The Planning Inspectorate

Appeal Decision

Site visit made on 26 June 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/M2270/W/19/3223265
Land rear of 1-2 Montacute Gardens, Tunbridge Wells, TN4 8HG

- 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 Messrs J Massey & G Todman against the decision of Tunbridge Wells Borough Council.
- The application Ref 18/03384/FULL, dated 26 October 2018, was refused by notice dated 29 January 2019.
- The development proposed is erection of block of 8 no. Apartments.

Decision

1. The appeal is dismissed.

Main Issues

2. The effect on the character and appearance of the area with particular regard to the Royal Tunbridge Wells Conservation Area and protected trees within it.

Reasons

Character and Appearance

3. The site forms part of an area of undeveloped land beyond a row of period properties facing Montacute Gardens. The Linden Park Road forms the rear boundary of the site and sits at a substantially raised level, beyond a sharply rising embankment. The site comprises multiple trees which give the land a verdant and secluded character, notwithstanding its proximity to the centre of Tunbridge Wells and nearby urban development.

4. The significance of the Royal Tunbridge Wells Conservation Area is derived from the town's historic origins as a popular health resort. It exhibits a variety of built development with a general palette of traditional building materials and locally distinctive street surfaces. Within this context, the site currently forms a verdant, parkland like setting to the large period buildings facing both Montacute Gardens and Linden Park Road.

5. The Linden Park Road forms the southern boundary of this part of the Conservation Area. To the east of the site are large period buildings with pitched roofs, largely faced in brick and render, and set in spacious plots. These are visible from the road through vegetation. The proposal would follow the same building line and would retain visual space to each of its side boundaries. However, the proposed building would have a flat roof and would be clad in dark stained timber.

6. It is argued that this is a design response to the verdant and sylvan character of the site. However, due to its height and siting, the new building would be readily apparent from the street, particularly when the trees facing the road are not in leaf. From this perspective, its appearance would differ significantly to the existing buildings along the Linden Park Road, including the period buildings facing the road and the former Tunbridge Wells West station. As noted above, these buildings are generally faced in brick and render, with pitched roofs, and thus exhibit traditional building materials which are an important characteristic of this Conservation Area. The proposal would also represent a visual contrast with the supermarket on the other side of the road, which is outside the Conservation Area. This is also faced in brick and exhibits a pitched roof when viewed from the road.

7. Accordingly, whilst the design responds to the characteristics of this site when considered in isolation, it would appear out of place in the wider street-scene. Due to its unusual design and prominence in relation to the street, it would attract attention away from the surrounding period buildings within the Conservation Area, to the detriment of both its character and its appearance.

Trees

8. The appellant argues that the horse chestnut is not of good structural form. However, this mature tree, which is the subject of a Tree Preservation Order ("TPO"), nonetheless makes a positive contribution to the sylvan character of the site and, in consequence, the Conservation Area in which it is located. The removal of the tree has not been justified on the basis that it would be necessary in the interests of good arboricultural practice. Nor has it been satisfactorily demonstrated that replacement planting, which could be secured by condition, would overcome the harm that arises through its loss. In this respect, there would be an unjustified loss of green infrastructure.

9. Regarding the Oak, the new building would be set away from the foliage associated with it. The development would also be set a sufficient distance away from the trunk to prevent any structural damage to it. As it is covered by a TPO, the Council would retain control over the future of this tree. Any future management of the tree, including pruning, necessitated by the development would be unlikely to undermine the integrity of this tree. I therefore conclude that the effect on the Oak would be neutral and there would be no harm. However, in the case of the horse chestnut, the desirability of the proposed development would not outweigh the amenity value of this protected tree.

Other issues

10. The proposed building would occupy a small proportion of the total site with gaps to both side boundaries and would rise to a broadly similar height to surrounding development. A large garden would be provided, reflecting the existing parkland quality of the site. This would not be a cramped development.

11. There are two previous appeal decisions on the site[1]. Both concluded that there would be unacceptable harm to the character and appearance of the Conservation Area. In the case of the 2007 decision the Inspector found that the proposal would appear obtrusive and out of place within the rear garden environment of Montacute Gardens. However, following this appeal decision the

[1] APP/M2270/A/03/1126199, APP/M2270/A/06/2033100

site was allocated for mixed-use development in the Tunbridge Wells Borough Site Allocations Local Plan (2016) ("Allocations Local Plan") under policy AL/RTW4B. The proposal before me would be set a sufficient distance away from the buildings on Montacute Gardens to preserve their setting. The 2003 decision was against refusal of outline planning permission. However, the Inspector raised concerns about horizontal form of the proposed building in relation to the road. I appreciate that the proposal before me has been designed to be of a scale that sits between the two previous appeal proposals. However, other concerns arise, as a consequence of the poor visual relationship between the proposed building and the Linden Park Road.

12. The Inspector in the 2007 appeal also raised concerns about the effect of the proposal on the Oak tree discussed above, including encroachment in to the rooting environment of the tree and possible future pressure to undertake significant works to the tree. However, I am satisfied on the evidence before me, including an up to date arboricultural report, that the proposal before me would now be set a sufficient distance away from the Oak tree to avoid such harm occurring.

13. Reference is made to the redevelopment of the nearby Union House site, which was underway at the time of my site visit. However, these works appeared to be set well away from this part of the Linden Park Road, which forms the main townscape context of this proposal. They do not justify the harm that would arise as a consequence of this development. The fact that the Allocations Local Plan does not specifically emphasise the need to protect trees on this site does not automatically justify their removal. Whilst it is argued that few references to the site are made in the Royal Tunbridge Wells and Rusthall Conservation Areas Appraisal, the effect on this designated heritage asset must still be assessed.

Conclusions and Planning Balance

14. The proposal would lead to harm to the character and the appearance of the Royal Tunbridge Wells Conservation Area, due to the poor visual relationship between the proposed building and the Linden Park Road. In this context, the loss of the protected horse chestnut tree has not been justified. Overall, there would be unacceptable harm to the character and appearance of the area. The proposal conflicts with policies EN1, EN5 and EN13 of the Tunbridge Wells Borough Local Plan 2006, together with Core Policies 4, 5 and 9 of the Tunbridge Wells Borough Core Strategy 2010 which seek to, amongst other things, ensure that the Borough's locally distinctive sense of place and heritage assets are conserved and enhanced, and trees subject to Tree Preservation Orders are not removed without justification. The harm to the Conservation Area would be less than substantial. The National Planning Policy Framework ("the Framework") requires that such harm is weighed against the public benefits of the proposal.

15. The Council accept that it cannot demonstrate a 5-year housing land supply. Consequently, the policies most relevant for determining the application are out of date. In this context, the proposal would provide 8 new residential units with good quality living conditions. The site has excellent levels of sustainability, set in an area close to a town centre with excellent services, facilities and public transport links. It would also help achieve the purposes of

policy AL/RTW4B of the Allocations Local Plan, where the site is allocated for mixed use, including residential, development.

16. Furthermore, there would be economic and social benefits of the development. This would arise from employment at the construction phase and the spending power of new residents, thus helping to support the local economy. It would also lead to Council tax revenue and potentially a new homes bonus, which are local finance considerations. These are public benefits of the development, which weigh in its favour.

17. However, these public benefits are not sufficient to overcome the less than substantial harm to the Royal Tunbridge Wells Conservation Area. The poor visual relationship between the new building and the Linden Park Road also means that the proposal would fail to improve the character and quality of the area. In consequence, it would not achieve a well-designed place, which is another objective of the Framework, and I attach substantial weight to the harm that would arise, in this respect. Consequently, even taking account of the shortfall in housing land supply identified by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply.

18. The proposal conflicts with the development plan when considered as a whole, and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR