



Appeal Decision

Site visit made on 3 October 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2025

Appeal Ref: APP/J1535/W/25/3369146

Hunters Hall Farm, Chambers Manor Farm Lane, Epping Upland, Epping, Essex CM16 6PL

- 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 Costin Serban against the decision of Epping Forest District Council.
 - The application Ref is EPF/0852/25.
 - The development is the change of use of former stable block to office space (use class E). External and internal refurbishment works to bring the building into viable use (Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The use for which planning permission is sought has commenced and the planning application was submitted on a retrospective basis. I have considered the appeal on that same basis.

Main Issue

3. The main issue is the effect of the appeal development on the integrity of the Epping Forest Special Area of Conservation ("the EFSAC").

Reasons

4. The EFSAC is a protected habitats site under the Conservation of Habitats and Species Regulations 2017 as amended ("the Regulations"). The information before me indicates that it is designated for the nature conservation importance of its habitats and species, including Northern Atlantic wet heaths, European dry heaths, Atlantic acidophilous beech forests, and Stag Beetle species.
5. The nature conservation objectives of the EFSAC are to maintain or restore its natural habitats and species at favourable conservation status. The current conservation status of the EFSAC is unfavourable. The ecological health and function of the qualifying features of the EFSAC are under threat from the effects of new development both alone and in combination with other new developments.
6. The evidence before me indicates that the use of the appeal development for Class E purposes would adversely affect the integrity of the nature conservation interests of the EFSAC, through the air pollution pathway. This would be caused by the release of atmospheric pollutants of nitrogen and ammonia, emitted by vehicles associated with the use travelling through the EFSAC or within its 200-metre buffer.

This is measured through new development increasing the Average Annual Daily Traffic (AADT) using those roads.

7. The Council adopted the Interim Air Pollution Mitigation Strategy (APMS) to provide the mitigation necessary to avoid adverse impacts on the integrity of the EFSAC through growth in traffic levels, including financial contributions for the implementation of strategic mitigation measures and monitoring activities.
8. Based on the evidence before me, including the appellant's Habitats Regulations Assessment Supporting Technical Note ("the STN"), the appeal development alone and in combination with other developments would increase the AADT on roads through the EFSAC and within its buffer. Unless avoided or mitigated through implementation of the measures in the STN, the appeal development would result in greater atmospheric pollutants being released causing a significant adverse effect on the integrity of the EFSAC, contrary to its nature conservation objectives.
9. The mitigation measures in the STN include the provision of an electric vehicle charging point for each parking space, payment of a financial contribution towards the delivery of the APMS and controlling the routing of certain vehicles to avoid roads in and around the EFSAC. Natural England (NE) has advised through the appeal process that the implementation of those measures would mitigate the adverse effects of the appeal development on the EFSAC, and there is no evidential basis for me to reach a different conclusion. The main parties were given an opportunity to comment on NE's advice, and they have not disagreed with it.
10. Under the Regulations I have a duty as the Competent Authority (CA) to undertake an Appropriate Assessment (AA) to determine whether those measures could be properly secured to avoid or mitigate the appeal development's likely significant adverse effect on the integrity of the EFSAC.
11. In having regard to NE's advice, I am satisfied that electric vehicle charging points could be secured by condition. However, controlling the routing of vehicles would, to my mind, unilaterally interfere with a person's right to use the public highway network. Therefore, I am not satisfied on the evidence before me that a planning condition would be effective in controlling vehicle routing and a planning obligation would be necessary so that those rights could be voluntarily ceded and properly enforced. The same mechanism would be needed to secure the intended financial contribution as the Planning Practice Guidance (PPG) is clear that payment of money cannot be required by a planning condition¹.
12. Whilst there appears to be no obvious impediment to securing those mitigation measures through an appropriately executed planning obligation, I have not been provided with one. In having regard to the PPG^{2,3} there are no very exceptional reasons on the evidence before me to justify securing a planning obligation by a planning condition, and the guidance is clear that discussions about planning obligations should take place as early as possible in the planning process. In this instance there are no very exceptional circumstances⁴ to delay a decision on the appeal until submission of a planning obligation.

¹ Paragraph: 005 Reference ID: 21a-005-20190723

² Paragraph: 010 Reference ID: 21a-010-20190723

³ Paragraph: 013 Reference ID: 23b-013-20190315

⁴ Paragraph 18.2.1 of the Procedural Guide: Planning appeals – England

13. For the reasons given above I cannot be certain beyond reasonable scientific doubt that the necessary mitigation measures would be properly secured if planning permission was granted. Given that a legally protected habitat site is likely to be adversely affected by the development, I must take a precautionary approach to this matter.
14. Consequently, I conclude through my AA that the appeal development adversely affects the integrity of the SPA, contrary to Policy DM2 of the Epping Forest District Local Plan 2011-2033 Part One, Adopted March 2023, which seeks to ensure no adverse effect on the integrity of the EFSAC. No other solutions, imperative reasons of overriding public interest, or other compensatory measures have been put forward by the appellant as alternatives.
15. For the same reasons the appeal development is contrary to Paragraphs 187 and 193 of the National Planning Policy Framework (“the Framework”), which require decisions to protect sites of biodiversity value and to refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort compensated for.
16. Whilst the Council identified no air quality harm to people and thus no conflict with Policy DM22, that is not a benefit of the scheme, and it does not alter my conclusion in respect of the effect of atmospheric pollution on the EFSAC and the conflict with Policy DM2.

Other Matters

17. The evidence suggests that the appeal building is listed by virtue of being within the curtilage of the Grade II listed building known as Hunters Hall Farmhouse. The Council considers that the appeal development, which has listed building consent, would preserve the setting and special interest of the listed building. In having regard to my statutory duty⁵ I have no basis on the evidence before me to disagree with the Council’s assessment of that matter.

Conclusion

18. The development’s use has a significant adverse effect on the integrity of the EFSAC and that is a determinative matter irrespective of its benefits. In that scenario I am directed by Regulation 63(5) to refuse planning permission. Therefore, the conflict with Policy DM2 brings the development into conflict with the development plan when read as a whole. There are no material considerations, including the development’s benefits and the provisions of the Framework, which outweigh this finding. Therefore, the appeal development is unacceptable, and the appeal should be dismissed.

G Sylvester

INSPECTOR

⁵ Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990