
Appeal Decision

Site visit made on 30 May 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 19 July 2017

Appeal Ref: APP/E2205/W/17/3168192

Tyle House, Stocks Road, Wittersham, Tenterden TN30 7EH

- 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 Regalpoint Homes (Wittersham) Ltd against the decision of Ashford Borough Council.
 - The application Ref 16/00947/AS, dated 21 June 2016, was refused by notice dated 22 November 2016.
 - The development proposed is the erection of 3no. detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Both parties have referred to policies in the Ashford Local Plan 2030, however, as this has not yet been examined, I can accord them only limited weight.

Main Issues

3. Following its consideration of additional information in the appeal submission, the Council concludes that the proposed development would be acceptable in relation to its impact on protected species and no longer contests the seventh reason for refusal. Accordingly, the main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Wittersham Conservation Area (CA);
 - its effect on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB);
 - its effect on trees proposed for retention; and,
 - whether it would provide acceptable living conditions for the future occupiers of unit 'C' with particular regard to light and outlook.

Reasons

The character or appearance of the CA

4. Wittersham has a rural setting. Tyle House stands by Tyle Oast. Their character is more scattered than the tighter-grained heart of the village. The appeal site appears as once part of the garden and orchard to Tyle House. It has an undeveloped and green nature which reflects the park opposite and provides a soft, undeveloped edge to agricultural fields. This is reflected at the
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southern end of the village where the grain of development dissipates towards the open countryside.

5. The proposal would take away the soft, green edge to the village in this location. It would reduce the space around Tyle House to the degree where its significance in the historic pattern of development in the settlement would be less legible. The design of the houses is sensitive to the wider vernacular and in this regard in accordance with Core Strategy 2008 (CS) policy CS9 which seeks high quality design. However, their site coverage would be greater. The space around them less. And, their front building lines would be set significantly forward of their neighbour, Tyle House. The development would introduce a grain of development uncharacteristic in this part of the CA.
6. The site is presently screened from the road by hedgerow, most of which would be retained in the development. However, the houses would still be visible, and their incompatibility with the surrounding pattern of development, conspicuous. As there is already development on the opposite side of Stocks Road further from the village than this site, the effectiveness of its role as an entrance marker is limited. The garage and what appear to be houses opposite have a different spatial character to the appeal site, and they also have a bearing on the character of this part of the CA. There is also a wide range of development patterns within the CA.
7. I have taken these factors into account. They do not, given the historic and spatial character of the site and its surroundings, as well as the characteristic shift in the development grain across the CA, outweigh the harm identified above which would undermine its character.
8. I note the housing appeal¹ dismissed on land to the east of the site in which the Inspector found no harm to the CA, however, that site is outside the CA. The appellant points to permission granted in the AONB on land behind 12-16 Jubilee Fields, however that site is some distance from the CA and was for local needs housing. The parallels between the cases are therefore limited.
9. The proposal would fail to preserve the character of the CA in accordance with the requirements of section 72 of the Act, the special attention to which, the Courts have determined, I am required to give considerable importance and weight. Although the harm to the CA would be less than substantial, it would nonetheless be a significant, adverse impact which would not be outweighed by any public benefit as set out in paragraph 134.
10. I have borne in mind paragraph 132 of the Framework, that the significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset. Also, at paragraph 17, that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
11. The proposal would conflict with CS policy CS1 and Local Plan 2000 (LP) policies EN16 and HG3. These require development to preserve or enhance the character or appearance of a conservation area, retaining features which contribute positively to its character. They protect landscape, and require that the historic pattern of the village and the relationship between the built form

¹ Appeal Ref: APP/E2205/W/16/3151327

and the surrounding countryside is taken into account. It would also conflict with policy TRS1 of the Tenterden and Rural Sites Development Plan Document 2010 (TRS) which protects private open spaces or gaps that are important characteristics of the settlement.

The AONB

12. The undeveloped and green landscape of this historic edge to the village blurs the boundary to the landscape of the fields and hedgerows in the open countryside. The development would reduce this effect. In addition, the siting of unit 'C' would undermine the spatial setting of the distinctive, mature hedgerow enclosing the adjoining field, which is an intrinsic part of the landscape character of the AONB.
13. The proposed development would harm the character and appearance of the AONB. It would conflict with TRS policy TRS17 which requires proposals to complement and enhance the AONB, and LP policies GP12, EN9, and EN12 which protect landscape features, the landscape and scenic value of the countryside, and land which makes an important contribution to the setting of a village. There would also be conflict with the Framework, notably the core principles that seek to secure high quality design that takes account of the character of different areas and recognises the intrinsic character and beauty of the countryside; as well as paragraph 115 that affords great weight to conserving the landscape and scenic beauty of AONBs.

Trees proposed for retention

14. The footprint of unit 'C' would make an incursion into the root protection area of the protected Oak T39 by around 4% of its area. The Council objects to the effect this would have on its health if unit 'C' were built using strip footings as previously proposed. However, the appellant has indicated, at the final comments stage of the appeal, that a specially engineered foundation following the guidance in BS5837: 2012 would be used in place of strip footings. As the Council has not had the opportunity to comment on this change, and its position may be prejudiced without, I am unable to take this late design change into account.
15. I acknowledge that the tree concerned is growing in its natural environment with no apparent pressures on its root system. However, on the basis of the design submitted in accordance with the appeal timetable, I see no overriding justification for the construction of strip foundations within the RPA of the tree. This would run against the British Standard which advises that the default position should be that structures are located outside the RPAs of trees to be retained.
16. My impression on site was that the Oak T39 has a distinctive crown shape with long, low, cantilevering branches. Its maturity and spread make it a significant feature in the landscape. The proposal to cut back part of its crown by up to 2.5m would reduce to an unacceptable degree the visual contribution it makes both individually and to the group of trees on this boundary.
17. The trees and hedgerow on the north and west boundaries of the back garden of Unit 'C' are tall and dense and their canopies oversail a large proportion of the most private part of the back garden. Given this, together with the proximity of the living room and bedroom 3 in unit 'C' to the canopy of the Oak

T39, there would be a significant risk of pressure from future occupiers to reduce the Oak T39 to relieve these rooms and the back garden of its effect on daylight and morning sunlight. I have taken into account that the tree is protected but do not consider this would relieve the pressure identified above.

18. Taking these factors together, I conclude on this issue that the proposal would jeopardise the retention of the protected Oak T39. It would be contrary to LP policy EN32 which protects important trees from development which would damage them or result in their loss.

Living conditions for the future occupiers of unit 'C'

19. Whilst the openings of bedroom 3 and the living room of unit 'C' would be close to the canopies of the Oak trees T38 and T39, there would remain a comparatively clear outlook to the north and west from these rooms. Facing directly north their access to direct sunlight would be limited, regardless of boundary trees, however, the size of the openings would maximise the daylight to these rooms, as well as any indirect sunlight.
20. I have already concluded that there would be pressure to reduce the canopy of Oak T39 to achieve more desirable levels of light. Notwithstanding this, there would be sufficient garden area to the front and side of the house, with access to sunlight, to provide acceptable living conditions.
21. I conclude on this issue that the proposed development would provide acceptable living conditions for the future occupiers of unit 'C', with particular regard to light and outlook. There would be no conflict with CS policy CS1 concerning health and well-being, nor with the Framework which seeks to secure a good standard of amenity for future occupants of buildings.

Planning Balance

22. The appellant claims the Council cannot demonstrate a 5-year supply of deliverable housing sites, which is not contested by the Council. This means that policies relating to the supply of housing should not be considered up-to-date, and the proposal should be considered in the context of the presumption in favour of sustainable development. However, footnote 9 of paragraph 14 of the Framework indicates that development in this context should be restricted.
23. Three additional houses in an area where there may be an under supply of housing land would be a social benefit. As would the economic benefit resulting from the construction work and future occupants' spending in the local economy. A lack of harm in relation to the living conditions of future occupants is a neutral factor. Against this, I have found that there would be harm to the CA and the AONB, as well as to a hedgerow Oak tree. In these respects the proposal would not satisfy the environmental dimension of sustainable development. A lack of harm in respect of the fourth main issue therefore does not outweigh the harm I have identified in the other main issues.
24. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 does not indicate that permission should be granted and the proposal would not be sustainable development.

Conclusion

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

Patrick Whelan

INSPECTOR