detached chalet bungalow. It is surrounded by other residential properties, including a terrace of two storey dwellings backing onto it to the west and bungalows to the north and south. The proposal seeks to construct a low-key detached chalet style dwelling within the garden of The Cedars. The first-floor accommodation would be provided within the roof and the dwelling would be modest in scale and size.
13. The proposed dwelling would be sited at a significant distance from the rear elevations of the neighbouring row of terraces. Due to the back-to-back distance between windows and rooflights coupled with the proposed use of obscure glazing, the proposal would not overlook these neighbouring properties to an unreasonable extent.

² Planning appeals: procedural guide 2024

14. Given the modest height of the proposed dwelling, alongside the relatively flat ground and distance to the common boundary with these properties, the proposal would not appear unduly overbearing in terms of the outlook from these dwellings.
15. Foxgloves is a detached bungalow situated to the north of the site. It sits in an angled position in relation to the site and contains windows on its front elevation facing towards the site. The tall vegetation along the common boundary with the site provide some sense of enclosure to the front driveway and windows of Foxgloves. However, the proposal would not be particularly tall and would be reasonably set in from the common boundary with these neighbours. The elevation facing Foxgloves would have a chimney stack which would provide articulation, and the hipped roof design would reduce the bulk of development. As such, the proposal would not unduly increase the feeling of enclosure for the occupiers of Foxgloves.
16. The proposed dwelling would not have any windows facing Foxgloves. Therefore, the privacy of these neighbours would be protected.
17. The proposed dwelling would be generously set back from the common boundary with Little Orchard and The Annexe to the south, which coupled with its modest scale would not unduly harm the outlook of these neighbouring residents. The proposal would have ground floor windows facing Little Orchard, however the existing boundary treatment between both plots, which consists of a tall, wooden fence, would limit the amount of overlooking from the proposed dwelling.
18. The proposed development would not have a harmful effect on the living conditions of neighbouring residents with particular reference to outlook and privacy. The proposed development would therefore accord with LP Policy EN27, which indicates that developments should not create an unacceptable adverse impact on the privacy and amenities of adjoining developments.

Planning Balance

19. In the absence of a financial contribution towards SAMMS and SANGS, there is no certainty that the proposal would not adversely affect the integrity of the European designated nature conservation site. The proposal would be contrary to the development plan in this respect.
20. The appellant suggests that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, and the figure is 3.83 years. This is not disputed by the Council. On this basis Paragraph 11 of the Framework would be engaged. However, in accordance with paragraph 195 of the Framework, the presumption in favour of sustainable development does not apply in circumstances like this where the proposal is likely to have a significant effect on a Habitats site, either alone or in combination with other plans or projects.
21. The social and economic benefits of delivering additional housing in a location close to local services and facilities are significant considerations weighing in favour of the scheme, particularly given the shortfall in housing supply. However, the development would result in likely significant effects to the Ashdown Forest SPA which attracts substantial weight against the proposal, and Regulation 63(5) of the Habitats Regulations states that the competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site. Therefore, I cannot allow the appeal.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR