
Appeal Decision

Site visit made on 17 January 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 31 January 2017

Appeal Ref: APP/D3640/W/16/3161854

Land adjacent to 4 Tekels Park, Camberley GU15 2LF

- 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 Natta Country Homes Ltd against the decision of Surrey Heath Borough Council.
 - The application Ref 16/0565, dated 1 June 2016, was refused by notice dated 10 October 2016.
 - The development proposed is erection of one dwelling with formation of new access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was refused on the grounds of the loss of the pocket woodland, as this makes a significant contribution to the character of the surrounding landscape. However, as the woodland is protected by a Tree Preservation Order¹ (TPO), I have considered it appropriate to consider the future health and longevity of the woodland as a separate issue in my reasoning below.
3. The appellant argues that the SPD² should not carry particular weight but there is no evidence to support this claim. In a recent appeal decision³ the Inspector concluded that the SPD supported development plan policy and is clearly aimed at guiding development within the respective character areas. It is also compliant with Paragraph 59 of the National Planning Policy Framework which recommends the use of design codes by local authorities. Furthermore, Policy DM8 of the Local Plan⁴ (LP) specifically refers to the requirement for development to incorporate guidance in the SPD. As such, I give the SPD substantial weight.
4. There is a discrepancy between the north points shown on the site location plan⁵ and the tree protection plan⁶. As the site location plan uses an Ordnance Survey base, I have used this in my consideration of the site's orientation.

¹ Surrey Heath Borough Council Tree Preservation Order No 05/10, confirmed 8 June 2010

² Surrey Heath Development Framework, Western Urban Area Character Supplementary Planning Document, May 2012

³ APP/D3640/W/16/3155300

⁴ Surrey Heath Borough Council, Core Strategy and Development Management Policies Document, adopted 2012

⁵ INC-SA(20)0001

Main Issues

5. The main issues are the effect of the development on:
- the future health and longevity of protected trees; and,
 - the character and appearance of the area.

Reasons

Protected trees

6. The appeal site is a corner plot on Tekels Avenue, bounded to the north and west by residential plots, and to the south and east by the road. The site is entirely wooded with a species mix that includes non-native species and reflects the site's former status as a domestic plot. The boundary with the road is screened with a dense rhododendron thicket and intermittent lengths of overgrown cypress trees. Behind the boundary undergrowth, trees are spread fairly evenly across the site and there are some notable and imposing specimens. I noted limited age diversity and no particular evidence of natural regeneration. The site contrasts with other residential plots in the immediate area in that it appears as a dense block of vegetation from the road.
7. The development comprises the construction of a flat-roofed two-storey dwelling in contemporary style, with large windows, timber cladding and cantilevered balconies on the first floor. The planning statement notes that the dwelling would be located in an unconstrained part of the site, using that part of the site which is free from major tree loss issues and would be fully enclosed. Seven trees would need to be removed to accommodate the dwelling.
8. The site is noted as W2 in the TPO and it is a discrete site close to the end of a more extensive linear woodland, W1, protected under the same TPO. W1 and W2 appear to form a buffer between a relatively dense development pattern to their north and west, and a looser development pattern to their south and east. This accorded with my observations on my visit as Tekels Avenue, to the north, is characterised by a succession of very visible dwellings albeit on large plots with significant mature vegetation within gardens and along their road boundaries. To the south of the appeal site, lies Tekels Park, which the SPD describes as a noticeable void in the townscape morphology.
9. The Council is concerned that there would be pressure to remove and trim more trees if the appeal was allowed and I share the Council's concern. The balcony on the south-eastern elevation, which would be adjacent to the kitchen and living area, would be some 5-6 metres from the canopies of the overgrown cypresses on the adjacent road boundary⁷. As these are estimated at 15 metres in height, and form a dense evergreen screen, I consider it highly likely that there would be pressure for them to be removed to prevent loss of diffused daylight and direct sunlight. My concern is reinforced by the presence of retained trees which would obstruct the sun's path to the two sides of the balcony, which would also restrict light entry into the dwelling from other directions. Whilst I appreciate that future occupiers may appreciate the dappled light that I noted coming through the woodland canopy in the centre of

⁶ 16084-BT2

⁷ G70 and G73, Arboricultural Assessment, Barrell Tree Consultancy, and Dwg. 16084-BT2

the site, I am not satisfied that a dense and high evergreen screen in such proximity to the dwelling would be so acceptable.

10. Furthermore, with the exception of T57, the site layout shows that the canopies of retained trees would not extend over the dwelling. However, the tree schedule indicates that most of the trees on the site are still maturing. Consequently their canopies can be expected to increase in both girth and height, particularly where exposed to more light on the edge of felled area, and they are likely to need trimming if, and when, branches encroach onto the dwelling.
11. The appellant's planning statement indicates that there would be space for an open lawn at the rear of the dwelling but given the extensive canopy coverage of most of the site, it is unclear where a lawn could be successfully located without the removal of more trees.
12. The appellant has drawn my attention to a dwelling constructed within a woodland (Dursley House). However, notwithstanding this is in a different council area with different policies, the evidence before me indicates that this was a town centre site and so was not comparable in terms of location. Nor does it appear to have been woodland protected under a TPO. In addition, although I appreciate that the current appeal has addressed some of the Council's concerns in respect of the TPO, my understanding of Dursley House⁸ is that the design and planning process was negotiated between that council and the future occupiers. That would also be different from this appeal as the appellant indicates that this dwelling would be sold to its future occupiers on completion. Their future actions and commitment to appropriate woodland management cannot be presumed or even addressed through condition.
13. The appellant argues that the TPO would remain in place and ordinarily approval would be needed for felling or lopping. However, opening up the woodland would decrease its resilience to wind damage, particularly given the site's orientation in relation to the prevailing south-westerly winds. It is also likely that there would be a requirement to carry out urgent works in order to make trees safe or to mitigate the perceived threat from trees moving in high winds. Under these circumstances the TPO would not necessarily prevent further works or tree removal.
14. The site's TPO seeks to protect the woodland in the interests of amenity and the TPO indicates that the authority shall grant consent for felling in accordance with good forestry, and where it would secure the maintenance of the special character of the area. The Council has also drawn attention to case law⁹ which indicates that that a woodland order will by its very nature comprise land with trees of varying species, age, classes form and condition.
15. The appellant has highlighted LP Policy DM9 (iv) which states that development will be acceptable where it protects trees and other vegetation worthy of retention. Nonetheless, whilst I note that Category B trees on the site would largely be retained, it remains that the TPO relates to the collective amenity of the site, and not individual specimens and I disagree with the appellant that only the higher category of trees can be considered to come under this description.

⁸ Grand Designs, Channel 4

⁹ Evans v Waverly BC, Appendix 8

16. Consequently, notwithstanding that conditions could be imposed to limit damage to the site during construction, I consider that in addition to the initial loss of trees, there would be incremental and ongoing pressure to fell, lop and raise the canopies of retained trees both to prevent encroachment onto the dwelling as well as to manage light levels and provide areas for domestic activity.
17. This would not safeguard the future health and longevity of the woodland, which would be contrary to LP Policy DM9 (iv) and the TPO, as outlined above. I have considered the development in terms of the effect on the character and appearance of the area in my reasoning below.

Character and appearance

18. The appeal site lies within the SPD's Wooded Hills Character Area which is characterised by hilly areas, large irregular plots, winding roads/lanes, heavy vegetation and a scattering of Victorian/Edwardian Buildings. The guiding principles for development in the SPD note that new development should pay regard to the locally distinctive and valued patterns of development, which include the built and natural environments. The SPD also states that new development should not erode the existing positive character of the area.
19. The SPD goes on to identify pressures on the character area as the progressive loss of the large irregular plots and urbanisation of the semi-rural character through the loss of dense vegetation cover. The development would require the removal of some of the rhododendron thicket on the site boundary, as well the initial loss of trees as noted above. It is also likely, as reasoned above, that there would be a progressive loss of trees over the longer term.
20. The appellant notes that this proposal would retain the wellingtonia trees and thus retain screening from the south, but the tree schedule indicates that the wellingtonia¹⁰ are to the west of the dwelling. It is the cypresses which mainly provide screening from the road and their proximity to the dwelling would be likely to result in their removal. There would also be an opening up of views into the site at the point of the vehicular access and hardstanding.
21. I agree that the proposed access point would have a lesser effect on the woodland than the access point proposed in a previous appeal. Nonetheless the construction access route would go across the Root Protection Areas of some Category B trees¹¹ and although the access route is marked as a precautionary area, I was not aware on site that construction machinery would be able to get beneath the canopies of these trees without some raising of canopies which would further reduce the screening effect of the site's trees.
22. As such, the site's appearance would change from that of a dense block of vegetation to a semi-wooded residential plot. Furthermore, notwithstanding the design merits of the building and sympathetic materials, there would be glimpsed views of the structure. Given that there would be limited areas available to provide new planting, I concur with the Council that it would not be possible to successfully mitigate these effects.

¹⁰ T4 and T8

¹¹ Primarily T41, 47, 48 and 498

23. The appellant argues that the appeal site is an infill plot within an area of residential development. However, the TPO shows that the appeal site is related geographically to a much larger area of woodland, which differentiates between areas with different development patterns. Consequently, I give this argument little weight. Furthermore, the designation of a woodland TPO indicates to me that the Council puts a high priority on retaining the amenity value of the site over and above the individual trees within it.
24. In the light of the above, I conclude that the development would contribute to the semi-urbanisation of the Wooded Hills Character Area and the loss of an area of heavy vegetation. This would be contrary to LP Policy DM9 (ii) which requires development to respect and enhance the local and natural character of the environment, amongst other requirements, and guidance in the SPD.

Other matters

25. I concur with the Inspector for the previous appeal that the design would not look out of place in this location. However, I also share that Inspector's conclusion that in the context of the relevant local policies and reasons for refusal, that lack of harm does not carry particular weight for or against the development.
26. I also appreciate that the proposals have been amended to address concerns raised by previous Inspectors, but each appeal is determined on its own merits. The fact that this development would require the removal of fewer trees than the previous appeal¹² does not justify the harm I have identified above.
27. There is some discussion in the evidence around whether the site should be considered as former garden land or pocket woodland. Whilst I accept that the site appears to be former garden land, I do not see this as reducing the site's TPO status and consequently it is not determinative.
28. The appellant has drawn attention to a current planning application to the south of the appeal site. However, I noted on my visit that this is not a wooded site and there is nothing in the evidence before me to indicate it is subject to a TPO. Consequently, the sites are not comparable.
29. I appreciate that the rhododendron requires management in order to limit its spread, but I disagree with the appellant that development is necessary to achieve that end. As such I give this argument little weight.
30. The appellant has also raised a concern in relation to the delays experienced during the application procedure. However, this is a matter outside the scope of this appeal.

Conclusion

31. Whilst I recognise that the development would provide an additional dwelling and this would have a limited public benefit in terms of local housing supply, this would not outweigh the harm identified above. I also appreciate that the appellant has significantly reduced the development proposals for the site since the first application for two dwellings, but this does not alter my reasoning.

¹² APP/D3640/W/15/3130988

32. Consequently, for the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR