



Appeal Decision

Hearing Held on 18 May 2022

Site visit made on 18 May 2022

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/A1910/W/21/3275429

Lilas Wood, Wick Lane, Hastoe, Tring HP23 6LU

- 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 F Messenger against the decision of Dacorum Borough Council.
 - The application Ref 19/02588/MFA, dated 6 October 2019, was refused by notice dated 9 December 2020.
 - The development proposed is a material change of use of woodland and agricultural land to a wedding venue, including all chattels, structures, trackway and other materials associated with such use between May to September for 15 events per annum (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has been used as a wedding venue under the provisions of Class B, Part 4, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which permits the use of land for any purpose for not more than 28 days in a calendar year and the provision on the land of any moveable structure for the purpose of the permitted use. The appeal seeks planning permission for the use of the site as a wedding venue for up to 45 days in a calendar year (between May-September). This would, in practice, allow for one additional wedding event per year to be held on site above that which is already occurring under permitted development rights. The proposal also includes the permanent siting of a container and the temporary siting of a giant tipi, 2x smaller tipis, and a tent/structure used as a bar during the season. Other items such as a toilet trailer would be brought on and off site for each event. I have assessed the proposal on this basis.
3. It was established at the hearing that the proposal no longer included 2m high doors forming the entrance processional way as specified in the appellant's planning statement at para 3.8. No-one would be prejudiced by my determining the appeal on this basis.
4. During the hearing it became apparent that the proposal might have impacts on the setting of adjacent listed buildings. I have a statutory duty, in considering whether to grant planning permission for development which

affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting. However, there was very limited evidence before me in the hearing to enable me to come to a finding in this respect. Therefore, given that I am dismissing for other reasons and a determination either way on this matter could not alter the outcome of the appeal, I have not taken this matter further.

Application for Costs

5. An application for costs was made by F Messenger against Dacorum Borough Council. This application is the subject of a separate Decision.

Main Issues

6. Although not included as a reason for refusal, Green Belt is an important consideration in this case. Green Belt policy applies, and planning policy has moved on since the last appeal at this site¹. Furthermore, Green Belt matters are addressed in the evidence. The views of all parties on Green Belt matters were, nevertheless, sought at the hearing.
7. The main issues are therefore:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, and the effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on ancient semi-natural woodland;
 - The effect of the proposal on the Chilterns Area of Outstanding Natural Beauty (AONB), and;
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development and impact on openness

8. Policy CS5 of the Core Strategy (2013) (CS) sets out that the Council will apply national Green Belt policy. National policy in the form of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt. There are, however, exceptions to this at paragraph 149 of the Framework. In this case the appellant argues that the exception under 149b) applies, specifically: "*the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation;*". The uses listed here form a closed list.
9. The main purpose of a wedding is to publicly unite persons as partners in a personal relationship through a ceremony. The appellant confirmed at the hearing that blessings and humanist ceremonies were currently carried out on the land as part of its current use as a wedding venue and it is this use which the proposal seeks to expand. The proposal also includes the temporary siting of a Mandap Ceremony Structure for wedding events. Whilst elements of

¹ APP/A1910/C/17/3182746

weddings could be described as recreational such as communal feasting and enjoyment of entertainment, these are the associated celebrations to the ceremonial act which is the primary function of a wedding. I therefore do not consider that the proposed use can be classified as outdoor recreation for the purposes of national Green Belt policy.

10. Natural England: Paper 5: Planning for Outdoor Recreation provides a broad definition of what it considers to be outdoor recreation and does not include 'weddings' in this definition. The appellant referred to the inclusion of 'commercially run activities' here. However, whilst a wedding venue may be run commercially, this fact alone does not alter my findings above. In any event, this document is not intended to provide guidance on national Green Belt policy.
11. I therefore find that the proposal does not fall under the exception under paragraph 149b) of the Framework. For this reason, it would constitute inappropriate development in the Green Belt. I note that the Inspector in the previous decision at the appeal site came to a similar finding².
12. The appellant also refers to para 150e) of the Framework which allows a material change in use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Unlike para 149b) this is not a closed list. Therefore, a material change of use of land alone to a wedding venue may not be inappropriate development in the Green Belt under para 150e). However, this exception is on the basis that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
13. The proposal would include the permanent siting of a 20ft container within the woodland, the temporary siting each year between May and September of various other structures, and car parking and camping on an adjacent field. The container and structures would be largely contained within the woodland therefore visually they would have a limited impact on openness. In spatial terms, however, these structures would have a volume, and particularly in the case of the container, a not insubstantial volume. They would, therefore, not preserve openness in this respect.
14. I am aware of the previous Inspector's comments that the clearing of undergrowth increased openness within the woodland which meant, even taking account of the structures, there was no overall loss of openness³. However, I consider there is a clear distinction between vegetation, which is not subject to planning law, and manmade structures, which are, when considering impact on openness for Green Belt purposes. Also, the fundamental aims of Green Belt Policy include safeguarding the countryside from encroachment. That is not encroachment from vegetation but manmade structures. Notwithstanding the findings of the previous Inspector, I therefore find that the proposed container and structures would not preserve openness in the Green Belt and would conflict with the purposes of including land within it.
15. In terms of the car parking and camping, again these have a volume and would have some visual impact in terms of reducing openness, albeit largely

² APP/A1910/C/17/3182746 para 26

³ App/A1910/C/17/3182746 para 33

contained by the surrounding woodland. They would also spatially result in a loss of openness. The previous inspector⁴ commented that this field in question would have an agricultural use if it wasn't used in connection with the wedding venue and would likely involve the production of arable crops or introduction of livestock along with agricultural equipment, machinery or other ancillary structures, which he found would also have some impact on openness. Overall, therefore, he found openness would be preserved.

16. Again, notwithstanding the previous Inspector's comments on this, similar to my findings above, I am clear that neither crops nor livestock impact on the openness of the Green Belt in the same way manmade structures and/or associated paraphernalia does. In any event, at the hearing I was told by the appellant that there is no production of arable crops on the field in question. Livestock is kept here but this is ewes and lambs who are only there September to April, which is largely when the wedding venue would not be in use. Furthermore, the appellant said that the sheep did not require any agricultural equipment, machinery or other ancillary structures besides a feeder, salt bucket and a couple of water troughs. On the evidence before me, therefore, the potential use of the field for arable crops or livestock would not impact on openness to the level anticipated by the previous Inspector. Consequently, I find that camping and parking of vehicles on the field would not preserve openness.
17. I therefore find that the proposal also constitutes inappropriate development under para 150e) of the Framework as it would not preserve openness and would conflict with the purposes of including land within the Green Belt insofar as it would not safeguard the countryside from encroachment. Even if the container were to be in-situ only between May-September each year my findings would be the same.

Ancient semi-natural woodland

18. There is no dispute between the parties that the appeal site comprises ancient woodland as defined in the Framework. Paragraph 180c) of the Framework sets out that development resulting in the deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
19. The use of the woodland currently as a wedding venue under permitted development rights has resulted in deterioration through vegetation loss and soil compaction. Whilst the venue area might occupy a natural clearing in the wood, at the time of my site visit it was largely devoid of any shrub layers and ground flora or leaf litter/detritus/debris you would normally associate with a natural woodland, clearing or no clearing, and this all provides a habitat for wildlife and living organisms. Any increased human traffic on site along with the more permanent siting of various structures would only further inhibit such plant growth and deter wildlife all of which would result in further deterioration of this ancient woodland.
20. I note invasive non-native cherry laurel has been cleared from the site, but it is not clear if this has regenerated with new native growth and there is nothing before me in respect of the sensitive future management of the woodland to enable it to do so. There are various documents submitted including a

⁴ APP/A1910/C/17/3182746 para 34

Management and Maintenance document for the site, to be secured by legal agreement, along with a Tree Planting Plan. However, these only propose additional planting across the north edge of the field and off-site planting within the wider area. The submitted landscape specification is entirely generic and could apply anywhere. Finally, whilst the submitted Tree Survey finds that the majority of the trees are in good health it does note some tree damage has occurred in the past. It also does not cover the wider woodland ecology of the site and the effects from the proposal as discussed above. This documentation does not, therefore, demonstrate that the harm to the ancient woodland occurring at the wedding venue would be adequately mitigated or reduced by the proposal. Without which it would only serve to intensify the identified impacts.

21. Whilst conditions could be imposed in respect of hours of operation, fires, lighting, and noise which are not in place for the current use occurring under Permitted Development Rights this would not mitigate the impacts of the development on the ancient woodland that I have identified. The appellant suggested various conditions could be applied to satisfy any requirements in respect of woodland management. However, given the lack of any robust evidence before me in terms of what this might entail and whether it could successfully mitigate the impacts of the development, I cannot be satisfied such conditions would adequately overcome the harm.
22. Having regard to all material considerations I find that the proposal would result in further deterioration of the ancient woodland contrary to the Framework and policy CS26 of the CS which requires designated sites to be protected. As per paragraph 180c) of the Framework wholly exceptional reasons are required to allow development resulting in the deterioration of ancient woodland. In this case, however, I find no such wholly exceptional reasons to justify this harm.

Chilterns AONB

23. The appeal site falls within the Chilterns AONB and the ancient woodland which this appeal concerns forms part of its varied landscape and scenic beauty. Notwithstanding the previous Inspector's findings on the AONB⁵ as I have identified harm to the ancient woodland it must therefore logically follow that the proposal would also be harmful to the Chilterns AONB. This is the case even if the land in question is private land and not visible from public view.
24. I therefore find conflict with Policy CS24 of the CS which requires the special qualities of the Chilterns Area of Outstanding Natural Beauty (AONB) to be conserved. Similarly, the Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.

Other considerations

25. I have considered the fallback position throughout this case, which is that wedding events will continue at the appeal site under Permitted Development rights regardless of the outcome of this appeal. I have noted the appellant's submissions regarding the more intense periods of setting up and de-rigging of structures for each event required under permitted development rights and the

⁵ APP/A1910/C/17/3182746 para 40

noise, disturbance and lighting implications of this at unsociable hours. However, I find this to be less harmful than the siting of the various structures between May-September each year and an increase in overall number of events proposed. The fallback position therefore carries only moderate weight.

26. The additional woodland planting proposed would be a modest benefit along with any biodiversity net gain. Hours of operation could be controlled by planning permission which might have some benefits in terms of reducing noise and disturbance in the area. However, the noise management plan submitted with this appeal has been accepted as part of the event's license for the site therefore there are already controls in place in this regard. The outcome of an event license application, however, has no bearing on the outcome of this appeal which is concerned with planning legislation.
27. I accept that holding weddings at the appeal site makes a contribution to the local economy both directly and indirectly and that this is particularly important given the effects of Covid 19 on the service industry. This therefore carries significant weight.
28. I note the previously referred to appeal which allowed, amongst other things, airsoft activity in ancient woodland subject to appropriate mitigation⁶. However, the size of that site and how it compares to the appeal before me is not clear, nor the planning background. What is clear from the decision, however, is that some of the main gaming zones were outside of the designated ancient woodland. In any event, each appeal must be determined on its own merits and the evidence presented in each case.
29. Bird and bat boxes could be conditioned to be erected which would be of modest benefit. Any harm to the woodland from general rights to roam which may exist, mindful as I am of the fact that the appeal site is private land with no public right of way over it, would not be of the regularity or intensity of the proposal. This therefore carries minimal weight.
30. Various examples of woodland weddings are referred to. For most of these only an address is provided therefore it is not clear what the planning position is in respect of these. Where planning references are provided no further evidence is before me in order for me to make any meaningful comparisons. This therefore carries only limited weight.
31. There is nothing before me to suggest that the pond created within the woodland would occur naturally. Any benefit to be derived from its creation is therefore minimal particularly given the manmade materials it is created from.

Whether very special circumstances exist

32. The proposal would constitute inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. As set out in the Framework substantial weight should be given to any harm to the Green Belt.
33. I have also found harm to an irreplaceable habitat, namely ancient woodland. I also give this harm substantial weight. Finally, I have found harm to the Chilterns Area of Outstanding Natural Beauty. Great weight should be given to the conservation and enhancement of such landscapes.

⁶ APP/U2235/W/20/3255802

34. These harms are clearly not outweighed by the other considerations put forward by the appellant. Very special circumstances have not, therefore, been demonstrated.

35. The appeal is dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Daniel Kozelko – Counsel

Ms Faye Messenger - Appellant

Mr Ted Bodsworth - Windrush Ecology

Mr M Cook - MSC Planning Associates

Mr David Loman – MSC Planning Associates

FOR THE COUNCIL:

Nigel Gibbs – Planning Officer

Martin Stickley – Principal Planning Officer

Martin Hicks – Hertfordshire County Council

INTERESTED PARTIES:

Penny Hearn – Ward Councillor for Tring

Richard Vivian – Big Sky Acoustics Ltd

Nigel Purse – Local Resident

Trevor Standen – Local Resident

Nick Hollinghurst – Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

Chilterns Conservation Board Management Plan

Shipping container plan