
Appeal Decision

Site visit made on 24 July 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/L2250/W/17/3174479

Land opposite 'Cirilla', Radnor Cliff Crescent, Folkestone, Kent CT20 2JW

- 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 David Shapira against the decision of Shepway District Council.
 - The application Ref Y16/0739/SH, dated 27 June 2016, was refused by notice dated 9 December 2016.
 - The development proposed is the erection of a detached two storey dwelling with associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed description of development provided on the planning application form has been replaced by a simpler version in the Council's decision notice. The appellant has also used this proposal description in his appeal form. For consistency I have used it here.

Main Issues

3. The main issues raised in respect of the appeal are the effect of the proposed development on:
 - (a) The character and appearance of the area and the landscaped embankment, the Sandgate Conservation Area and the Radnor Cliff Area of Special Character;
 - (b) The trees that are subject to a Tree Preservation Order (TPO); and
 - (c) The land stability of the site and adjoining land.

Reasons

Character and appearance of the area and the landscaped embankment

4. The appeal site is situated on a steeply sloping site that forms part of the wider escarpment at Sandgate. The area is residential in character with dwellings, running generally laterally across the slope of the land, that benefit from views of the English Channel. In the backdrop and situated at a higher land level woodland runs along the escarpment behind dwellings in Radnor Cliff Road.

Lower down and interspaced within the existing development upon the escarpment are vegetated gaps with established trees. The appeal site forms part of the vegetated area that is situated between No 9 Radnor Cliff and the junction of Radnor Cliff and Radnor Cliff Crescent to the east. The site is covered in low level shrub growth and trees, some of which are tall and mature. These trees are subject to a TPO.

5. This tree and vegetated area along the escarpment makes a valuable visual contribution to this part of Sandgate, both in relation to localised viewpoints and those further away to the south and provide natural breaks between existing built developments. These natural gaps along the escarpment between existing built developments, of which the appeal site is one, significantly contribute to the character of this area and the attractive appearance of the residential environment and the escarpment skyline. There is no doubt that these green spaces have contributed to the designations that are in place, including that of the TPO that prevents the removal of the trees at the appeal site.
6. Notwithstanding the aesthetic design of the proposed dwelling that would include a low pitch roof the proposal would create a two storey house of a size that would be clearly visible in this location. The proposed retaining wall around the parking space would also be clearly visible. Although the dwelling is proposed to the lower part of the appeal site there would be pressure to remove trees and vegetation over the wider area of the appeal site as this area would form the domestic garden associated with the proposed dwelling. Ancillary domestic paraphernalia within the garden would likely add further built development at the appeal site.
7. The removal of the trees and vegetation at the appeal site would diminish the contribution that this undeveloped green gap makes to the visual character and appearance of this locality. Built development would reduce the sense of space and openness between existing buildings. Collectively, this would have a harmful visual impact. As a result, the proposed development would not preserve or enhance the character or appearance of the conservation area or the area of special character.
8. As paragraph 132 of the Framework makes clear, when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. Given the size and scale of the proposal in the Conservation Area, I consider there would be less than substantial harm to the character and appearance of the Conservation Area. In accordance with paragraph 134 of the Framework, I must weigh the harm against the public benefit of the proposal. Although the proposal would create a family sized dwelling this would be solely for the benefit of the appellant whilst the public benefits, in my view, would be very limited, and insufficient to outweigh the harm identified.
9. The appellant suggests a tree replanting scheme condition could be imposed. I accept that replacement tree planting could soften the appearance of the proposed development. However, this would not overcome the harm that would result from the creation of a dwelling at this site and would not mitigate the adverse effect of the development.
10. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area and the landscaped embankment, the

Sandgate Conservation Area and the Radnor Cliff Area of Special Character. The proposed development would be contrary to Policies SD1, BE4, BE12 and BE16 of the Shepway Local Plan Review and Policies SDS4, SDS5 and SDS9 of the Sandgate Village Design Statement, which seek to preserve or enhance the conservation area and areas of special character. These policies also seek to protect the landscape character of the wooded escarpments that contribute to the character and appearance of Sandgate.

TPO Trees

11. As noted above, the existing trees at the site provide a valuable contribution to its character and appearance of this area. Although the appellant advises that previous indicators suggested the trees are mostly in a poor state with only one capable of being retained, the appealed development does not provide any up-to-date arboricultural information relating to the TPO trees and their current wellbeing. Equally, the proposal does not specify the number of trees that would be removed or the impact of the proposed development upon any trees to be retained. There is no substantive evidence before me, such as a tree survey, that would provide any justification to remove trees at the appeal site that are safeguarded by the TPO.
12. For these reasons I concluded that the appellant has not addressed the potential harm posed by the proposed development to the TPO trees at the appeal site. The proposed development would therefore be contrary to Policies BE16 and BE17 of the Shepway Local Plan Review that seek to retain important existing landscape features and to prevent damage or loss of TPO trees, amongst other matters.

Land stability

13. The Council indicates that the steep hillside has been identified to be at risk from landslip and draws attention to a slope failure occurrence along this escarpment not far from the appeal site. The appeal site is therefore considered to be at a high risk of slippage. In the absence of any investigations and analysis relating to this proposed development it has not been demonstrated that the site can safely accommodate the proposal without land instability occurring, either at the appeal site or at neighbouring land. Land slippage could cause harm to adjoining occupiers and damage to their land and property.
14. For these reasons I conclude that the appellant has not addressed the genuine and significant risk posed by land instability and the proposed development to land at, and adjoining, the appeal site. This could have a harmful impact upon the safety of future and adjoining occupiers. The proposed development would therefore be contrary to Policies SD1 and BE19 of the Shepway Local Plan Review and Policy SDS8 of the Sandgate Village Design Statement as it has not been demonstrated that the site can be safely developed and that the proposed development would not have an adverse effect on the slip area as a whole or that the measures required to address land stability are environmentally acceptable.

Conclusions

15. For the reasons given above, and having regard to all other matters raised, including the history of ownership of the site and its planning history, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR