
Appeal Decision

Site visit made on 4 November 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: 25.11.16

Appeal Ref: APP/P1560/W/16/3152997

Hilltop Rise, Church Lane, Weeley, Essex C016 9AT.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr C Harriot against Tendring District Council.
 - The application Ref 16/00338/OUT, is dated 29 February 2016.
 - The development proposed is an outline Application with all matters reserved for one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline, with all matters reserved for future approval. Nonetheless, an indicative layout plan has been submitted, which I have had regard to insofar as it is relevant to the appeal. I have taken the site address from the Appeal Form as the version provided on the Application Form is incomplete.
3. The appeal is made against the failure of the Council to determine the application within the prescribed period. Following the submission of the appeal, the Council provided a statement outlining their concerns in relation to the proposal. The Council has confirmed that had it been in a position to determine the application, it would have been refused due to insufficient information relating to trees on the site.

Main Issue

4. In light of the above, the main issue is the effect of the development upon trees on the site which are the subject of a woodland Tree Preservation Order (TPO)¹.

Reasons

5. The appeal site comprises a rectangular plot of land set within a wider tract of woodland to the east of Clacton Road at its junction with Church Lane. There are residential properties on Cravenwood Close to the north and according to the appellant there was once a house on the site. As I saw when I visited the site, the woodland has considerable visual presence to its prominent location adjacent to Clacton Road and consequently it makes a significant contribution to the semi-rural character of its surroundings.

¹ Ref: TPO/16/07.

6. The appellant submitted a '*Tree Survey and Tree Constraints Plan*' as part of the application. This identifies that the majority of trees on the appeal site are Class B and C as defined in the BS 5837:2012² (the BS). However, only two Class U trees (T47 & T57) would be removed. A number of others (T50, 51, 69 & 70) would be retained albeit re-sited or replaced on the site boundaries.
7. However, the report fails to acknowledge that the amenity value of the site derives not from the value of individual specimens, but rather from their substantial collective contribution to visual amenity as a group. Furthermore, it does not include an impact assessment or a method statement for the development and associated access. In view of these shortcomings, I share the Council's concern that it is not possible to conclude that the development would not harm trees on the site.
8. In addition, I have concerns that the outlook of the garden and the dwelling itself would be dominated by the trees leading to an overall adverse effect on levels of natural light particularly in the summer months. This combined with the perceived safety risk by future residents from falling branches together with the inconvenience of seasonal leaf litter would, I believe, inevitably lead to pressure to fell further trees if a useable garden were to be maintained and the living conditions of future occupiers to be safeguarded. I also have concerns that the re-siting of a number of trees to the northern and eastern site boundary could have a deleterious effect on the living conditions of adjacent occupiers.
9. Whilst I note the appellant is prepared to use pile foundations to prevent any damage to the trees, there is nothing to suggest the Council is agreeable to such an approach. In the absence of a consensus on these matters, I have taken a precautionary approach and conclude that it has not been demonstrated that the proposal would safeguard the long term health of the trees. Based on the foregoing, the development would conflict with the aims of the Framework in terms of contributing to conserving and enhancing the natural environment.

Other Matters

10. I have noted concerns with the Council's handling of the most recent TPO, however, this is not a matter for me to determine under this section 78 appeal.
11. I accept that the development would deliver a dwelling in an area of need. However, this does not outweigh the harm I have identified to trees on the site and the conflict with the Framework in that regard. Therefore assessed against the Framework as a whole, the appeal scheme would not constitute sustainable development for which there is a presumption in favour.

Conclusion

12. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector

² Full Title: *Trees in relation to design, demolition and construction – Recommendations*