



Appeal Decision

Site visit made on 20 June 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 19 July 2017

Appeal Ref: APP/M2270/W/17/3171084

Land at Lakeside Farm, The Street, Frittenden, Cranbrook TN17 2DG

- 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 Mr and Mrs A Lee against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/05831/FULL, dated 14 July 2016, was refused by notice dated 4 October 2016.
 - The development proposed is erection of a detached dwelling with garage, parking provision and other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In response to the fourth reason for refusal an 'extended phase 1 habitat and habitat suitability index survey' (the habitat report) has been submitted. I have had regard to that report in my consideration of the development's effect on protected species in my reasoning below.

Main Issues

3. The main issues are the effect of the development on: the character and appearance of the area, including the Frittenden Conservation Area (the CA); the protected trees within and adjoining the site; and protected species.

Reasons

Character and Appearance

4. The development would involve the construction of a four bedroom, detached house with an attached double garage. The house would occupy a plot that is essentially grassland, which is in front of Lakeside House and behind (west of) 1 and 2 Coach Gates Cottages. The house would essentially have a backland siting and The Street is characterised by properties fronting the public highway. Notable exceptions to the street frontage pattern of development are Lakeside House, The Pump House and Frittenden House, the latter two dwellings being sited to the south of Lakeside House.
5. Even though the siting of Lakeside House, The Pump House and Frittenden House, in particular, do not conform to the frontage pattern of development characterising Frittenden, those properties collectively occupy spacious plots and the area in front of them is marked by the absence of built development.

The land in front of Frittenden House has a distinctive parkland character and while the appeal site was previously an orchard I found it to be compatible with Frittenden House's parkland grounds.

6. The area behind the properties fronting directly onto The Street, including the appeal site, is largely free from built development and that together with the presence of grassland, interspersed with some trees, contributes strongly and positively to the character and appearance of the CA. While the house could readily be accommodated within the plot, I consider that its siting would not be in keeping with the loose pattern of development in the immediate vicinity of the site. The development would result in the site's appearance becoming much more domesticated, which would be detrimental to the area's rural character. The fact that the house would not be visible from The Street does not persuade me that a dwelling in this location would be in keeping with the area's character. There would be nothing particularly distinctive about the design of the house and I therefore consider it provides no particular support for this development. I therefore find that the development would neither preserve nor enhance the character or appearance of the CA.
7. I therefore conclude that the development would detract from the character and appearance of the area. There would therefore be conflict with saved Policies EN1, EN5 and EN25 of the Tunbridge Wells Borough Local Plan of 2006 (the Local Plan), Policies 4, 5 and 14 of the Tunbridge Wells Core Strategy of 2010 (the Core Strategy) and paragraphs 17 (the fifth core planning principle), 58 and 64 of the National Planning Policy Framework (the Framework). That is because the development would be harmful to the landscape setting and undeveloped character of Frittenden, it would fail to preserve or enhance the character or appearance of the CA, with the layout and arrangement of the building not following the dominant existing pattern of development in this heritage asset, and it would not improve the character and quality of the area.
8. With regard to the provisions of the Framework, I consider the harm to the CA would be less than substantial when considered within the context of paragraphs 133 and 134. That being said I consider that there would be no public benefits to the CA arising from the development. The absence of substantial harm to the CA, in the Framework's terms, however, does not usurp the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

Trees

9. The site is subject to a tree preservation order (TPO) made on 28 June 1961. The TPO covers four 'areas' and four 'woodlands' and the site is within an area identified as area A.3 on the plan that accompanies the TPO. The entry for area A.3 in the TPO's first schedule refers to the trees in this area as being 'mainly cypress in variety, but with some pine and fir, and including lime, oak, a wild service tree and other Broadleaved species ...'. Within the site there are various fruit trees and drawing RWA/15/127_SK07 Rev A (the block plan) shows a 25 metre tall ash tree with an overhanging canopy. Immediately adjacent to the ash tree there is also a 25 metre tall pine tree.
10. As the TPO's first schedule refers to 'other Broadleaved species' I see no reason why the ash tree overhanging the appeal site should not be considered

as being subject to the TPO. While the Planning Practice Guidance¹ advises that area TPOs are intended to provide short term protection, it would appear that area A.3 of the TPO remains extant. On the available evidence I therefore consider that the ash tree immediately adjoining the site is subject to the protection conferred by the TPO made in 1961. Even if that interpretation is incorrect, the ash tree is subject to the protection arising from it being within a CA, as are any of the other trees in the CA with a diameter exceeding 75 millimetres at a height of 1.5 metres above ground level.

11. Although a tree survey has not been submitted, the block plan shows that the western elevation of the house would be sited just beyond the canopy of the adjoining ash tree, with the tree's canopy marginally overhanging the drive to be provided as part of the development. Given the siting of the house relative to the nearby ash and the pine trees, and for that matter any of the fruit trees in close proximity to the house and its drive, I consider that the wellbeing of those trees could be safeguarded during the construction period through the imposition of a suitably worded condition.
12. I am also of the opinion that the siting and window arrangements for the house relative to the ash and pine trees would mean that the presence of those trees would not give rise to any undue loss of light to or overshadowing of the house or its garden. On that basis I consider that there would be no unacceptable pressure from the occupiers of the house to fell, lop or prune the ash and pine trees subject to the TPO.
13. The house would be sited in close proximity to various fruit trees and those trees could come under pressure for their removal following the occupation of the house. However, the fruit trees, given their location within the CA, could not be removed without prior notice being given to the Council. If such notice was to be given then the Council would have the opportunity of considering whether the fruit tree's amenity value warranted the making of a TPO, given that their variety suggests that they are not covered by the extant TPO.
14. For the reasons given above I conclude that the development would not be harmful to the protected trees within and adjoining the site, meaning that there would be no conflict with saved Policy EN13 of the Local Plan.

Protected Species

15. The habitat report advises that the site is of limited habitat value for protected species, a conclusion that the Council has accepted in its comments concerning the appeal. The report also indicates that it would be possible to make biodiversity improvements to the site in implementing the development. On the basis of the habitat report's findings I conclude that the development could be implemented without there being harm to protected species. There would therefore be no conflict with saved Policies LBD1 and EN1 of the Local Plan and Policy 4 of the Core Strategy because there would be no adverse significant effect on any features of nature conservation importance.

Planning Balance

16. It is agreed that the Council cannot currently demonstrate the availability of a five year supply of deliverable housing sites (HLS). In the absence of an HLS

¹ Paragraph: 029 Reference ID: 36-029-20140306

paragraph 14 of the Framework indicates that planning permission should be granted unless ‘... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted’.

17. The construction of one house would make a very modest contribution to the supply of housing in the area and there would therefore be some very limited economic and social benefits arising from the development. For the purposes of paragraph 55 of the Framework this would not be an isolated location for a house, given the proximity of the other dwellings in Frittenden. There would also be some minor benefits to the area arising from the biodiversity improvements that could be made.
18. However, I have found that the development would be harmful to the character and appearance of the area, with it failing to preserve or enhance the character or appearance of the CA. I consider that the adverse impact to the area’s character and appearance would significantly and demonstrably outweigh the development’s benefits. I therefore find this development cannot be considered to be a sustainable one.

Conclusions

19. While I have found that the development would not involve harm to the trees on or adjoining the site and any protected species, there would be unacceptable harm to the area’s character and appearance. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR