
Appeal Decision

Site visit made on 26 September 2016

by D M Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 13 October 2016

Appeal Ref: APP/K0425/W/16/3148058

Land to rear of 70A Sedgemoor Road and Opposite 14 Old Kiln Road, Flackwell Heath, Bucks HP10 9NR.

- 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 Lexham Stone Ltd against the decision of Wycombe District Council.
 - The application Ref 15/06588/FUL, dated 5 June 2015, was refused by notice dated 12 October 2015.
 - The development proposed is the erection of one detached 4 bed dwelling and attached garage with associated parking, access and amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the development on trees covered by a Tree Preservation Order (TPO) and whether any replacement planting would satisfactorily mitigate any loss of visual amenity.

Procedural Matters

3. There is no dispute between the parties that the Council cannot demonstrate a 5 year supply of housing. In such situations paragraphs 47 and 49 of the "*National Planning Policy Framework*" (the Framework) states that the relevant policies for the supply of housing should not be considered up to date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I have approached the appeal on that basis.

Reasons

4. The appeal site is located within an established residential area close to the centre of Flackwell Heath. Whilst the area is not particularly sensitive in streetscape or architectural terms, the locality is notable for the presence of mature landscaping to the south of Old Kiln Road. The appeal site contains several protected trees which have considerable visual presence in the streetscene due to their height, spread and structure.
5. Rather than the principle of development, it is the loss of the Copper Beech tree (T11) and the threat to the Lime tree (T10) by encroachment into its root protection area (rpa) which is the issue. I note the appellant's view that a

Woodland TPO is not an appropriate designation for the site as it was once garden land. However, irrespective of whether the TPO was appropriately made, trees T10 and T11 make a significant contribution to the character and appearance of the area.

6. The Framework states that planning permission should be refused for development resulting in the loss or deterioration of aged or veteran trees, unless the need for, and benefits of, the development in that location clearly outweigh the loss. At the local level, Policies G10 and G11 of the "*Wycombe District Local Plan to 2011*" (the LP) state that development is required to take adequate account of, and retain, existing trees of good quality and visual significance. Moreover, development should not put the future retention of such trees at risk and where protected trees are to be removed replacement planting will normally be required having regard to the particular circumstances of each case.
7. Based on the submitted plans, the level of encroachment into the rpa of T10 appears to be minimal. Therefore with cognisance to the advice in paragraph 7.1.3. of BS 5837:2012¹ (the BS), I am satisfied that, subject to the recommended protection measures set out in the Arboricultural Report, T10 is sufficiently robust to withstand the proposed development. There would thus be no conflict with the development plan in this regard.
8. As I have already noted, it is evident that T11 together with T10 plays an important role in sustaining the leafy character of the area and are highly prominent in the Old Kiln Road street scene. Due to their size they are also visible in more distant views such as the junction of Old Kiln Road and Straight Bit and from gaps between houses on Sedgmoor Road to the south. Accordingly, and irrespective of the classification of T11 under the BS the loss of this tree would in my view be harmful to the visual amenity of the area. I therefore concur with the findings of my colleague who dealt with the 2015 appeal (Ref: APP/K0425/A/14/2226968) that the loss of the Beech tree would have a significant adverse effect on the visual amenity of the area.
9. In coming to that view I have considered the opposing views on the health and longevity of T11. The Appellant's Arboriculturalist now regards T11 as being in poor condition as evidenced by substantial deadwood through the crown and reduced annual twig extension growth. On the contrary, the Council see the tree as being in good condition and not in decline. In the absence of any agreement between the main parties on this matter, I have adopted a precautionary approach in respect of T11. I therefore consider that T11 does have sufficient safe and useful life expectancy such that it is likely to continue to make a highly positive contribution to the character and appearance of the area.
10. Turning to the issue of mitigation, it is apparent that the appellant's response to 2015 appeal decision has been to considerably strengthen the amount of replacement planting across the site frontage. The submitted plans shows 6 replacement Hornbeam trees would be provided across the site frontage with 1 Field Maple located further into the site. According to the appellant, the replacement trees would be similar to the recently planted tree at the front of the adjacent plot. However, as I observed on my site visit and as highlighted by the Council, this tree is in poor condition and offers very little amenity

¹ Full Title: *Trees in relation to design, demolition and construction – Recommendations*

value. Accordingly, I am not persuaded this tree makes a compelling case for the replanting scheme. Even if I am wrong about that, the replanting would take some considerable time to mature and in the meantime there would be a significant harmful effect on the character and appearance of the area.

11. In addition, given the proximity between the proposed dwelling and T10 as well as the replacement Hornbeams which would eventually grow to a significant height, I have concerns about the outlook for future occupiers of the dwelling and the implications of this on the tree's long-term prospects. Although the rear garden would be located outside the crown spreads of these trees, multiple aspects of the dwelling particularly the side garden would be dominated and overshadowed by trees. This combined with the perceived safety risk from falling branches together with the inconvenience of seasonal leaf litter would, I believe, inevitably result in future occupiers seeking to prevent them from reaching maturity, or further still, pressure to fell if their living conditions were to be safeguarded. Such fears are acknowledged by the BS which advises that the relationship of buildings to large trees can cause apprehension to occupiers resulting in pressure for their removal. In the face of such concerns, I am not persuaded that the Council could adequately ensure the trees' long term protection through the use of conditions.
12. I have considered the appellant's evidence that the Helliwell score² for the replanting scheme would greatly exceed that for T11. However, the appellant's methodology is somewhat flawed in that other existing trees on the site have been excluded from the assessment. Moreover, the Helliwell system is not intended to be a basis for predicting a future amenity of trees and relies on a number of subjective inputs. Consequently, this reduces the weight I attach to it.
13. Based on all of the above, I consider that the development would cause unacceptable harm to the character and appearance of the area through the loss of T11. Moreover, this harm would not be adequately mitigated by the replacement planting. The proposal thereby conflicts with Policies G10 and G11 of the LP as well as Policies CS17 and CS19 of the "*Wycombe Development Framework Core Strategy 2008*".

Overall Conclusions and Planning Balance

14. The scheme would undoubtedly provide benefits in terms of fulfilling the *social* dimensions of sustainable development through a modest contribution towards the Council's housing stock. Given the Council's acknowledged housing land supply position and the aims of the Framework to significantly boost the supply of housing, I attach moderate weight to this benefit.
15. The development would also support the *economic* role through the purchase of materials and services in connection with the construction of the dwellings and an increase in local household expenditure. I give the economic contribution of the scheme some weight but as a small building project the economic gains would be limited.
16. Based on the information before me, the design of the dwelling would be acceptable and there would be no adverse effect on the living conditions of neighbouring occupants. Also, safe and suitable access could be achieved.

² The Helliwell Tree Amenity Valuation system is a method promoted by the Arboricultural Association for valuing trees and woodlands

These are however neutral matters, where a lack of harm does not weigh in favour of the appeal proposal.

17. In *environmental* terms, I have found that the protected Beech tree makes a significant, positive contribution to the character and appearance of the area. Furthermore, based on the evidence before me, I am satisfied that the tree is likely to have sufficient safe and useful life expectancy sufficient to justify its retention. For these reasons, the loss of the Beech tree as a result of the development proposed would be a significant disadvantage that weighs against the appeal scheme. I have also found that this harm would not be mitigated by the proposed replanting scheme.
18. Taking all these considerations in the round, the development would deliver considerable benefits consistent with the Framework. Of particular weight would be a new home in a District which is unable to demonstrate a five-year housing land supply. However, the Framework does not adopt a narrow definition of sustainability, with paragraph 9 advising that pursuing sustainable development involves seeking positive improvements to the quality of the built and natural environment. Therefore either on their own or in combination, the benefits of the scheme do not outweigh the significant *environmental* harm I have identified to the character and appearance of the area arising from the loss of the protected Beech tree.
19. I therefore find that the adverse impacts of the proposal would significantly and demonstrably out-weigh the benefits such that the scheme would not constitute sustainable development for which there is a presumption in favour.
20. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector