

Appeal Decision

Site visit made on 24 April 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/M2270/W/17/3169467

77 Mount Ephraim, Royal Tunbridge Wells TN4 8BS

- 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 Ms Diana Virieux against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/505302/FULL, dated 9 June 2016, was refused by notice dated 26 August 2017.
 - The development proposed is a new single storey, subterranean, 2 bedroom detached dwelling within the grounds of Bredbury House.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposed dwelling would preserve or enhance the character or appearance of the Tunbridge Wells Conservation Area, including consideration of the effect of the proposal upon trees.

Reasons

3. The appeal site comprises a fairly small area of manicured grassed land. The site is bordered on its south side by Mount Ephraim, a fairly busy road which lies on the north side of the eastern fringes of Tunbridge Wells common. To the immediate east of the appeal site lies an access road which serves the property of Bredbury and some large fairly modern office buildings. A new care home was also being built off the access at the time of my visit. Bredbury itself lies to the immediate west of the site.
4. The Royal Tunbridge Wells Conservation Area (RTWCA) is a substantial one, covering much of the town. The boundary in the vicinity of the site runs to the north of Bredbury, dissecting a large grassed area located between the office buildings and Mount Ephraim. The character of the RTWCA in the area of the appeal site is dominated by the common to the south, with the large wide open spaces of the parkland and steep topography down to the town centre providing panoramic views from Mount Ephraim. The RTWCA appraisal¹ notes that the buildings along Mount Ephraim provide a firm edge and have excellent architectural qualities. The appraisal also notes that the absence of trees at the top of the Common adds "enormous breadth and openness", with large buildings such as Reliance House [to the north east of the appeal site]

¹ Royal Tunbridge Wells Conservation Area Appraisal November 2000

- exploiting this scale to good effect. Substantial boundary walls provide continuity to the townscape.
5. Bredbury is believed to have been constructed around 1865, and is designed in an Italianate style. A high boundary wall with balustrades on top separates the house from Mount Ephraim, with a thick evergreen hedge on top of this wall hiding many views of the property from the road. In front of the appeal site the walling changes to a simpler, lower block wall providing a more open feel. Bredbury is a non-designated heritage asset.
 6. An appeal decision from 2013² considered a proposal to the south west of Bredbury, and considered that this property, together with Reliance House bookends the open space set between the buildings. I would agree with this assessment; the manicured open space set to the side of the Bredbury, including the appeal site, the open space in front of the modern office block to rear and the more heavily planted area to the side of Reliance House all contribute to the setting of both Bredbury and the character and appearance of the RTWCA. This is enhanced by the specimen trees on the site, including 3 fairly large beech trees between the appeal site and Bredbury.
 7. This also correlates with the appellant's Heritage Assessment, which states that the spatial relationship between the Common and the settlement is most important to this part of the RTWCA, including the definition that the buildings give to the Common as a developed frontage but also the gaps, boundary treatments and way in which the buildings spatially relate to the road. However, in this context I do not agree that the openness of the site is also a negative in allowing views of the modern office blocks to the rear and weakening the built frontage definition; due to the set-back nature the office blocks are not dominant in the street scene and the open nature of the site enhances the character and appearance of the RTWCA.
 8. Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 132 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset.
 9. Policies EN5 of the Local Plan³ states that development within a Conservation Area will only be permitted if the proposal would enhance the aspects which combine to form the character and appearance of the area and would not result in the loss of trees important to the character of the Conservation Area. Core Policy 9 of the Core Strategy⁴ states that development in Royal Tunbridge Wells must conserve and enhance the heritage assets of the town, and Core Policy 4 of the same document states that the Borough's heritage assets will be conserved and enhanced.
 10. The proposal seeks to construct a largely underground house. This would be reached from the access road side of the site, via a narrow path which would

² APP/M2270/A/12/2186635

³ Tunbridge Wells Borough Local Plan, 2006

⁴ Tunbridge Wells Borough Local Development Framework Core Strategy, 2010

lead to stairs down into a central four sided courtyard. Situated around the internal courtyard would be 2 bedrooms, a small bike storage area and a kitchen/diner/living space. This area would have a rectangular roof light set above it. A clear glazing balustrade would encircle the courtyard area; this would be set at a lower height than the boundary wall.

11. Due to the underground location of the property and the height of the balustrade wall being lower than the boundary wall, from many views within the RTWCA the proposal would not be readily visible. However, from some angles, such as from the north east close to and at the point of access to the business park, the house would be readily seen. The clear glazing balustrade would be visible, along with the 'hole in the ground' that the courtyard would appear as.
12. The 2013 Inspector noted that the landscaped entrance to the business park and Bredbury provides an impressive foreground to the setting of Bredbury. I would agree with this assessment, and consider that the proposal, small scale though it is, would have an adverse effect on this impressive foreground and landscaped setting, having an adverse effect on the open qualities of the RTWCA in this location. Furthermore, I am not convinced that landscaping in the form of hedging and ornamental trees would be suitable. Whilst they could hide the visible elements of the proposal, in doing so they could also adversely affect the open qualities of the RTWCA.
13. A range of trees are located close to the site boundaries, including 3 Lawson Cypress on the side of the access road, and the aforementioned 3 Beech trees on the other side of the appeal plot. A Horse Chestnut shown in the plans on the corner of the access and Mount Ephraim had been felled at the time of my visit. The three Beech trees are located fairly closely together.
14. The western edges of the proposal would be located within the root protection areas (RPA) for two of the Beech trees. This is calculated at an incursion of 2.2m² and 2.7m² respectively. All 3 trees are assessed by the appellant as being semi-mature with over 40 years of life left and in good physiological and structural condition. They have a combined RPA of 72m². The appellant considers that both RPA incursions would represent around 3% of the total RPA, although I note in this context that this is around 3% of the complete RPA for all 3 trees combined, as opposed to the individual trees, and furthermore that the two incursions together represent 6-7% of the total RPA. However, I also note that the appellant considers that the roots of the trees may have fused or grafted together to create a combined root system.
15. The appellant notes that the trees are at a "highly adaptive semi-mature stage of life", and as such minimal incursions would not be so significant so as to be detrimental to the long term health of the trees. However, I note that the Council states that Beech trees are sensitive to root loss. The proposal would, on the basis of the plans provided, likely result in the loss of 6-7% of the total RPA for the 3 trees combined, should the trees have a combined root system, or smaller areas for 2 of the individual trees. This would clearly represent a risk to the long term health of the trees.
16. I also note that the crown of the eastern Beech trees is currently mapped as extending to the fringes of the proposed courtyard, and covers the proposed kitchen roof light. The trees are defined as 'semi-mature' and hence they are likely to grow further into maturity. Whilst I agree with the appellant that this

growth is unlikely to be to the full extent stated by the Council, they are likely to grow taller than the 16m that the appeal arboricultural statement surveys them at present. Likewise, the crown of the trees may also grow and spread to a certain degree. The appellant states that acceptable pruning works could be carried out to the trees given their time of life, and that such crown reductions are commonplace in the Council area. However, such an application would need to be considered on its own merits, and *could* have the potential to adversely affect the contribution the trees make to the character and appearance of the RTWCA.

17. The further growth of the trees and increase in their crowns could encroach over the courtyard area and increase the effect on the roof light proposed. Despite the location of the living space within the proposal, the orientation of the trees when compared to the courtyard could also restrict sunlight to the courtyard in the afternoon and evening. I agree in this respect with the Council that this could lead to pressure from the future home owners to top, lop or fell the Beech trees, even though prospective purchasers would be aware of them.
18. When this issue is combined with the likely loss of the pinpointed RPA for the Beech trees I consider that there is sufficient likelihood that the proposal could lead to the ultimate loss of the Beech trees. I do not consider that landscaping could readily replace the significant positive impact that the Beeches have on the local area. The trees add to the character and appearance of the RTWCA, being an integral part of the manicured landscaped setting to the Business Park and Bredbury. This factor adds weight to my concerns over the overall potential harm of the proposal to the character and appearance of the RTWCA.
19. For the reasons given above, I consider the proposal would result in harm being caused to the significance of the RTWCA. However, given the size of the site in comparison to the whole Conservation Area and the underground nature of much of the scheme, I am satisfied in this case that the degree of harm caused would be less than substantial. In such circumstances paragraph 134 of the Framework states that these should be weighed against the public benefits of the scheme.
20. The public benefits of the scheme may be considered to include the construction of the single dwelling, and the limited social and economic benefits that this would entail. However, less than substantial harm does not equate to a less than substantial objection, and I consider that the public benefits of the scheme are insufficient to outweigh the less than substantial harm that the proposed development would cause to the significance of the CA.
21. I therefore conclude that the proposed dwelling would neither preserve nor enhance the character or appearance of the Tunbridge Wells Conservation Area, including consideration of the effect of the proposal upon trees. Such harm would not be outweighed by the public benefits of the scheme. The proposal would be contrary to policies EN5 of the Local Plan and Core Policies 4 and 9 of the Core Strategy, as well as to policy EN13 of the Local Plan which states that development will not be permitted if it would damage trees in a Conservation Area unless the desirability outweighs the amenity value of the tree.

Other Matters

22. The appellant considers that the Council's Conservation Officer agreed that the proposed dwelling would not, by itself, harm the character and appearance of the RTWCA, and that their concern relating solely to the effect of the proposal on the Beech trees. However, and notwithstanding my statutory duties under the Act, I note that the Council's Planning Officer raised concerns over the visible elements of the proposal and indeed that this formed one of the reasons for refusal of the scheme.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed

Jon Hockley

INSPECTOR