

## Appeal Decision

Site visit made on 16 August 2016

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

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

**Decision date: 23 August 2016**

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**Appeal Ref: APP/Z2260/W/16/3145505**

**Land at the junction of London Road and Pegwell Road, Ramsgate, Kent CT11 0HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by St Crispins Homes (Mr W B Willsmer) against the decision of Thanet District Council.
  - The application Ref OL/TH/15/0213, dated 10 March 2015, was refused by notice dated 19 November 2015.
  - The development proposed is the erection of two detached dwellings with integral garages and on site parking/turning.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with integral garages and on site parking/turning at land at the junction of London Road and Pegwell Road, Ramsgate, Kent CT11 0HU in accordance with the terms of the application, Ref OL/TH/15/0213, dated 10 March 2015, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The application was made in outline with access, layout and scale not reserved for further approval. The appellant's final comments included a set of plans showing an alternative scheme (Appendices xiv to xix). However, the Council has not had the opportunity to consider or consult on these plans. They include changes about which interested parties might reasonably expect to make their views known. I have not, therefore, taken the alternative scheme into account.

### Main Issue

3. The main issues are the effects of the proposal on:
  - the character and appearance of the area including the settings of the Conservation Area and a Grade II listed building;
  - protected and proposed trees on the site over long term.

### Reasons

#### *Character and Appearance*

4. The appeal site is an essentially triangular parcel of land bounded by London Road and Pegwell Road and the rear gardens of the houses on St Mildred's
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Avenue. The area is characterised by fairly substantial dwellings. There is some variety in the form and appearance of the buildings in the area and, whilst most occupy reasonably generous plots and front onto the highway, there is a pleasing informality to the building line and front boundary treatments. Significant planting is interspersed with boundary walls and fences.

5. The appeal site is free of built development and the body of the site appears to be colonised by naturally regenerated vegetation. There is no substantive evidence to suggest that this vegetation has particular visual or landscape value. However, trees, some which are the subject of Tree Preservation Order No 8 (2006) (TPO), line the eastern ends of its London Road and Pegwell Road boundaries. Although some protected and unprotected trees have been removed recently, those which remain comprise a substantial and attractive group at a prominent location close to the road junction. They are also currently fairly effective in filtering longer views of the site from London Road (I deal with tree matters over the longer term below). Closer range views into the body of the site are available from Pegwell Road in particular. However, I consider that it is the trees, rather than the openness of the site, which makes a significant contribution to the character and appearance of the area, including the setting of the Royal Esplanade, Ramsgate Conservation Area and the Grade II listed building known as The Lodge to the south of Pegwell Road.
6. The Council accepts that some form of residential development of the site would be acceptable. The scale and layout of the proposed dwellings would be broadly comparable with the pattern of surrounding development. The appearance of the dwellings, including the external materials used, is reserved for further approval. I see no reason why those details should not respect the character and appearance of nearby buildings, including the setting of The Lodge.
7. The Council's concerns in respect of this issue are limited to the effects of the dwelling proposed on plot 2, which would be located towards the narrower, eastern end of the site. The integral garage with accommodation at first floor level would project forward of the main building and, at its closest, would be some 4.8m off the Pegwell Road boundary. However, this distance is within the range of building line set-backs found in the immediate area. Specifically, it would be comparable with the distance between the return elevation of 16 St Mildred's Avenue and Pegwell Road. The flank elevations of the other buildings around the St Mildred's Avenue/Pegwell Road junction are also set back by similar distances.
8. Moreover, the closest part of the building would take up a relatively small proportion of the site frontage and would have a lowered eaves level. The remainder of plot 2 and all of plot 1 would be set back considerably further. The garage projection would sit behind existing and proposed boundary planting. This would filter views of the building from London Road and provide it with a green setting in closer views from Pegwell Road.
9. Inevitably, the erection of two detached dwellings would reduce openness. However, I have already concluded that this not a significant attribute of the site and the proposal would not materially reduce the spaciousness of the adjoining road junction. For the most part, the proposed buildings would be set well back from the site boundaries and, even at its closest, the relationship

of the dwelling on plot 2 to the boundary would be consistent with other buildings in the area. Consequently, I consider that the proposed dwelling would not appear cramped or lead to an unacceptable loss of openness. The proposal would not, therefore, be harmful to the character and appearance of the area.

10. As such, it would not conflict with Thanet Local Plan 2006 (LP) Policy D1 which, among other things, requires proposals be of high design quality, to respect or enhance the character or appearance of the surrounding area particularly in its scale and massing and to retain open spaces. Nor would it conflict with paragraphs 17, 58 or 64 of the National Planning Policy Framework (the Framework) to the extent that they have similar aims or paragraph 132 which seeks to protect the setting of heritage assets.

#### *Protected and Proposed Trees*

11. Most of the trees covered by the TPO are English elm and the appellant's arboricultural evidence<sup>1</sup> finds that they are likely to succumb to Dutch Elm's disease (DED) over time. A considerable number of trees have already been removed due, according to the appellant's arboricultural consultants, to the presence of DED and in accordance with the terms of the TPO. The Council has not disputed these matters. Whilst concern has been expressed locally regarding the removal of the trees, there is no firm evidence to indicate that they were removed improperly.
12. The appellant's arboricultural evidence also finds that no trees would need to be removed to facilitate the proposed development, but that it would allow the replanting of trees lost to DED with alternative species, as well as additional planting. The proposed planting plan shows a mix of native species hedging, Rowan, Wild Service Tree and Field Maple concentrated along the London Road and Pegwell Road boundaries. Conditions could be used to ensure the protection of retained trees during construction operations and their long term care thereafter. On this basis, the proposal would not lead to a reduction in the number of trees on the site.
13. Nevertheless, the Council has expressed concern regarding the proximity of plot 2 to protected trees and proposed trees. In particular, the Council's Arboricultural Officer has recommended that buildings should be located no less than 8m from the nearest tree. However, no technical evidence or published guidance has been submitted in support of this approach.
14. I recognise that trees of significant size can overshadow windows and garden areas and lead to pressure from future occupiers for them to be removed or lopped. However, in this case, the dwelling on plot 2 would have a fairly generous garden area spanning the side and rear of the property with useably sized and proportioned spaces clear of the existing and proposed tree canopies. Although the trees on the Pegwell Road boundary would lead to some reduction in the sunlight reaching part of garden area and windows in the south elevation of the dwelling, the trees on the London Road boundary would be to the north and, therefore, have a limited effect on the amount of light reaching the property. The appearance of the building, including the positions of the windows, is reserved for further approval. It would be reasonable to expect those details to have regard to the proximity of the existing and proposed trees in order to ensure that the dwelling receives adequate natural light.

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<sup>1</sup> Connick Tree Care – Arboricultural Impact Assessment Ref 132100/PRO and Arboricultural Technical Note

15. Furthermore, the trees would help to screen the dwelling from public views from London Road and Pegwell Road and, therefore, contribute to the privacy of future occupiers. Consequently, whilst the proximity of the proposed and existing trees may result in the need for more regular pruning than might otherwise be the case, I am not persuaded that it would lead to undue pressure for the trees to be removed or lopped to an extent that would be damaging to their amenity value.
16. Therefore, I find that the proposal would not have a detrimental effect on the protected and proposed trees on the site over long term. As such, it would accord with LP Policy D1 inasmuch as it requires proposals to retain mature trees and other vegetation that contribute to biodiversity and the quality of the local environment and to incorporate new landscaping. It would also comply with Framework paragraph 118 to the extent that it has similar aims.

#### *Other Matters*

17. I note that a number of local responses to the application refer to three storey dwellings. However, the application drawings show two storey dwellings and, since scale is a matter to be considered at this stage, I will impose a condition requiring the development to be carried out in accordance with those plans.
18. Apart from the existing trees on the site, which I have dealt with above, there is no substantive evidence to show that the site has particular bio-diversity value which would justify withholding permission for the proposed development.
19. The proposed dwellings would be, at their closest, more than 21m from the existing properties on the south side of Pegwell Road. This separation distance would be sufficient to ensure that the proposal would not result in a reduction in the privacy of occupiers of those neighbouring properties. The process of approving the appearance of the buildings could be used to require any first floor openings in the western elevation of the house on plot 1 to have obscured glazing so as to safeguard the privacy of the occupiers of neighbouring properties in St Mildred's Avenue. The house on plot 1 would be some 2m off the western site boundary with 14 St Mildred's Avenue and the garden of that house is around 25m long. This degree of separation would prevent the proposal from having an overbearing effect on the occupiers of No 14.
20. Each proposed dwelling would have an integral garage and two external parking spaces. The proposed site plan shows that visibility splays would be provided for both access points and the footpath adjoining that part of the site is fairly wide. There is no substantive evidence to suggest that these arrangements would lead to parking hazards on adjoining roads or highway safety problems from vehicles entering and leaving the site.
21. I have not been made aware of any development plan policies seeking the provision of affordable housing in connection with the proposal.

#### *Conditions*

22. The Council has suggested a list of ten conditions. With amendments for clarity I find that conditions 1 to 9 meet the tests set out in the Planning Practice Guidance. Suggested condition 10 is not necessary as approval of external materials is covered by the appearance reserved matter under condition 1. I have also amendment condition 1 to refer specifically to the

provision of a landscape management plan in order to secure the long term care of trees on the site.

23. A condition specifying the approved plans is required in the interests of certainty. Kent County Council has advised that the site lies within an area of potential for Prehistoric and Roman activity. A condition requiring an archaeological watching brief is, therefore, necessary to safeguard the heritage asset. Conditions to secure the provision of parking and manoeuvring areas and access visibility splays are required in the interests of highway safety. A condition to secure a scheme of protection for the retained trees is necessary to safeguard the character and appearance of the area.

### **Planning Balance and Conclusion**

24. The reason for refusal also cites LP Policy H1 which presumes against housing development on non-allocated land which has not been previously developed. Whilst the appeal site has not been developed previously, it falls within the built up area and the Council has accepted the need for more housing development in the District. Framework paragraph 47 seeks to boost the supply of housing land and paragraph 49 advises that housing proposals should be considered in the context of the presumption in favour of sustainable development (paragraph 14).
25. Paragraphs 7 and 8 require the three dimensions of sustainability to be considered together. The proposal would make a modest contribution to the social role of sustainability through the provision of two new dwellings in an area where there is a recognised need for more housing. Given the scale of development, I am not persuaded that it would be out of step with the District's economic development strategy. Moreover, the construction of the development would make a short term contribution to the economic role.
26. For the reasons set out above, I consider that the proposal would not be harmful to the environmental role. Overall therefore, I find that the proposal would amount to sustainable development and would benefit from the presumption in favour of sustainable development. This consideration outweighs the minor conflict with LP Policy H1.
27. For the reasons set out above, the appeal should be allowed.

*Simon Warder*

INSPECTOR

**Schedule of conditions attached to  
Appeal Ref: APP/Z2260/W/16/3145505  
Land at the junction of London Road and Pegwell Road, Ramsgate, Kent  
CT11 0HU**

- 1) Details of the appearance and landscaping (including the approval and implementation of a landscape management plan), (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The proposed development shall be carried out in accordance with the submitted application as amended by revised drawings numbers 97/P01 Rev B, 97/P02 Rev B, 97/P03 Rev B and planting plan reference 133579/PRO/Planting dated 6 June 2015.
- 5) Prior to the commencement of the development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the occupation of any proposed dwelling, the area shown on the approved plan for the parking and manoeuvring of vehicles for that dwelling shall be completed in accordance with the approved plan and the landscaping details to be approved under condition 1. The area agreed shall thereafter be maintained for that purpose.
- 7) Prior to the occupation of any proposed dwelling, visibility splays of 2m by 2m, with no obstruction above a height of one metre, shall be provided and thereafter maintained to the access to that dwelling.
- 8) Existing trees, shrubs and hedgerows identified for retention within the development site or existing trees growing on adjacent land, where excavations, changes to land levels or underground works are within the crown spread, shall be protected in accordance with BS 5837: 2005 using the following specification:-
  - Chestnut paling protective fencing 1.2m in height, to BS 1722 part 4, securely mounted on 1.7m x 7cm x 7.5cm timber posts driven firmly into the ground. The fence shall be erected below the outermost limit of the branch spread or at a distance equal to half the height of the tree, whichever is the furthest from the tree, unless otherwise agreed in writing with the Local Planning Authority.
  - The protective fencing shall be erected before the works hereby approved or any site clearance work commences, and shall thereafter be maintained until the development has been completed.
  - At no time during the site works shall building materials, machinery, waste, chemicals, stored or piled soil, fires or vehicles be allowed within the protective fenced area.
  - Nothing shall be attached or fixed to any part of a retained tree and it shall not be used as an anchor point.
  - There shall be no change in the original soil level, nor trenches excavated, within the protective fenced area.