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# Appeal Decision

Site visit made on 2 February 2015

**by Clive Tokley MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 March 2015**

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**Appeal Ref: APP/C1435/A/14/2219799**

**Gray Wood, Ailies Lane, East Hoathly, BN8 6QP.**

- 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 Mr Daniel Puplett against the decision of Wealden District Council.
  - The application Ref WD/2013/1642/F, dated 22 November 2013, was refused by notice dated 9 January 2014.
  - The development proposed is 8 no. pitches, provision of site warden's accommodation, toilets and shower facilities, and seasonal parking for use of the site as a campsite from 1<sup>st</sup> June to 30<sup>th</sup> September.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The application was refused permission for a single reason relating to the effect of the proposal on the ancient woodland. However, whilst not included within the reason for refusal, I have noted the concern expressed by a large number of nearby residents and the Parish Council about other issues.
3. The main issues are the effect of the proposal on the ancient woodland and its effect on character of the area and the living conditions of the occupiers of nearby dwellings.

## Reasons

4. The appeal site is made up of four small areas of land within a roughly "L" shaped approximately 4 Ha (10 acre) area of woodland owned by the appellant. All of the land lies within a larger rectangle of woodland (indicated to be about 17 Ha) known as Gray Wood which is bounded by Ailies Lane/Graywood Lane to the north west and Stalkers Lane to the north east. Both of those roads are fronted by residential properties that back onto and extend into the woodland. These include The Quadrangle which comprises 11 cottages located within the woodland and accessed from Ailies Lane/Graywood Lane. The land around Gray Wood is mainly agricultural in character interspersed with smaller areas of woodland. To the east is a touring caravan site, partly within a wooded area, accessed from Stalkers Lane.
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5. The four parts of the appeal site comprise the site entrance from Ailies Lane, a rectangular area mid-way along the south west boundary where toilets and shower facilities are proposed, a larger rectangular area proposed for the campsite that lies close to the southern corner of the land and a small area within the body of the site where an existing caravan is proposed to be used as site warden's accommodation.
6. All movements between the access, campsite, toilets and shower facilities and site warden's accommodation would take place on land that is outside the appeal site and the application indicates that the proposal would also lead to recreational use within the woodland. I have seen no evidence to indicate that the activity outside the appeal site would amount to a material change of use but that land is not the subject of the proposal before me and therefore any development on it is beyond the scope of this appeal.
7. The land owned by the appellant is marked by post and wire fencing but my impression when walking around the site was that the woodland owned by the appellant is mostly indistinguishable from the woodland beyond the fencing. At the time of my visit there was very little under-storey vegetation and the woodland floor was predominantly covered with leaf litter with small amounts of dead wood and trimmings from the trees. The Spring Botanical Survey indicates that my visit in early February was too early to see the ground flora which would be present later in the year.
8. The campsite is proposed within part of the woodland described as a degraded area. Here, before the appellant acquired the land, trees had been poorly maintained and damaged by livestock. A number of the trees have been removed resulting in a clearing within the woodland. This more open area continues to the north through a working area within which are timber-framed log stores, piles of cut wood (planks and logs) and the caravan. The main feature of the north eastern part of the appellant's land is a large pond that has been created by damming a water course. A walking trail around the pond has been marked out using trimmings from the trees.
9. The other principal topographical feature is a watercourse that crosses the site through a shallow valley to the west of the clearing flowing roughly north to south. The Preliminary Ecological Appraisal (PEA) indicates that this includes filtered sewage water. This observation is supported by the presence of private sewage treatment works on higher ground at the rear of The Quadrangle.

#### *Effect on woodland*

10. The Ecological Appraisal indicates that Gray Wood is classified as Ancient Semi-Natural Woodland (ASNW) as defined by Natural England. Gray Wood is not a statutorily designated site and there are no designated sites within 2km of the wood; however ASNW is considered to be of a high biodiversity value and the PEA indicates that Gray Wood has the potential to support a number of protected species groups. However due to the small size and current state of the woodland holding (which I take to be the appellant's land) the PEA indicates that it is unlikely that it supports "rare diverse assemblages or large populations of these species".
11. Saved Policy EN13 of the 1998 Wealden Local Plan (LP) indicates that the Council will resist development proposals that prejudice the ecology of ASNW.

The more recently adopted Policy SPO1 of the 2013 Core Strategy Local Plan (CS) indicates that the Council will seek to protect and enhance recognised biodiversity assets and will seek to ensure that the distinct landscapes of the District, including those which are not nationally designated, are managed and enhanced.

12. Whilst the LP predates the National Planning Policy Framework (The Framework) the objectives of both local policies are consistent with those of the Framework which indicates that local planning authorities should aim to conserve and enhance biodiversity. It indicates that, unless the benefits of development clearly outweigh the loss, planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland.
13. The camping pitches would be within the degraded area of the wood and it is indicated that the proposal to set up semi-permanent tents and to allow tents to be pitched in this area would not require the loss of trees or shrubs and would have no effect on important habitats. The toilets and shower facilities would be within the coppice woodland, however they are proposed to be located in a small area with a relatively low density of trees and the buildings could be accommodated without adversely affecting trees or shrubs. The warden's accommodation is already on the site and the proposal would have no greater effect than the existing caravan. I consider that the physical presence of the tents and other structures would not result in material damage to the woodland. The car parking area has already been created and I have noted a number of comments about the materials used for its construction; however any operational development that may have occurred is not the subject of the appeal application. In my view the principal issue to be considered is the effect of activity arising from the use of the land.
14. The Council highlights its concern about the effect of light and activity on bats and disturbance to breeding birds; however it has produced no expert evidence to challenge that of the appellant's ecology consultant. The April 2013 PEA considers that the proposal would not adversely affect breeding birds and that the overall management of the woodland as proposed by the appellant would provide additional bird nesting habitat. The July 2014 bat survey indicates that it is possible that bat roosts may be found in the vicinity of the camping area; however further survey work would be needed to establish their precise location. The July 2014 report indicates that additional information about the siting of bat roosts may require a limitation on the location of pitches and fire pits within the camping area; however it concludes that subject to the controls on the use of the site indicated by the appellant the proposal would not result in unacceptable disturbance to the bat population.
15. The exact location of the tents within the camping area could be the subject of more detailed consideration pending further investigation; however the camp site area has been identified without reference to the potential effect on protected species of bat. I consider that activity, lights and smoke within the camping area and beyond would be likely to affect the behaviour of bats. In the absence of more comprehensive survey information I am unable to determine whether pitches and fire pits could be located within appeal site in a manner that would prevent harm being caused.

16. The route between the camping area and the showers and toilet facilities would use the crossing point of the stream close to the north west boundary of the site before crossing the woodland to those facilities that are proposed to be close to the south east boundary. The proposed facilities would be located on land that slopes down towards the north-south watercourse. It is indicated that within the toilets urine would be separated from solids and removed from the site by an approved contractor. However there is no indication of the nature of the storage facility or the frequency and nature of contractor visits to the site.
17. The application gives no indication of the daily usage of mains water for the showers and other washing facilities but the specifications indicate that low-flow fittings would be employed. Nevertheless I would anticipate that during the camping season thirty plus occupiers of the site would use a significant amount of water every day. The guidelines for "grey water" treatment indicate the provision of a filter and soakaway system with discharge into a drainage field; therefore all water used in the washing facilities would enter the sub-surface of the woodland floor.
18. The proposed shower trays would be at just above ground level and, as a result of the use of gravity flows, the disposal of grey water would require excavation of the woodland floor to accommodate both the filtration and soakaway systems. The specification indicates that the soakaway should be not less than 5m from a building but the application provides no indication of the location of the drainage measures. The appellant's ecology evidence (in the Spring Botanical Survey) indicates that the toilets and showers would be within an area of undisturbed ground flora and states that it is understood that the facilities and pathways will impact on very limited areas of the woodland floor. However I consider it inevitable that land around the toilets and washing facilities would be subjected to trampling. The botanical survey indicates that the four month a year use of the camping area would limit the effect of footfall but no reference is made to the effect of the construction of the drainage system and the outfall of grey water on the surrounding area which is in an area indicated to be rich in ground flora.
19. The ecosystem of the woodland relies on dead and decaying vegetation and the widespread systematic disturbance and/or removal of leaf litter and deadwood from the woodland floor would have an effect on its future health. The campsite rules would prohibit the collection of deadwood but I consider that in reality it would be difficult to prevent inquiring occupiers of the campsite from disturbing any deadwood.
20. Whilst Gray Wood is not a designated site it is representative of an important local ecological resource. The appellant's actions in clearing invasive rhododendrons and preparing a management plan for the restoration of the woodland demonstrate his commitment to maintaining and enhancing the woodland. The appellant indicates that campsite rules would limit the extent of activity and that the use of the campsite for four months in a year would allow time for the ground to recover; however I consider that the proposal as currently submitted does not fully address the possible effects of the campsite on the local bat population and the implications of the showers and toilet facilities on their surroundings as regards both grey water outfall and trampling are not fully assessed.

21. On the basis of what I have read and seen I am not convinced that the creation of a camping area and the activity associated with it would not result in the deterioration of the ASNW habitat. The proposal would therefore conflict with LP Policy EN13 and CS Policy SPO1.

*Character and living conditions*

22. The buildings and temporary structures associated with the proposed use would be within the body of the woodland and during the camping season the tents would be screened from public view by foliage. In the absence of leaves during the winter months the permanent structures may be visible from the front of the site but they would be difficult to discern and would not be intrusive.
23. With the trees in leaf the camping area and warden's caravan would not be readily visible from the houses and gardens in Ailies Lane/Graywood Lane and Stalkers Lane. The use of movement-activated solar-powered lighting and the absence of generators and mains electric lighting would limit the effect of permanent lighting; however campers would expect to be able to use their own battery powered or gas lights. These would be visible through the trees in the camping area, on the paths, around the toilets and showers and when walking through the wood to the entrance/car park; additional pools of light would be created by open fires within the camping area. Whilst amplified music would not be permitted I consider that it would be unreasonable to prevent campers from making their own entertainment whilst holidaying. I would therefore expect the use to be accompanied by conversation, laughter, singing and acoustic music as well as the normal excited voices of youngsters enjoying their holiday.
24. The use of open fires for cooking is an integral part of the proposed use and a wood burner is proposed to heat the water in the showers. The Council's Pollution Control Officer indicates that smoke arising from the use would not cause nuisance; however I am aware that smoke can behave unpredictably in woodland especially in the evening when atmospheric conditions may prevent it from rising. A number of residents indicate that they have experienced smoke drifting onto their properties; however this appears to relate to charcoal burning, which is not part of this proposal. Nevertheless I consider that from time to time over the four month summer period up to eight fire pits burning wood (potentially for up to three meals a day) as well as the wood burner would be likely to result in neighbouring residential properties being subject to drifting smoke. This may not amount to a statutory nuisance (which could be controlled under other legislation) but in my view it could adversely affect the living conditions of nearby residents.
25. It is indicated that all motor vehicles would be confined to the parking area towards the front of the site. Whilst this would be 75m or so from the nearest dwelling I consider that the occupiers of the nearest properties in The Quadrangle would be aware of vehicle movements. During hours of darkness car lights, which would be brighter than campsite lights, would be visible through the trees. The arrival and departure of vehicles would be accompanied by the opening and closing of doors and conversations of their occupants. Residents also draw attention to the reaction of excitable children on reaching their holiday destination and the activity associated with hand carting their luggage to the accommodation. If necessary a physical barrier could be erected

adjacent to the car parking area to limit the effects of headlights; however in my view the activity associated with arrival and departure of vehicles would be perceived by the occupiers of the nearest dwellings

26. Those staying at the campsite would have access to the appellant's land outside the appeal site including the use of the footpath in the woodland around the lake and the path to and from the site entrance and the toilet and washing facilities. These paths would be closer to the neighbouring houses than the camping area and I consider that the nearest residents would be conscious of their use. Users of the paths would be able to see the partly un-enclosed gardens of the nearest houses, but they would be some distance from the houses and gardens and I consider that the privacy of the occupiers of the houses would not be unduly affected.
27. It is perhaps understandable that in this remote location where the houses have open gardens residents may be wary of a relatively large and frequently changing number of strangers staying close to their properties. However I have no reason to conclude that the occupiers of the accommodation would be likely to increase crime in the area.
28. The appellant indicates that the rules of the site would prevent un-neighbourly behaviour and protect the ecosystem of the woodland. The officer report recommended a condition to require that the site be operated in accordance with the campsite rules but in reality the nature of the use and remoteness of the site would make it impractical for the Council to ensure that the condition was being observed. I consider therefore that the day-to-day willingness of campers and those running the site to ensure compliance with the rules would not be a matter within planning control.
29. The presence of 30 plus people in the woodland would result in activity both on the appeal site and in the woodland both during the daytime and at night. I consider that through the summer season the comings and goings of campers, parked vehicles on the site and lighting and activity associated with the use would significantly change the character of the woodland.
30. Nearby residents will be accustomed to a very quiet environment and during the summer months they could reasonably expect to be mostly undisturbed by external activity when in their houses and gardens. In my view the residents' estimates of the number of visitors, vehicle movements etc are somewhat exaggerated; nevertheless I consider that in the context of this woodland area, the combined effect of the activity associated with the parking area, activity within the woodland, lighting, noise and smoke would materially detract from the character of the area. I consider that this would unacceptably diminish the quality of life that the occupiers of nearby dwellings could reasonably expect in this location.
31. On this issue I conclude that the proposal would conflict with one of the core principles of the Framework which indicates that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

*Other matters*

32. The officer report indicates that Policy TM8 of the Wealden Local Plan 1998 (LP) sets out the criteria for new camping facilities. I have not seen that policy and it is not referred to in the refusal reason or the Council's statement. However I note that in considering criterion 6 the officer report indicates that the proposal would not result in an unacceptable concentration or proliferation of campsites. I have no reason to take a different view; however I have seen no indication of any special need for additional camping facilities.
33. Residents and the Parish Council express concern about the effect of the proposal on the local road network. However, subject to improvements to the site access (which in my view could be carried out without causing any harm to the woodland or the character and appearance of the area) the Highways Authority raises no objection. I saw for myself that the local roads are narrow and local people point out that they are used by walkers, cyclists and horse riders. However the Framework indicates that development should only be refused on transport grounds where the impacts are severe and I have no reason to conclude that the traffic generated by the proposal would have a severely harmful effect.
34. Photographs have been submitted showing flooding in Ailies Lane but the outflow from the washing facilities would be in the opposite direction and I have no reason to conclude that the proposal would result in flooding of local roads.
35. I have seen a number of references to and extracts from "Eco-Camping in the High Weald AONB"; however the appeal site is not within the AONB and neither the Council nor the appellant have referred to this document. Residents indicate that its recommendations extend beyond the AONB but being unaware of its status I give the document no weight.

**Framework balance and conclusion**

36. Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Such areas may not have statutory protection but Paragraph 118 of the Framework indicates that planning permission should be refused for development that results in the loss or deterioration of such habitats. An exception to this is where the need for and benefits arising from the development clearly outweigh the loss.
37. On the basis of what I have read and seen I consider that the potential effect of the proposal on the ASNW has not been fully addressed. The appellant points out that the permission has been sought to enable him to achieve his objective of restoring the woodland; however the proposal would prevent the restoration of the most damaged part of the wood and I am not convinced that the proposal would not be harmful to the parts of the woodland around the damaged area.
38. The proposal would widen the range of holiday opportunities in the area and visitors attracted to the site would make a positive contribution to the local economy. The use of alternative technologies and the raising of awareness of the natural environment through the experience of living in a woodland such as this would also weigh in favour of the proposal. The nature of the site and the ethos of the appellant suggest to me that it is unlikely that the site would

attract visitors who would be minded to harm the woodland; nevertheless I consider that the activity that may reasonably be expected to arise from the best-intentioned of visitors would be likely to have a harmful effect on the living conditions of nearby residents.

39. I have noted the appellant's need to generate some income to support his objectives and accept that the ability for him to live on the site during the summer period would enable him to maximise his time working in the woodland. However I have seen no indication that a campsite use would be essential to achieve the regeneration of the woodland. Taking account of all matters, including the letters of support for the appellant and his proposal, I have concluded that there is no need for the campsite and that the limited benefits arising from the proposal would not outweigh the potential deterioration of the ASNW that I have identified. In addition I have concluded that the proposal would materially change the character of the woodland in a manner that would unacceptably detract from the living conditions that the occupiers of nearby dwellings could reasonably expect to enjoy.

40. I have considered whether a temporary "trial run" permission should be granted but I have concluded that the proposal would result in material harm to the ecology of the woodland and to local living conditions and that a time-limited permission is not justified. I therefore conclude that the appeal should not succeed.

*Clive Tokley*

INSPECTOR